

# Provincial Gazette Extraordinary

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**BERGRIVIER MUNICIPALITY  
ADVERTISING AND SIGNAGE BY-LAW**

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, the Bergrivier municipality, enacts as follows:—

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## 1. Definitions

In this by-law, unless the context otherwise indicates—

**“advertising structure”** means any physical structure built to display a sign;

**“advertisement”** means any representation of a word, name, letter, figure or object or an abbreviation of a word or name, or any symbol, or any light which is not intended solely for illumination or as a warning against any dangers and “advertising” has a similar meaning;

**“aerial sign”** means a sign that is displayed or performed in the air, including but not limited to balloons and blimps that can be viewed from within the municipality’s area of jurisdiction;

**“approval”** means approval by the municipality and “approve” has a corresponding meaning;

**“areas of control”** means those areas set out in Schedule 1 of the by-law; and which may be modified or amended from time to time, which amendments and modifications will be graphically depicted by way of maps as prepared by the municipality.

**“banner”** means any material upon which a sign is displayed in such a manner as to be fully legible in windless conditions, attached to one or more ropes, poles or flagstuffs projecting vertically, horizontally or at an angle, or attached to buildings or special structures, but excludes banners carried as part of a procession. A flag which is not displayed on an approved flag pole shall for the purposes of this by-law be deemed to be a banner;

**“billboard”** means any screen or board which stands free and is larger than 4,5m<sup>2</sup> in total area; which is supported by, or consists of, a structure used, for the purpose of posting, displaying or exhibiting a sign;

**“class 2 roads”** means the roads which form the primary network for the urban areas as a whole and which are characterised by high volumes, restricted access and fairly high speeds;

**“class 3 roads”** means roads that distribute traffic between the principal residential, industrial and business districts of the town and which form the link between the primary network (class 2 roads) and the roads within residential areas;

**“clear height”**, in relation to a sign, means the vertical distance between the lowest edge of the sign and the natural level of the surrounding ground, footway or roadway immediately below the sign;

**“commercial advertising”** means any words, letters, logos, figures, symbols, pictures relating to the name of a business, trade, partnership, individual, or any information, recommendation or exhortation in respect of any particular goods manufactured or sold, or any particular services rendered or offered, or any event for commerce or entertainment, including sporting events;

**“commercially sponsored sign”** means a sign which advertises goods or services, but the erection of which has a secondary purpose, which is to promote or contribute to some recognised public or community goal or function;

**“common boundary façade”** means any façade of a building which is built abutting a rear or side boundary of an erf and which façade is blank, that is, having no architectural features, which includes windows;

**“composite sign”** means a single freestanding advertising structure for the display of more than one sign;

**“consultant”** means a suitably qualified independent person or company that acts on behalf of, or as an agent of, an applicant for approval of a sign in terms of this by-law;

**“continuing offence”** means an offence in terms of this by-law, which offence continues to exist after the expiry of the notice period referred to in a notice served in terms of this by-law;

**“custom made design”** means the design of any sign, which features special effects such as specialist character cut outs or shapes or three dimensional presentations or moving parts or a combination thereof, and which is uniquely designed or constructed for erection in a particular location;

**“development board”** means a sign displayed at premises upon which building operations are currently in progress and relating to any services being provided, work being done or goods being supplied in connection with such building operations, but excludes contract boards for building and civil engineering projects as required in terms of the National Building Regulations and Control Act, 1977 (Act 103 of 1977);

**“display”** means the display of a sign and includes the erection of any billboard, sign or structure intended solely or primarily for the support of a sign or billboard, and includes the display of a sign of a business, trade partnership or individual connected with the contents of the sign or sign, and **“displayed”** has a corresponding meaning;

**“electronic sign”** means a sign which has an electronically controlled, illuminated display surface which allows all, or a portion, of the sign to be changed or illuminated in different ways;

**“environmental impact assessment”** (EIA) means an assessment carried out to determine the impact (positive or negative) which any proposed sign may have on the natural environment;

**“estate agency”** means a person who markets or sells properties with or without buildings erected thereon and “estate agent” has a corresponding meaning;

**“existing sign”** means any sign previously approved by the municipality;

**“flat sign”** means a sign which is affixed to, or painted directly onto a wall of a building but not onto or over windows or doors or architectural articulations and which at no point projects more than 250mm in front of the surface of such wall;

**“freestanding sign”** means any sign or group of signs contained or displayed on one freestanding structure which is not attached to a building or to any structure or object not intended to be used for the primary purpose of advertising;

**“gateway route”** means a prominent route with an entrance to or exit from a specific part of the municipality’s jurisdiction, consisting of man-made or natural features and creating a strong sense of arrival or departure and which is consistent with city planning or development framework plans or policy, and which may be geographically depicted by way of maps or listed by the municipality.

**“graphic”** includes but is not limited to any component which contributes to the visual appearance or aesthetics of a sign, including its background;

**“headline poster”** means a temporary poster advertising the contents of a daily or weekly newspaper;

**“height of sign”** is calculated by measuring the vertical distance between the uppermost and lowest parts of the advertising panel;

**“heritage impact assessment”** (HIA) means a visual and contextual assessment of the impact that any proposed sign may have on the cultural heritage, whether built or recognised at the locality where the proposed sign will be displayed;

**“internally illuminated sign”** means an advertisement or structure used to display an advertisement which has been installed with electrical or other power and an artificial light source which is fully or partially enclosed within the structure or sign and which light is intended to illuminate the advertisement or a portion thereof;

**“law”** means any law, proclamation, ordinance, Act of Parliament or Provincial Legislature, or any other enactment having the force of law;

**“locality bound advertising”** means any sign displayed on a specific erf, premises or building and may include such a sign on municipal owned land, adjacent to, abutting on or within 5 metres of the aforementioned erf, premises or building, which sign refers to an activity, product, service or attraction, located, rendered or provided on or from that erf or those premises;

**“loose portable sign”** means a freestanding locality bound notice or advertising board placed or erected in the road reserve or in a public open space;

**“movable sign”** means a sign not permanently fixed and not intended to remain fixed in one position, but does not include any moving part on a fixed permanent sign;

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

**“new sign”** means any sign first displayed after the promulgation of this by-law;

**“non-profit body”** means a body established primarily to promote a community goal or benefit without direct or personal financial gain, and may include educational, sporting, medical, municipal departments, bodies as well as charities or community organizations;

**“organ of state”** means:

- (a) any department of state or administration in the national, provincial or local sphere of government;
- (b) any other functionary or institution—
  - (i) exercising a power or performing a function in terms of the Constitution or a provincial constitution; or
  - (ii) exercising a public power or performing a public function in terms of any other Legislation;

**“overall height”**, in relation to a sign, means the vertical distance between the uppermost edge of the sign and the finished level of the ground, footway or roadway immediately below the centre point of the sign;

**“perimeter of an intersection”** means the perimeter of the area embraced within the prolongation of the road reserve lines of two or more public roads that join one another at any angle, whether or not one such public road crosses the other;

**“person”** includes:

- (a) any organ of state;
- (b) any company incorporated or registered as such under any law; and
- (c) any body of persons, whether incorporated or not, functioning as a single entity for whatever purpose;

**“poster”** means temporary signs capable of being attached to the municipal electrical light standards or pasted to fixed structures to advertise events or campaigns, including elections or referenda of limited duration and excluding signs advertising markets, exhibitions or events which are held on a regular basis;

**“projected sign”** means any sign projected by a laser projector, video projector, or other apparatus;

**“projecting sign”** means a sign which is affixed to a wall of a building and which at some point projects more than 250mm in front of the surface of such wall;

**“public façade”** means any façade of a building that has architectural articulations and which is visible to the public

**“public place”** means any public road, public street, thoroughfare, bridge, subway, footway, foot pavement, footpath, sidewalk, (or similar pedestrian portion of a road reserve), lane, square, open space, garden, park or enclosed place vested in the municipality, or other state authority or indicated as such on the Surveyor General’s records, or utilized by the public or zoned as such in terms of the applicable zoning scheme;

**“public road”** means public road as defined in the National Road Traffic Act, 1996 (Act 93 of 1996);

**“road reserve”** means the area contained within the statutory width of a road, and includes roadways, shoulders and sidewalks and the airspace above such roadways, shoulders and sidewalks and all other areas within the road reserve boundary;

**“roadway”** means that portion of a road, street or thoroughfare improved, constructed or intended for vehicular traffic as defined in the National Road Traffic Act, 1996;

“**roof sign**” means a sign affixed to a roof of a building where the top edge of any point of that sign does not exceed the height of the roof plane to which it is affixed;

“**scenic drive**” means a road designated as such on an approved zoning scheme or from which landscapes or features of aesthetic or cultural significance can be seen or viewed as designated by the municipality;

“**security sign**” means a sign for neighborhood watch and similar schemes, and a sign containing the name, logo, address and telephone number of a security company contracted to protect, or security system installed to protect, the premises on which the sign is displayed;

“**service station facility sign**” means freestanding signs at petrol filling stations, roadside rest and service areas and includes service station pylon signs;

“**shop**” means a building used for retail trade or services;

“**sign**” means any object, product, replica, advertising structure, mural, device or board which is used to publicly display a sign or which is in itself a sign and includes a poster, billboard and an advertisement which is included in the architectural design of a building or structure;

“**signalized traffic intersection**” means an intersection controlled by traffic signals;

“**sky sign**” means a sign where the top edge of any point of that sign exceeds the height of the roof plane to which it is affixed;

“**sponsored sign**” means a sign, the primary purpose of which is not to advertise goods or services but which displays a graphic or content which promotes community or public awareness of a recognised public or community goal;

“**street name signs**” means pole-mounted, double-sided, internally illuminated or unilluminated signs displayed in combination with names of streets, not exceeding 1m<sup>2</sup>;

“**street furniture**” means public facilities and structures which are not intended primarily for advertising and includes but is not limited to seating benches, planters, bins, pole mounted bins, bus shelters, sidewalk clocks, drinking fountains, Telkom boxes, traffic signal controllers, electricity boxes, post boxes and telephone booths, but excludes road traffic signs, traffic signals, street lights or any other road-related structures;

“**temporary signs**” means signs which are displayed for a maximum period of 14 days, or such other period as may be approved by the municipality;

“**thickness**” in relation to a projecting sign, means the width of such sign measured parallel to the plane of the main wall to which such sign is affixed;

“**third-party advertising**” means the advertising of goods or services that are not made, procured, sold or delivered from the property on which the sign or sign advertising those goods or services is fixed or placed, and includes advertising which is not locality bound.

“**three dimensional sign**” means a sign containing more than 2 dimensions, including product replicas;

“**traffic impact assessment**” (TIA) means a study carried out by a registered professional engineer with demonstrable experience in the field of traffic engineering that investigates the impact a proposed sign may have on vehicle, pedestrian, or cyclist safety and traffic operation, which study should recommend any mitigating measures that may be required as a result of that impact;

“**traffic sign**” means a road traffic sign as prescribed in the National Road Traffic Act, 1996;

“**traffic signal**” means a road traffic signal as prescribed in the National Road Traffic Act, 1996;

“**transit advertising**” means advertising by means of a movable sign which is capable of being transported by road either on or in conjunction with a motorized vehicle, including trailers primarily used for advertising;

“**transportation terminals**” means any area designated by the municipality as such, where the formal interchange of modes of public transport takes place by the public, including, but not limited to designated railway stations, official taxi terminals and bus terminals;

“**urban edge line**” means a predetermined point to point boundary line as determined by the municipality, which has as its purpose, the containment of urban development;

“**verandah**” includes a cantilevered canopy and sunblind;

“**window signs**” means signs which are temporarily or permanently painted on, or attached to the window-glass of a building;

“**zone**” means a land use zone as set out in the relevant zoning schemes or Town Planning Regulations as amended from time to time and applicable to any erf on which a sign is displayed or intended to be displayed and “**zoning**” has a corresponding meaning.

## 2. Principles and objectives

The object of this by-law is to regulate advertising and signage in the jurisdiction of the Bergrivier municipality in a manner that is sensitive to the environmental quality of different parts of Bergrivier municipality. It seeks to strike a balance between advertising opportunities and economic development on the one hand, and the conservation of visual-, tourist-, environmental- and heritage characteristics and traffic safety on the other hand. It further needs to ensure that advertising respects the integrity of any site on which it is displayed, and complements the character of the locality in which it is displayed; the by-law thus aims to provide a set of regulations governing the use of land and buildings for advertising and signage and for matters incidental thereto.

### CHAPTER 1

#### SUBMISSION OF APPLICATIONS, TARIFFS AND GENERAL FACTORS IN CONSIDERING APPROVAL, AMENDMENTS AND CONDITIONS TO APPROVAL, FACTORS RELATING TO SPECIFIC SIGNS, AREAS OF CONTROL AND COMMERCIALY SPONSORED SIGNS

### 3. Submission of applications

- (1) Other than those signs referred to in section 13(3) to 13(10), no person may display any advertisement or erect or use any sign for advertising purposes without the municipality's approval in terms of this by-law and any other applicable legislation.
- (2) Every person intending to display a new sign or to alter or to add to an existing approved sign or submitting a signage plan in terms of a site

development plan proposal, must apply in writing to the municipality which application must be accompanied by the following information in duplicate:

- (a) a site plan, drawn to a scale of not less than 1:200, showing the following—
  - (i) the site on which it is proposed that the sign is to be erected or displayed;
  - (ii) the position of the sign and the building, if any, to which it is to be attached;
  - (iii) every building and the existing signs on the site;
  - (iv) existing and proposed landscaping, traffic signals and road traffic signs; and
  - (v) the positions, with dimensions, of the sign in relation to the boundaries of the site and the location of the streets abutting the site, together with its existing approved zoning conditions;
- (b) a drawing, which complies with the requirements of the National Building and Regulations Standards Act, 1977 (Act 103 of 1977), and is in sufficient detail to enable the municipality to consider the appearance of the sign and all relevant construction detail, including a description of the materials of which the sign is to be constructed, the colors to be used, and whether or not the sign is to be illuminated; in the latter event, the plan must indicate whether or not the sign is an electronic sign and, if so, full details must be furnished;
- (3) The drawing referred to in subsection (2)(b) must have detailed drawings of such sign to a scale of not less than 1:20 and a site plan indicating the position of the sign on the site to a scale of not less than 1:50;
- (4) If a sign is to be attached to or displayed on the wall or façade of a building, the municipality may require the submission of an additional drawing, drawn to a scale of not less than 1:100, showing—
  - (a) an elevation of the building in color;
  - (b) the details and position of the proposed sign; and
  - (c) the details and the position of every existing sign on the building; alternatively the municipality may require a colored print of or an artist's photographic- or computer generated impression of the building with the details of the proposed sign superimposed on such graphic and drawn as nearly as is practicable to the same scale as that of the graphic;
- (5) If the applicant is not the registered owner of the property on which the sign will be erected, he or she must obtain the signature of the registered owner of the land or building on which the sign is erected, indicating that person's knowledge of and consent to the application.
- (6) The municipality may require the submission of any or all of the following studies or assessments—
  - (a) an environmental impact assessment (either the 1st stage thereof; being the completion of an environmental checklist or in its entirety),
  - (b) a heritage impact assessment; and
  - (c) a traffic impact assessment.
- (7) If a community or portion thereof or a person will be affected by the proposed sign, it may require a public participation process prior to considering the approval, which public participation process must comply with the municipality's policy on public participation.
- (8) The municipality may require a signage master plan in respect of any development where the erection of numerous signs is proposed or the rationalisation of previously approved signs is required so as to allow it to consider a consistent design master plan prior to assessment of any individual sign.
- (9) The municipality must notify the applicant of any additional requirements it has within 21 working days of the date of submission of the original application and payment of the application tariff.
- (10) The municipality must retain a copy of every document supplied to it as part of an application.
- (11) The municipality may require written notification, by the applicant or person who erects an approved sign that such sign has been erected.

#### **4. Tariffs and general factors in considering approval, amendments, conditions to approval**

- (1) Every person who applies to the municipality for approval in terms of this by-law must, on making application, pay to the municipality an application tariff as determined by the municipality and no sign may be erected until such time as the application tariff has been paid in full.
- (2) In considering an application for the display of an advertisement or the erection of a sign in terms of this by-law, or an amendment or condition attaching to or to be attached to an approval, the municipality must have regard to the following factors:
  - (a) The area of control in which the proposed sign is to be erected or displayed as set out in Schedule 1; provided that if a sign falls into more than one area of control or if a proposed site in one area of control may impact on an adjacent area of control, the municipality shall be entitled to determine the area of control pertaining to that application;
  - (b) the locality or landscape and the advertising opportunities pertaining to that area of control;
  - (c) the number of signs already displayed or proposed to be displayed on the erf and in the area surrounding the erf concerned;
  - (d) the findings of any traffic impact assessment, environmental or heritage impact assessment and public participation processes where applicable.
  - (e) that locality bound signs must relate to the lawful use of a property provided that no such sign must be affixed to or placed on residential premises or portions thereof other than is permitted by or for home industries and legal temporary uses; and
  - (f) that no sign or advertisement may be designed or displayed that—
    - (i) will constitute a danger to any person or property;
    - (ii) will display any material or graphic which, does not comply with the requirements of the Advertising Standards Authority of South Africa.
    - (iii) will be detrimental to the environment or amenity of the neighborhood by reason of either its size, intensity, frequency, illumination, quality of design, material, proposed graphic or locality.



- (iv) will obscure any other signs approved in terms of this by-law or its predecessor; and
  - (v) will be detrimental or otherwise negatively impact on the environment, whether artificial or natural.
- (3) Subject to any conditions in Schedule 16, all new signs or advertising structures approved under this by-law and any successive by-law, may remain on display uninterrupted until such time as they do not comply with the provisions of this by-law or any other applicable legislation.

#### **5. Factors relating to specific signs, areas of control, and commercially sponsored signs**

- (1) The municipality must, in addition to the factors set out hereinabove, apply certain minimum standards to certain specific sign types and proposed localities when an application for approval is made in respect thereof and will apply certain specific criteria to applications for the erection of signs by non-profit bodies. These specific standards and criteria are set out as Schedules to this by-law. Schedule 1 to this by-law indicates the areas of control in which certain specific sign types may be permitted, subject always to approval in terms of this by-law and furthermore subject to any additional requirement pertaining to a specific sign type as set out in the following Schedules:
- (a) Schedule 1: Areas of control;
  - (b) Schedule 2: Billboards;
  - (c) Schedule 3: Locality bound freestanding and composite signs;
  - (d) Schedule 4: Signs attached to walls of buildings (flat and projecting signs);
  - (e) Schedule 5: Sky signs;
  - (f) Schedule 6: Roof signs;
  - (g) Schedule 7: Signs on a verandah, balcony, canopy, supporting columns, pillars and posts;
  - (h) Schedule 8: Signs on boundary walls, fences and construction sites;
  - (i) Schedule 9: Newspaper headline posters;
  - (j) Schedule 10: Banners, flags and balloons;
  - (k) Schedule 11: Posters;
  - (l) Schedule 12: Estate agent signs;
  - (m) Schedule 13: Loose portable signs;
  - (n) Schedule 14: Aerial signs;
  - (o) Schedule 15: Transit advertising;
  - (p) Schedule 16: Signs on municipal land or buildings; and
  - (q) Schedule 17: Signs by or for non-profit bodies.
- (2) The description of areas or routes in the said Schedule 1 should be read with the definitions as contained in the municipality's Zoning Scheme Regulations.
- (3) The municipality may grant an exemption from the terms of this by-law in respect of the sign types or areas of control set out in Schedules 10, 11 and 12 hereto having regard to—
- (a) the area of control where it is proposed to display the signs;
  - (b) nature of the event;
  - (c) duration of the erection or display of the sign;
  - (d) size of the proposed sign;
  - (e) any traffic, safety, environmental or heritage impact assessment; and
  - (f) the outcome of any public participation process.

### **CHAPTER 2**

#### **STANDARD CONDITIONS FOR APPROVAL, REQUIREMENTS, AND APPROVAL**

#### **6. Standard conditions for approval**

- (1) All signs and advertising structures must be properly constructed of the requisite strength and must be secure and must comply with the requirements pertaining thereto of the National Building Regulations and Standards Act, 1977 (Act 103 of 1977).
- (2) The applicant to whom approval has been granted and the owner of the property or building to which it is attached shall be jointly and severally liable for the maintenance thereof and must undertake at least one inspection per year thereof with a view to satisfying themselves as to the safety thereof.
- (3) Where any sign or advertising structure is vandalised or becomes torn or damaged or otherwise falls into a state of disrepair, the applicant to whom the approval has been granted and the owner of the fixture or property which or to which a sign is attached must within 7 working days of a notice in writing to do so, repair it.
- (4) All signs and their support structures must be constructed of incombustible, durable materials suited to the function, nature and permanence of the sign.
- (5) All glass used in a sign, other than glass used in illumination, must be safety glass of at least 3mm thick.
- (6) Glass panels used in a sign must not exceed 0,9m<sup>2</sup> in area, each panel being securely fixed in the body of the sign, structure or device independently of all other panels.

- (7) Every sign and its support structure must be kept in a state of good repair.
- (8) No sign may obstruct the opening and closing of any window or opening provided for ventilation of a building or obstruct any stairway or doorway or other means of exit from the building or prevent movement of people from one part of a roof to another.
- (9) No advertising structure may be closer to overhead electrical equipment than the minimum distance as prescribed.

#### **7. Electrical requirements**

- (1) All signs needing an electrical connection must preferably be supplied from the existing electrical supply on the erf where it is to be erected. If this is not possible, application for a metered electricity supply must be made to the relevant authority.
- (2) Every sign in connection with which electricity is used, must be provided with suitable capacitors to prevent interference with radio and television reception.
- (3) Each power cable and conduit containing electrical conductors in respect of a sign must be so positioned and fixed so that it is safe, unseen, inaccessible and child tamper proof and animal proof.
- (4) Each interior high-voltage installation that runs unattended (such as a window display) and each exterior high-voltage installation must have an acceptable type of fireman's switch in accordance with the requirements as stipulated in sections 6.7.2 and 7.5 of SANS 0142 1993 promulgated in terms of the Occupational Health and Safety Act.

#### **8. Illumination requirements**

- (1) The municipality may approve an illuminated sign, provided that the provisions of this by-law are complied with and that such illumination does not constitute a road safety hazard or cause undue light spillage.
- (2) Signs may not be illuminated if no sign content is displayed.
- (3) Requirement for internal illumination or electronic signs:
  - (a) Internally illuminated and electronic signs may only be displayed in areas of partial and minimum control and may not exceed 2,1m<sup>2</sup> in size. This size condition may be waived, up to a maximum size of 4,5m<sup>2</sup> in any such area upon receipt of an environmental and heritage impact assessment showing no detrimental impact will be caused by the proposed display, or to any larger size specified by the municipality in an area designated by the municipality as a district in which illuminated or electronic signs are to be encouraged;
  - (b) electronic signs may not have subliminal flashes; and
  - (c) prior to erection, the municipality may require a traffic impact assessment, environmental and heritage impact assessment to be conducted, the results of which must indicate that no detrimental impact on traffic is envisaged. In addition the municipality may require subsequent traffic monitoring of any internally illuminated or electronic sign.
- (4) Requirements for external illumination:
  - (a) the light source emanating from floodlights must not be visible to traffic travelling in either direction;
  - (b) floodlights must not be positioned so as to create any undue light spillage beyond the surface area of the sign; and
  - (c) approved way leaves must be obtained from the municipality prior to any excavations for the installation of signs. This also applies for signs to be erected in the vicinity of overhead power lines.

#### **9. Road traffic safety requirements**

- (1) Signs may not be erected in an area where they are an unacceptable distraction for drivers, which acceptability may be determined in terms of the guidelines laid down in the S.A. Road Traffic Signs Manual.
- (2) Electronic signs may not be permitted if they are visible from class 2 or 3 roads, gateway route or a scenic drive unless expressly approved in writing by the municipality.
- (3) Advertising on bridges, towers, telecommunication masts, pylons or street poles shall not be permitted.
- (4) The graphic content of signs must not have the potential to be visually interpreted as a road traffic sign, due to any factor, including but not limited to the following:
  - (a) any stylised or pictorial presentation of a road traffic sign or traffic signal;
  - (b) any word, symbol, logo or other device used on a road traffic sign;
  - (c) use of combinations of colours specified for road traffic signs, in a manner likely to lead to confusion; and
  - (d) any reflectorised paint or material.
- (5) Signs may not be erected in an area where the traffic volume, the average following headway, or accident history requires a higher degree of awareness from drivers.
- (6) Signs may not be attached to or obscure a road traffic sign or traffic signal specifically provided for in the South African Road Traffic Signs Manual or the South African Development Community Road Traffic Signs Manual.
- (7) Signs may not be erected within the road reserve of any public road unless expressly approved by the municipality.
- (8) When located at signalized traffic intersections, signs may not have the colours red or yellow or green as main colours and may not obscure or interfere with any road traffic sign or traffic signal.
- (9) Electronic signs shall not be permitted within 80 metres of the perimeter of a signalised traffic intersection.
- (10) Flashing or running messages or variable transition messages that have a message change interval of greater than 0,3 seconds or have transition effects between message changes shall not be permitted if viewable from a public road.



- (11) Static display, simple transition signs must display a complete frame for an information cycle length of not less than 60 seconds when visible from a signalised traffic intersection and 30 seconds at other locations.
- (12) All signs larger than 4,5m<sup>2</sup> erected adjacent to a public road or in a railway reserve intended to advertise to persons using class 2 and 3 roads must be spaced a minimum specified distance from any other sign or road traffic sign, such distance measured parallel to the center line of the roadway, in accordance with the measurements set out in Table 1 below:

**TABLE 1:  
LINEAR SPACING BETWEEN SIGNS**

Case	Spacing required when visible for traffic on a road with a speed of		
	≤ 60 km/h	61–80 km/h	81–120 km/h
Where a sign follows a road sign	120m	200m	300m
Where a sign follows a sign	250m	250m	300m
Where a sign precedes a road sign	40m	70m	100m

- (13) The minimum distances specified in Table 1 above may be decreased by the municipality if the sign falls within an area of minimum control, or in other areas of control on submission of a traffic impact assessment motivating a reduction of this spacing to the satisfaction of the municipality. The municipality may prepare a list or map of designated areas in which the abovementioned spacing requirements shall not be applicable.

#### 10. Legal requirements

All signs to be erected or displayed within the area of jurisdiction of the municipality must, in addition to complying with this by-law, comply with all other applicable legislation, including any applicable Zoning Scheme Regulations or condition of approval of any departure from the applicable Zoning Scheme Regulations.

#### 11. Approval

- (1) The municipality may refuse any application or grant its approval subject to conditions relating to the erection or use of the sign and including a condition that the owner of any sign or billboard or the land or building on which it is erected or displayed, or both such owners or the person whose product or services are advertised, indemnify the municipality against any consequences flowing from the erection, display or mere presence of such sign.
- (2) The municipality may, at any time, withdraw an approval granted in terms of this by-law or its predecessor or amend any condition or impose a further condition in respect of such approval, if a sign or advertising structure—
- is in a state of disrepair;
  - remains unused for more than 90 consecutive days;
  - becomes redundant or obsolete;
  - no longer complies with any provision of this by-law; or
  - is substantially altered from the original approved application by way of either structure or graphic content.
- (3) Should an approved sign not be erected within 12 months from the date of approval or within such other time as is specified in the approval, such approval shall lapse, unless that period is extended in writing by the municipality prior to such lapse.
- (4) In the event that the structure supporting such sign is intentionally demolished before the expiry of the approval period, the approval shall lapse and no further sign or supporting structure may be erected or re-erected without the municipality's approval.
- (5) All decisions by the municipality regarding applications made in terms of this by-law must be in writing and will be provided to applicants within 60 calendar days of date of submission of a complete application, alternatively, if so required by the municipality, within 60 calendar days of its receipt of any additional information or assessments provided to the municipality.
- (6) In notifying an applicant of its decision in terms of subsection (5), the municipality must inform such applicant and any person who has objected to the granting of an application of their right to appeal in terms of section 12.

### CHAPTER 3

#### GENERAL PROVISIONS

#### 12. Appeal

A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefor in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision.

#### 13. Signs for which municipality's approval not required

- (1) Should any sign not comply with the conditions relative to each sign type listed below, an application in terms of section 3 will be required.
- (2) Subject to compliance with the conditions relative to each sign provided for in subsections (3) to (11), and any other applicable legislation, or condition imposed by the municipality, no application for approval is required in terms of this by-law in respect of the signs provided for in subsections (3) to (11).
- (3) *Development Boards.*
- Development boards must be removed forthwith when the building operations are complete or forthwith if the building operations are

discontinued, or when the provisions of the services, the doing of the work, or the supply of the goods to which the sign relates has ceased.

- (b) The municipality may order the removal of any such sign if the building operations have been substantially completed or discontinued or an occupancy certificate has been issued by the municipality, or the provision of the services, the doing of the work or the supply of the goods to which it relates, has for all practical purposes ceased, and such signs must thereupon be forthwith removed but no later than 5 days after the date of the order for removal thereof.
- (c) If the premises on which building operations are in progress, are to be used wholly for residential purposes, only one development board may be displayed and such development board may not exceed 3m<sup>2</sup> in total area.
- (d) If the premises are not to be used wholly for residential purposes, no more than two development boards may be displayed and the aggregate area of both development boards may not exceed 5m<sup>2</sup> in total area;
- (e) If the signage, whether on freestanding boards, or flexible building covering material, include any other form of third party advertising, such sign must then comply with the provisions of Schedule 8 hereto and municipal approval for the display thereof must first be obtained in terms of this by-law.

(4) *To Let/For Sale Signs.*

These include any sign not exceeding 400mm × 500mm in total area displayed at existing premises or at properties upon which a new building is being erected and relating to accommodation being offered to rent or purchase in the building, on condition that any such sign must be removed within 60 days after the date upon which the accommodation to which it relates is capable of occupation.

(5) *On Premises Business Signs.*

These include any unilluminated sign not projecting over a public road and not exceeding 0,2m<sup>2</sup> in total area notifying only the types of trade, business, industry or profession lawfully conducted by any occupant or permanent resident of the premises to which it is attached, the name of such occupant, the type of activity, the address and telephone number of such premises and the hours of attendance (if any); provided that only one such sign per occupant may be displayed.

(6) *Window Signs.*

These include any locality bound signs which are temporarily or permanently painted on or attached to the window glass of a building used for commercial, office, industrial or entertainment purposes, or any other temporary or permanent sign which is displayed within 2 metres of any window or external opening through which it can be seen from the outside such a building, on condition that no window sign may exceed 4,5m<sup>2</sup> in an area of maximum control.

(7) *Signs incorporated in the face of a building.*

Any sign forming an integral part of the fabric of a building (but excluding a painted sign or a sign affixed in any manner onto the building), on condition that no such sign may exceed 0,2m<sup>2</sup> in total area.

(8) *Signs on Sports Fields.*

Except when visible from scenic drives, any sign erected around the perimeter of a sports field, to a maximum size of 2 × 1 meter each, provided further that larger signs which face inwards onto the field and are not visible from any other public place, may also be permitted.

(9) *Security Signs.*

Any security sign not projecting over a public road and not exceeding 0,2m<sup>2</sup> in total area indicating either that a security watch scheme is in operation or that a security company has been contracted to protect the premises on which the sign is displayed, on condition that—

- (a) only one such sign is displayed on any public road or each street frontage of such premises; and
- (b) the said sign displays only the name, logo, address and telephone number of a security company contracted to protect the premises on which the sign is displayed.

(10) *Sponsored, commercially sponsored and Non-Profit Body Signs: less than 4,5m<sup>2</sup>.*

- (a) Any such sign whether erected by or in connection with a non profit body or not; not exceeding 4,5m<sup>2</sup> in total area on condition that no more than 5% of the total surface area of the sign is used for third party advertising; and the sign is not illuminated, and furthermore provided that only one such sign may be permitted per erf.
- (b) Signs which comply with provisions of subsection (a) may, when erected on municipal land, only be erected once agreement has been concluded with the municipality, wherein the extent of the community or public benefit as jointly agreed between the municipal department responsible for the premises or land has been agreed and the terms of the erection of the sign agreed, and a copy of the agreement lodged with the municipality.
- (c) All other sponsored signs are dealt with in Schedules 16 and 17.

(11) *Advertising on Vehicles*

Signs painted or affixed directly onto the body of a motorised vehicle.

#### 14. Disfigurement

No person may destroy, harm, damage or disfigure or deface the front or frontage of any street, road traffic sign, wall, fence, land, rock, tree or other natural feature, or the front or frontage or roof of any building or structure in any manner whatsoever during construction or through the display or use of a sign or the writing or painting of any sign, symbol, letters or numerals. Furthermore, no person may disfigure any sign legally displayed in terms of this by-law.

#### 15. Damage to municipal property

No person may, in the course of erecting or removing any sign, or banner, cause damage to any tree, electric standard or service or other municipal installation or property and street furniture.

## 16. Entry and inspections

The municipality shall be entitled, through its duly authorized officers, and with prior written notification to the owner or occupant of a property, to enter into and upon any premises, at a reasonable time for the purpose of carrying out any inspection necessary for the proper administration and enforcement of the provisions of this by-law.

## 17. Offences and penalties

Any person who—

- (a) contravenes or fails to comply with any provision of this by-law or any of the standards and requirements contained in Schedules 2 to 17 of this by-law—
- (b) contravenes or fails to comply with any requirement set out in a notice served on him in terms of this by-law;
- (c) contravenes or fails to comply with any condition imposed in terms of this By- Law;
- (d) knowingly makes a false statement in respect of any application in terms of this by-law, commits an offence and on conviction shall be liable to—
  - (i) a fine or imprisonment, or either such fine or imprisonment or to both such fine and such imprisonment and,
  - (ii) in the case of a continuing offence, to an additional fine or an additional period of imprisonment or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued and,
  - (iii) a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as result of such contravention or failure.

## 18. Presumptions

Any person charged with an offence in terms of this by-law who is—

- (a) alone or jointly with any other person responsible for organising, or in control of any meeting, function or event, to which a sign or poster relates, shall be deemed, until the contrary is proved, to have knowingly displayed every unlawful sign or poster displayed in connection with such meeting, function or event or to have caused or allowed it to be so displayed;
- (b) the person whose name appears on an unlawful sign or whose product or services are advertised on such sign, shall be deemed, until the contrary is proved, to have displayed such sign, or to have caused or allowed it to be displayed unless the contrary is proved;
- (c) the owner of any land or building on which any unlawful sign was or is displayed, shall be deemed, until the contrary is proved, to have knowingly displayed such sign, or caused or allowed it to be displayed.

## 19. Enforcement and removal of signs

- (1) If any sign displayed is in contravention of this by-law, the municipality may serve a notice on the owner or lessee of the sign, or the land owner on whose land the sign is erected or displayed, or person whose product or services are advertised, calling upon such person to remove such sign or carry out such alteration thereto or do such work as may be specified in such request or notice, within a time frame specified therein.
- (2) A notice served in terms of subsection (1) may be withdrawn or varied by the municipality, by agreement with the person so served, or failing such agreement, by the service of a further notice.
- (3) Should the municipality's directives, as set out in the notice, not be carried out within the time period specified therein, the municipality may, without further notice to the person upon whom the notice was served, remove or alter the sign or do such work as may be specified in such notice.
- (4) Any costs incurred by the municipality in removing signs, or in doing alterations or other works required in terms of a notice, may be recovered from the person on whom the notice was served.
- (5) Notwithstanding any other clause in this by-law, if a sign is, or is reasonably considered to be a danger to life or property, the municipality itself may, without prior notice and without a court order carry out or arrange for the removal of such sign.
- (6) Any costs incurred by the municipality in carrying out or arranging for the removal of such sign may be recovered from the owner or lessee of the sign, or the landowner on whose land the sign was erected, or the person whose product or services were advertised, jointly and severally.
- (7) Unlawful signs removed by the municipality may be reclaimed from the municipality on payment in full to it of any costs incurred by the municipality in the removal of the said sign, as well as payment of the costs of any tariffs incurred in the storage of such sign within two months.
- (8) Any unlawful signs removed by the municipality and not reclaimed within two months of the date of removal may be disposed of by the municipality to defray its removal or storage costs.

## 20. Service of notices

- (1) A notice issued by the municipality in terms of this by-law is deemed to be duly issued if an official of the municipality signed it.
- (2) Any notice or other document that is served on a person in terms of this by-law is regarded as having been duly served—
  - (a) when it has been delivered to that person personally;
  - (b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of 16 years;
  - (c) when it has been posted by registered or certified mail to that person's known residential or business address in the Republic, and an acknowledgment of the posting thereof from the postal service is obtained;

- (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 by paragraphs (a), (b) or (c);
  - (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 land or business premises to which it relates;
  - (f) in the event of a body corporate, when it has been delivered at the registered office of the business premises of the body corporate; or
  - (g) when it has been delivered, at the request of that person, to his or her e-mail address.
- (3) Service of a copy is deemed to be service of the original.
- (4) When any notice or other document is served on the owner, occupier, or holder of any property, or right in any property, it is sufficient if that person is described in the notice or other document as the owner, occupier, or holder of the property or right in question, and it is not necessary to name that person.

## **21. Liaison forums in community**

- (1) The municipality may establish liaison forums in a community for the purposes of encouraging a local community to participate in the implementation, development and enforcement of this by-law.
- (2) The forums contemplated in sub-section (1) may consist of—
- (a) a member or members of an interest group or an affected person or community;
  - (b) a designated official or officials of the municipality; and
  - (c) a councillor from the relevant council committee.
- (3) The municipality may, in the implementation and enforcement of this by-law,—
- (a) request the input of a forum;
  - (b) employ any skills or capacity that may exist in such a forum.
- (4) A forum, or a person or persons contemplated in sub-section (2), may, on own initiative, submit an input to the municipality for consideration.

## **22. Magistrate's court jurisdiction**

Notwithstanding anything to the contrary contained in any law relating to Magistrates' Courts, a Magistrate shall have jurisdiction, on the application of the municipality, to make an order for the enforcement of any of the provisions of this by-law or of any approval, refusal or condition granted or applicable in terms hereof.

## **23. Exemptions**

Notwithstanding the provisions of this by-law, the municipality may, on written application, exempt any person or class of persons from any or all of the requirements of this by-law and in considering such exemption it may impose any conditions or requirements it deems appropriate.

## **24. Repeal of by-laws**

The provisions of any by-laws previously promulgated by the municipality or by any of the disestablished municipalities now incorporated in the municipality, are hereby repealed as far as they relate to matters provided for in this by-law.

## **25. Transitional arrangements**

- (1) Anything done under or in terms of any provision repealed by this by-law shall be deemed to have been done under the corresponding provisions of this by-law and the repeal in section 24 shall not affect the validity of anything done under the by-law so repealed.
- (2) Anything done prior to promulgation of this by-law, which was not done in terms of a provision repealed in this by-law and was unlawful, shall in the event of such act or sign still not complying with the provisions of this by-law, be unlawful and the municipality in such a case may take the necessary action in terms of section 19 hereof.

## **26. Conflict with other legislation**

In the event of any conflict between any provision of this by-law and National and Provincial legislation, standards, policies or guidelines, the National and Provincial legislation, standards, policies or guidelines shall prevail.

## **27. Short title and commencement**

This by-law shall be known as the Advertising and Signage by-law and commences on the date of publication thereof in the Provincial Gazette.

**ANNEXURE 1**  
**AREAS OF CONTROL**

Natural Area	MAXIMUM		PARTIAL	MINIMUM
	Rural Area (Outside urban edge)	Urban Area	Urban Area (Within urban edge)	Urban Area (Within urban edge)
Proclaimed nature reserve	Agricultural areas/zones	(a) Urban conservation areas (b) Within areas of special significance	(a) Central business districts (b) Outside areas of special significance	Industrial zones
Protected natural environment	Horticultural areas	Declared Heritage sites (rural and natural)	Mixed use commercial and residential areas	Designated transportation terminals
Game reserves	Rural small holdings	Graded buildings and places	Commercial ribbon development and activity corridors	Designated areas within undetermined zones
Proclaimed bird parks	Large private open spaces (e.g. golf courses)	Residential zones and adjacent road and rail reserves	Commercial and business districts and adjacent streets and rail reserves	Specific areas or sites designated as minimum control by way of a map prepared by the municipality
Forestry areas	Scenic drives	Mobility routes	Entertainment district or complexes with commercial zones	
River corridors	Scenic landscapes	Pedestrian malls and pedestrian squares	Sportsfields and stadia	
1:100 Year Flood plains	Scenic features	School sites and institutional zones	Undetermined zones (including railway reserves, transport use zones)	
Wetlands	Municipal parks	Scenic features	Specific areas or sites designated as partial control by way of a map prepared by the municipality	
Scenic Drives	Urban edge zones as defined in the Urban Edge Policy	Scenic drives		
Greening of city network	Agricultural and horticultural areas and adjacent road and rail reserves	Gateways		
Specific areas or sites designated as maximum natural by way of a map prepared by the municipality	Specific areas or sites designated as maximum rural by way of a map prepared by the municipality	Public Open Spaces		
		Private Open Spaces		
		Urban small holdings		
		Intensive urban agriculture areas		
		Subsistence urban agriculture areas		
		1:100 Year flood plains		
		River corridors		
		Wetlands		

MAXIMUM			PARTIAL	MINIMUM
Natural Area	Rural Area (Outside urban edge)	Urban Area	Urban Area (Within urban edge)	Urban Area (Within urban edge)
		Community facilities (excluding sports facilities and stadia)		
		Core flora conservation sites as identified by the National Botanical Institute		
		Special Business zones		
		Residential components of mixed use buildings		
		Specific areas or sites designated as maximum urban by way of a map prepared by the municipality		

## SCHEDULE 2

### BILLBOARDS

1. Subject to approval in terms of this by-law, the erection or display of Billboards, whether custom made or of standard design, is permitted only in areas of minimum and partial control. In addition Billboards must:
  - (a) if the proposed erf where the billboards are to be erected borders on class 2 and 3 roads the billboard may not be placed less than 5 metres from the property's boundary line. If the proposed site of erection of a billboard has been designated as a gateway then no billboards will be permitted within such gateway.
  - (b) comply with the standard conditions of approval set out in this by-law.
  - (c) not encroach over the boundary line of the property on which it is erected, whether such encroachment is aerial or on ground level.
  - (d) have a minimum clear height of 2.4m and a sign structure which does not exceed a maximum height of 7.5m above natural ground level.
  - (e) not exceed a maximum total size of 6 × 3m (18m<sup>2</sup>) provided that on any V-shaped structure, two such panels may be permitted.
  - (f) be displayed between the angles of 90° and 60° to the direction of oncoming traffic.
  - (g) be spaced a minimum distance apart as specified in section 9 of this by-law.
  - (h) if located at signalized traffic intersections: may not be erected or displayed within 50 metres of the perimeter of the intersection if unilluminated; and within 80 metres of the perimeter of the intersection if illuminated.
  - (i) if erected along the right hand side of a section of road, such that its graphics are visible to a driver traveling on the left hand side of the road, shall be deemed to have replaced the advertising opportunity that existed on the left hand side of the road.
  - (j) have a minimum letter or number height of 285mm.
2. The information content of a proposed advertisement will be measured in "bits". In calculating the information content of a proposed advertisement, the bit weights shown in the table below must be used.
3. The total bits in a proposed advertisement may not exceed 15.
4. No tri face signs are allowed.

ELEMENTS OF THE ADVERTISEMENT		BITS PER ELEMENT
Words	up to 4 letters	0.5
	5-8 letters	1.0
	more than 8 letters	2.0
Numbers	up to 4 digits	0.5
	5-8 digits	1.0
	more than 8 digits	2.0
Logos, symbols and graphics	smaller than 9m <sup>2</sup>	0.5
	between 9 and 18m <sup>2</sup>	1.0
	between 18 and 27m <sup>2</sup>	1.5
	larger than 27m <sup>2</sup>	2.0



**SCHEDULE 3****LOCALITY BOUND FREESTANDING- AND COMPOSITE SIGNS**

1. Subject to approval in terms of this by-law, the erection or display of locality bound freestanding- and composite signs are permitted only in urban areas of maximum, partial and minimum control. In addition:
  - (a) Locality bound freestanding signs may only be permitted in the following instances:
    - (i) where business premises are set back 15 metres or more from the boundary of the road reserve; or
    - (ii) where it is not reasonably possible to affix appropriate signs to a building; or
    - (iii) where such a sign is necessary to allow the public to locate the entrance to business premises; or
    - (iv) where the existence of a freestanding composite sign may prevent the proliferation of signs.
2. Locality bound freestanding composite signs may not exceed 4,5 metres in height and in addition may not exceed 4,5m<sup>2</sup> in total area. This provision may be waived to a maximum height of 7,5 metres and a maximum total area of 10m<sup>2</sup> per side, having regard to the following factors:
  - (a) if such increase reduces the number of individual signs facing any one street boundary of the site, thereby minimising the visual impact on the surrounding environment;
  - (b) if more than two significant roads approach the site in question;
  - (c) the number of businesses which will be advertising on such sign;
  - (d) the number of approach or exit routes to the site in question;
  - (e) the applicable zoning of the area surrounding the site in question.
3. Service station freestanding signs must be locality bound and may only be erected or displayed at service stations adjacent to and directly accessible from the public road at which such a sign is directed and only one service station freestanding facility sign per street boundary may be permitted.
4. Service station freestanding signs may not exceed 7,5 metres in height and may not consist of more than eight advertising panels of 4,5m<sup>2</sup> each in total area. The provisions of this section may be waived to a maximum height of 16 metres and eight advertising panels not exceeding 6m<sup>2</sup> each in total area having regard to the factors mentioned in item 2 above. In areas of maximum control the maximum height is 4,5 metres and an area of 7,0m<sup>2</sup> on each side.

**SCHEDULE 4****SIGNS ATTACHED TO WALLS OF BUILDINGS: FLAT AND PROJECTING SIGNS**

Subject to approval in terms of this by-law, the erection or display of flat and projecting signs are permitted in all areas of maximum, partial or minimum control. In addition, flat and projecting signs may:

1. Not be allowed within 0,6 metres of the edge of a roadway nor may it extend to within 0.6 metres of the edge of a roadway.
2. Not project in front of a wall more than 1,5 metres in the case of a sign which has a clear height of more than 7,5 metres or more than 1 metre in the case of any lesser clear height.
3. Not project more than 250mm over a footway unless such sign has more than 2.4 metres clear height.
4. Not obstruct the view from any window or any other external opening of any building and no portion of any such sign may obstruct the opening or closing of any window, door or any other openings.
5. Not exceed 54m<sup>2</sup> in total area and may not exceed one-quarter of the overall area of the surface to which they are affixed or painted whichever is the lesser. This size restriction may be waived on condition that:
  - (a) an environmental impact assessment be submitted to the municipality indicating no detrimental environmental impact is envisaged;
  - (b) if it is proposed to erect or projecting sign in a conservation area, a heritage impact assessment be submitted indicating no detrimental impact in respect of heritage resources is envisaged; and
  - (c) only graphics designed and created by a suitably qualified consultant be displayed on such sign;
6. Be considered for approval on blank common boundary facades of non-residential buildings.
7. If the sign appears on public facades of any building—
  - (a) be so designed as to become an integral part of the building design; and
  - (b) when third party, only be permitted if custom-made and subject to the requirements of 5(a) to (c) above.

**SCHEDULE 5****SKY SIGNS**

1. Subject to approval in terms of this by-law, the erection or display of sky signs whether custom made or of standard design, is permitted in areas of minimum control only. In addition, sky signs must:
  - (a) be limited to a maximum total size of 4,5m<sup>2</sup>, provided that this size requirement may be waived up to a maximum of 18m<sup>2</sup> upon receipt of an environmental impact assessment indicating no detrimental environmental impact is envisaged; and
  - (b) not obstruct the view from any other building.
2. Sky signs along the top edge of the roof of cultural, historic or architecturally significant buildings will only be permitted if they are locality bound, unilluminated and consist of individual cut-out letters or logos.
3. The information content of a proposed advertisement will be measured in “bits”. In calculating the information contents of a proposed advertisement, the bit weights shown in the table below should be used.

4. The total bits in a proposed advertisement may not exceed 15.

ELEMENTS OF THE ADVERTISEMENT		BITS PER ELEMENT
Words	up to 4 letters	0.5
	5–8 letters	1.0
	more than 8 letters	2.0
Numbers	up to 4 digits	0.5
	5–8 digits	1.0
	more than 8 digits	2.0
Logos, symbols and graphics	smaller than 9m <sup>2</sup>	0.5
	between 9 and 18m <sup>2</sup>	1.0
	between 18 and 27m <sup>2</sup>	1.5
	larger than 27m <sup>2</sup>	2.0

#### SCHEDULE 6

##### ROOF SIGNS

1. Subject to approval in terms of this by-law, the erection or display of roof signs is permitted in all urban areas of control except areas zoned for residential purposes in areas of maximum control. In addition:
  - (a) The total area of any roof sign affixed flush onto or painted onto a roof of a building may not exceed one-quarter of the overall area of the roof to which it is affixed or painted.
  - (b) When attached to the bottom edge of a roof or vertically midway on the roof of a building, such sign may not exceed 1 metre in height and its total area may not exceed 25% of the roof area to which it is affixed.
2. It shall be permissible to affix a roof sign along the edge of a roof of a building, if such sign is composed of a single line of individual, cut-out letters, without visible bracing or support but may not be erected along more than two edges of such roof and may not exceed 3,6m<sup>2</sup> in total area (6 × 0,6m); with a maximum height of 1 metre.

#### SCHEDULE 7

##### SIGNS ON A VERANDAH, BALCONY, CANOPY, SUPPORTING COLUMNS, PILLARS AND POSTS

Subject to approval in terms of this by-law, the erection or display of signs on a verandah, balcony, canopy, supporting columns, pillars and posts may be permitted in all areas of control on condition that they also comply with the following:

1. No such signs will be allowed on or over architectural features of buildings.
2. Such signs may be affixed flat onto or painted on a parapet wall, balustrade or railing of a verandah or balcony, and beam or fascia of a verandah or balcony.
3. The sign may not exceed 1m in height or project above or below or beyond either end of the surface to which it is affixed, or project more than 250mm in front of the surface to which it is affixed or project over a roadway or within 0,6 metres of the edge of the roadway.
4. Such signs may be affixed flat onto or painted on supporting columns, pillars and posts. In this regard, no sign may project more than 50mm in front of the surface to which it is affixed and may not extend beyond any of the extremities of such column, pillar or post. Signs affixed flat onto non-rectangular supporting structures must be curved to fit the form of such structure.
5. Only one sign per column, pillar or post will be allowed.
6. Such signs suspended below the roof of a verandah, canopy or the floor of a balcony may not exceed 1,8 metres in length or 600mm in height.
7. Every such sign must be at right angles to the building line.
8. No signs suspended under a canopy may extend beyond the external edge of the canopy or verandah to which it is attached.
9. All suspended signs must have a clear height of at least 2,4 metres.
10. Such signs on the roof of a verandah, canopy or balcony, excluding the main roof of a building, must be composed of a single line of freestanding individual, cut-out silhouette letters without visible bracing or other visible means of support and may not be erected along more than two edges of such roof of a verandah or balcony.

#### SCHEDULE 8

##### SIGNS ON BOUNDARY WALLS AND FENCES AND ON CONSTRUCTION SITE HOARDINGS

Subject to approval in terms of this by-law, the erection or display of signs on boundary walls and fences is permitted only for locality bound signs in urban areas of maximum, minimum or partial control and in addition:

1. In urban areas of maximum and partial control, the municipality may approve an application to affix a locality bound sign against a boundary wall only if the sign is indented into the wall or composed of individual, unilluminated cut-out letters or symbols fixed flat on such wall not projecting more than 50mm from the face of such wall.
2. In areas of minimum control, the municipality may approve—
  - (a) an application to affix a locality bound sign flat onto a boundary wall only if it does not project more than 50mm from the face of such wall; and
  - (b) an application to affix a locality bound flat sign with a maximum size of 0,5m<sup>2</sup> onto the permanent fence of an erf.
3. Third party and locality bound advertising on construction site hoardings and fences must comply with the following conditions:
  - (a) any one sign may not exceed a vertical dimension of 3 metres and total area of 18m<sup>2</sup> and in the case of construction site cladding, the graphic must comply with the requirements of the Advertising Standards Association of South Africa.
  - (b) any such sign may not project more than 100mm in front of the hoarding or fence to which it is affixed;

- (c) it may not be illuminated in areas of maximum and partial control; and
- (d) advertising will not be allowed on construction site hoardings and fences within the cone of vision of motorists at signalised traffic intersections.

#### **SCHEDULE 9**

##### **HEADLINE POSTERS**

Subject to approval in terms of this by-law, the erection or display of headline posters is permitted in all areas except natural and rural areas of maximum control. In addition:

1. Headline posters may not exceed 0.9m × 0.6m in area.
2. The commercial content of the poster may not exceed 20% of the area of the poster nor may such commercial lettering be larger than the main lettering in the remainder of the poster.
3. The posters may be attached to municipal electrical light poles only where approved by the municipality for the express purposes of these posters.
4. Poster may not be affixed to traffic signal poles, or other poles which carry road traffic signs, or poles erected for any other purpose, or any other street furniture, wall, fences, trees, rocks or other natural features.
5. Headline posters may not be pasted on municipal electric light poles but are to be mounted on board and affixed securely with stout string or plastic ties unless a permanent frame has been approved for this purpose.
6. Only one headline poster per pole, regardless of which newspaper group it is, will be permitted.
7. The number of posters as well as the designated areas for the display of headline posters as approved by the municipality must be strictly adhered to.
8. All "special events" posters are to comply with the following:
  - (a) the name of the newspaper group, the "special event" and the date of the "special event" must appear on the posters in letters not less than 50mm in height;
  - (b) the special event posters may not be displayed more than 7 days before the date of the event and they must be removed within 24 hours after the date of the event shown on the poster.
9. Headline posters and fastenings are to be removed on a daily basis failing which the posters will be removed, at the newspaper group's expense, in accordance with the standard tariff for removal of posters.
10. The municipality may recover the costs of the removal of unauthorised posters, and the reinstatement of the surface from which such posters were removed, from the person responsible for the display of such posters or the newspaper group concerned.
11. The municipality may remove any poster displayed in contravention of the abovementioned conditions.
12. Any poster not removed on a daily basis or a poster relating to a "special event" by due date referred to in item 8(b) may be removed by the municipality.
13. The display of unauthorised posters is illegal and the municipality may also remove such posters.
14. The municipality may determine the costs involved for the removal of unauthorised posters..
15. Application must be made on an annual basis by each newspaper group for permission to display such posters subject to an annual tariff per newspaper group.
16. A deposit per newspaper group who wishes to display posters must be paid annually against which a charge for the removal of any poster which contravenes the by-law will be levied. In the event of the above deposit being exhausted, permission to display such poster may be withdrawn until a further deposit is submitted to the municipality.

#### **SCHEDULE 10**

##### **POSTERS, BANNERS, FLAGS AND BALLOONS**

Subject to approval in terms of this by-law, the erection or display of posters, banners and flags other than those referred to in Schedule 11, or balloons is permitted in all areas except natural- and rural areas and areas of maximum control. In addition:

1. The display of posters, banners, flags and balloons is prohibited on any bridge or across any public road, and along any road designated by the municipality, unless consent has been obtained from the municipality.
2. Posters, banners, flags and balloons may not be attached so as to interfere with or constitute a danger to passing pedestrians of vehicular traffic.
3. No banner, or flag-type banner may be larger than 5m<sup>2</sup>, and no flag may be larger than 2m<sup>2</sup>; provided further that no flagpole may exceed a relevant height restriction of the zoning of the premises, up to a maximum of 8m above natural ground level, measured directly below the pole;
4. No poster, banner, flag, or balloon may be displayed within 30 metres of any road traffic sign or traffic signal.
5. Posters, banners, flags, or balloons are not to be affixed to trees, traffic signal poles, electrical or service authority distribution boxes, or other poles which carry road traffic signs, rock, other natural features, street furniture or other municipal property.
6. Banners, flags, or balloons may not be affixed in such a way that they unfairly prejudice other businesses or organisations or obscure any approved existing signs.
7. Only one banner per premises will be permitted unless the municipality's written permission is obtained for more than one.
8. A maximum of five flagpoles bearing national flags may be erected on the premises of an accommodation facility on a single residential erf;
9. Subject to the conditions laid down in paragraph 4, a maximum of three flags displaying the name, corporate symbol and nature of the premises on which it is displayed, may be allowed.

10. Posters, banners, flags and balloons not kept in a good condition may not be displayed and must be removed if notified in writing by the municipality.

#### **SCHEDULE 11**

##### **POSTERS, BANNERS AND FLAGS ON PUBLIC ROADS AND PUBLIC PLACES**

Subject to approval in terms of this by-law, the erection or display of posters, banners and flags in public roads or public places, for the purpose of advertising specific events, is permitted in all areas of control except natural and rural areas of maximum control.

In addition—

1. Approval for third party advertising on posters, banners, flags and balloons may only be granted for a function or event conducted for religious, educational, social welfare, animal welfare, sporting, civic or cultural purposes or to a function or event relating to a Municipal, Provincial or Parliamentary election or referendum.
2. The name of the host organisation, the date and venue must appear on the material in letters not less than 50mm in height.
3. Posters, banners and flags may only be erected to advertise the event and the name or emblem of a sponsor may not cover more than 20% of the surface of the material.
4. The municipality may levy a tariff to cover the cost for the removal of material which have been erected without the approval of the municipality given under the hand of an authorized official.
5. Posters, banners and flags may be displayed for a maximum period of fourteen days prior to the event and must be removed within 2 days from the date of the event or the last day thereof as applicable.
6. Posters with a maximum measurement of 80 cm × 50 cm must be mounted on a board and affixed securely with stout string or plastic fastening without damage caused to the poles. No securing material with a metal content is permitted.
7. Posters, banners and flags, excluding election posters and flags, may only be erected in the roads, or places as indicated by the municipality and may not be erected in residential areas or on bridges. No political banners will be allowed.
8. Only one poster or flag per organisation may be erected on every second streetlight pole.
9. Posters and flags must be erected at a uniform height of approximately 2 metres.
10. No posters, banners or flags may be affixed to trees, traffic signs, traffic signals, central ridges, existing advertising signs or any municipal buildings or over hydrant identification signs.
11. No posters, banners and flags may be displayed within 30 metres of any road traffic sign or traffic signal.
12. All materials used to affix the posters must be removed together with the posters.
13. The municipality may remove any indecent or torn posters, banners or flags, or any posters, banners or flags which create a traffic hazard in the opinion of the municipality.
14. The municipality is exempted from claims that may be instituted against the municipality as a result of the display of posters, banners and flags.
15. The display of posters, banners and flags purely for commercial advertising is not permitted, provided that any poster, banner or flag which relates to a sport, the arts, or cultural event may be permitted, despite such posters, banners or flags containing commercial elements. The commercial element may not exceed 20% of the extent of the poster, banner or flag.
16. Organisations or persons who obtained approval to display posters or flags must pay a deposit as determined by the municipality, which shall entitle that person to display the said poster or flag for a maximum period of 14 days, or such time as stipulated by the municipality. No poster or flag may be displayed without such deposit having been paid.
17. The municipality may remove or request the applicant to remove all posters or flags should any of the above conditions not be complied with.
18. Posters or flags that are not removed by the due date may be removed by the municipality in which case the deposit paid will be forfeited to the municipality.
19. Banners will be erected or removed by the municipality at a rate as approved from time to time and the banner must comply with the specifications as laid down by the municipality.

#### **SCHEDULE 12**

##### **ESTATE AGENT SIGNS**

Subject to approval in terms of this by-law, the erection or display of estate agent signs is permitted in all areas except natural areas of maximum control. In addition:

1. Advertising signs by estate agents may not be displayed unless written approval for a sole mandate or dual mandate has been obtained from the owner of property on which such signs are erected.
2. "Show House" signs may be displayed only from 12h00 on Friday to 20h00 on Sundays or on Thursdays and Mondays where either the Friday following the Thursday, or the Monday or both are public holidays.
3. Estate Agent signs may not be affixed to trees, traffic signals, street poles or other poles which carry road traffic signs, walls, fences, rocks, other natural features or landscaped areas, street furniture, or other Municipal property, unless such other display is authorised by the municipality in writing.
4. On each sign, the wording "On Show", "Show House", "Show Flat" or "Show Plot" with the Agency's name and directional arrow must be displayed.
5. Signs may be displayed on stakes making use of a design approved by the municipality. Estate Agent signs may not be displayed on concrete, premix or paved surfaces. It is not permissible for stakes to penetrate the ground deeper than 15cm.
6. Estate Agent signs may not exceed 0,3m<sup>2</sup> in total area.
7. A maximum of one "For Sale" sign per estate agency may be displayed at single residential premises, except at a corner stand where two

- signs may be displayed; provided further that a maximum of six "For Sale" signs may be displayed simultaneously at such residential premises.
8. Estate Agent signs may not be displayed along Scenic Drives or on any bridge, public park or public open space.
  9. A maximum of ten directional signs per show house/flat/plot may be displayed along class 2 or 3 roads, excluding roads referred to in item 7 above.
  10. No Estate Agent sign may obscure a road traffic sign.
  11. No Estate Agent sign may be erected on center islands.
  12. No Estate Agent sign may be erected in such a way that any part of it is closer than 1.5m from a road verge.
  13. Directional signs may be displayed along main routes only, being the shortest route from a main road to the property.
  14. No Estate Agent signs may be erected on any tarred area of pavements.
  15. "Sold"/"For Sale"/"To Let" signs may be erected flush against the fence or wall of the property.
  16. "Sold" signs may be displayed flush against the fence or wall of the property for a maximum period of one month only.
  17. No signs indicating anything other than property for sale may be erected or displayed by Estate Agents.
  18. Estate Agencies must apply annually for permission to display Estate Agent signs and approval may be subject to payment of an annual tariff in accordance with the municipality's Schedule of Tariffs.
  19. A deposit may be required by the municipality against which a charge for the removal of any sign which contravenes the by-law will be levied. In the event of the above deposit being exhausted, permission to display such signage may be withdrawn until a further deposit is paid to the municipality.
  20. Any Estate Agent sign unlawfully erected, or in contravention of the provisions of this Schedule, will be subject to a charge by the municipality; in the event of the said sign not being removed by the municipality, photographic evidence of the unlawful sign may be obtained by the municipality prior to levying the said charge.

### SCHEDULE 13

#### LOOSE PORTABLE SIGNS

Subject to approval in terms of this by-law, the erection or display of loose portable signs is permitted in areas of minimum and partial control as well as designated areas within urban areas of maximum control. In addition:

1. Loose portable signs may not be placed in a road reserve or in public open spaces without the written permission of the municipality.
2. The municipality may remove and impound loose portable signs placed without permission in a road reserve or on Municipal property. Owners can recover their signs on payment of the prescribed tariff as determined the municipality which will be used to defray the cost of removal, storage and transportation.
3. The following criteria will apply in respect of an application in terms of item 1:
  - (a) that it does not pose a hazard in terms of safety to the public;
  - (b) that it does not obstruct or cause inconvenience to the public either by its physical size or location;
  - (c) that it does not unfairly prejudice other traders;
  - (d) that the loose portable sign or proposed number thereof does not detract from the amenity of the local streetscape or local environment;
  - (e) that it is intended solely to advertise the name of the business, goods or services for sale from the advertiser's premises;
  - (f) that the maximum dimensions of the proposed loose portable sign must be 1.2m (height) × 0.6m (width).
  - (g) that it may be placed directly in front of the advertiser's premises, provided that the above criteria are met; and
  - (h) that a minimum clear footway width of 1,8 metres must remain clear and 2,5 metres in the central business district and sidewalks with high pedestrian volumes.
4. The municipality may demarcate areas within the road reserve or on municipal property where, during normal trading hours, applicants may then place the approved loose portable signs. The said signs must be removed outside normal trading hours and stored away from public view.
5. The municipality may levy tariffs for displaying the loose portable signs, which tariffs shall be payable in advance for a maximum period of six months.
6. Applicants will be required to indemnify the municipality against any claims from third parties that may arise, due to the placement of loose portable signs within the road reserve or on municipal property.
7. Notwithstanding the above, the municipality may cause the removal or impoundment of the sign or signs should the applicant contravene any of the above conditions.

### SCHEDULE 14

#### AERIAL SIGNS

Subject to approval in terms of this by-law, the erection display of aerial signs is permitted only in urban areas of partial or minimum control. In addition:

1. No aerial signs affixed to any building or structure may be flown at a height of more than 45 metres from the surface measured from ground level.
2. Aerial signs may not be flown above a public road.

**SCHEDULE 15****TRANSIT ADVERTISING**

Subject to approval in terms of this by-law, the erection or display of transit signs is permitted only in urban areas of partial or minimum control. In addition:

1. The parking of a transit sign which is visible from a public road or a public place for the purpose of third-party advertising is prohibited, except if it is displayed on a designated display site approved in terms of this by-law.
2. Transit signs parked on private property for the purpose of storage must be positioned in such a manner as not to be visible from a street or public place.
3. The advertising panel or portion of the vehicle used for transit advertising may not exceed a cumulative total of 18m<sup>2</sup> in areas of partial control, which size may be increased to a maximum size of 36m<sup>2</sup> in areas of minimum control.
4. The municipality may designate sites in areas of partial and minimum control for transit advertising and may publish notices indicating such sites.
5. Notwithstanding any provisions of this by-law, the municipality may, without prior notice remove any unauthorised transit signs from municipal property, and, in the case of unauthorised transit advertising on private property, the municipality may serve a notice ordering the removal thereof in terms of this by-law.
6. Transit signs must be fixed to the ground at the parking location.

**SCHEDULE 16****SIGNS ON MUNICIPAL LAND OR BUILDINGS**

1. No sign may be displayed or erected on municipal land or buildings without the written permission of the municipality.
2. The following specific conditions and criteria will apply to the signs mentioned in items (a) to (c) below:

(a) *Commercially sponsored signs other than those in section 13(10)*

Notwithstanding the area of control within which it is proposed to erect a commercially sponsored sign on municipal land or buildings, and subject to compliance with all other provisions of this by-law, the municipality may consider a commercially sponsored sign for approval, subject to the following:

- (i) community needs or goals must be identified or adopted by the municipality and if such needs can be addressed either entirely or in part by the granting of concessions to particular persons for the erection of commercially sponsored signs, the municipality may call for public input on such community needs or goals and the related advertising opportunity.
- (ii) in order to identify such community needs or goals, the municipality and other interested authorities must consult prior to proposals being invited, so as to establish conditions, criteria and constraints in respect of such advertising.
- (iii) the municipality's Supply Chain Management Policy will apply.
- (iv) that any proposal be evaluated on the following factors:
  - (aa) the adherence to the principles of this by-law;
  - (bb) the design contribution;
  - (cc) the best community benefit offered;
  - (dd) the creativity and public safety;
  - (ee) the permanence of the contribution to the community goals or needs; and
  - (ff) the recovery cost over the period of the erection of the sign as opposed to the largest advertising opportunity or financial gain.
- (v) when contributions in kind are to be recovered by the municipality, a conversion thereof to a monetary contribution to the municipality's income base will be assessed.
- (vi) the municipality, as landowner, reserves the right not to proceed with any proposal prior to final approval thereof and the call for invitations for proposals in any respect shall not be regarded as decision by the municipality to proceed with the erection of a sign in respect of a specific site.
- (vii) once accepted, any sign to be erected in terms of this schedule must be the subject matter of a written agreement between the municipality as landowner and the person responsible for the erection of the sign.

(b) *Sponsored signs*

Notwithstanding the area of control within which it is proposed to erect such a sign on Municipal owned land or buildings and subject to compliance with all other provisions of the by-law, the municipality may consider a sponsored sign for approval on condition that:

- (i) written detail which clearly indicates the recognised community goals which will be promoted by the erection or display of the proposed sign;
- (ii) signs with a political content will not be permitted;
- (iii) no more than 5% of the total surface of the sign is used for third party advertising.
- (iv) the maximum size of any such sign will be 6m × 3m; provided in the event of a V-shaped sign where the size may not exceed two panels of 6m × 3m each.
- (v) applications for billboards to be erected in terms of this section comply with the requirements as set out in Schedule 2.
- (vi) no sign erected in terms of this clause be located within 5 metres of a property's boundary line.



(c) *Non-profit signs*

Notwithstanding the area of control within which it is proposed to erect a sign, and subject to compliance with all other provisions of this by-law, the municipality may consider the erection of a sign by or for the benefit of a non-profit body subject to compliance with the requirements set out in Schedule 17 hereto.

**SCHEDULE 17**

**SIGNS ERECTED BY OR FOR THE BENEFIT OF NON-PROFIT BODIES**

1. Notwithstanding the area of control within which it is proposed to erect a sign by or for the benefit of a non-profit body, and subject to compliance with all other provisions of this by-law, the municipality may consider such a sign for approval subject to the following:
  - (a) written details from the host non-profit body regarding the nature and extent of the support to be received from the erection or display of the sign must be delivered to the municipality together with the other information set out in section 3 of this by-law;
  - (b) the extent of involvement of previously disadvantaged communities, small businesses, job creation and empowerment will be considered in any proposal;
  - (c) that any proposal be evaluated on the following factors:
    - (i) the adherence to the principles or provisions of this by-law;
    - (ii) the design contribution;
    - (iii) the best community benefit offered;
    - (iv) the creativity and public safety; and
    - (v) the permanence of the contribution to the community goals or needs as opposed to the largest advertising opportunity or financial gain.
  - (d) in the event of it being proposed that the said sign will be erected on municipal property:
    - (i) the municipality must evaluate the proposal;
    - (ii) the municipality as landowner reserves the right not to proceed with any proposal prior to final approval thereof; and
    - (iii) if accepted, a written agreement between the municipality, the person responsible for the erection of the sign and the non-profit body must be entered into.
  - (e) In addition the following conditions will apply:
    - (i) signs with a political content will not be permitted;
    - (ii) the maximum size of any such sign is 6m × 3m; provided in the event of a V-shaped sign being proposed, its maximum size will not exceed two panels of 6m × 3m each;
    - (iii) applications for billboards to be erected in terms of this section must comply with the requirements as set out in Schedule 2;
    - (iv) no sign erected in terms of this clause may be located within 5 metres of a property's boundary line;
    - (v) the name of the non-profit body must be displayed on the sign with a maximum 300mm lettering height;
    - (vi) all parties that may be affected by the erection or display of such sign must be given opportunity for their input;
    - (vii) the municipality may require submission of impact assessment studies; and
    - (viii) no more than two individual signs of 6m × 3m each may be permitted, or alternatively one V-shaped sign with a maximum of two panels of 6m × 3m each on any one property. In addition, only one sign per street frontage will be permitted.

**BERGRIVIER MUNICIPALITY:  
CEMETERIES AND CREMATORIA BY-LAW**

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, the Bergrivier Municipality enacts as follows:—

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**1. Interpretation**

- (1) In this by-law, unless the context otherwise indicates—

“**adult**” means a deceased person over the age of 16 years, and where the word is used to define a corpse, a deceased person whose coffin will fit into the grave opening prescribed for adults in section 15;

- “**aesthetic section**” means a section of a cemetery which has been set aside by the municipality wherein only headstones may be erected;
- “**approved**” means approved by the municipality;
- “**ashes**” means the cremated remains of a corpse;
- “**berm**” means a concrete base laid at the head of a grave and on which a memorial is erected;
- “**burial**” means interment in earth, a grave or tomb;
- “**burial order**” means an order issued in terms of the Births and Deaths Registration Act, 1992 (Act 51 of 1992);
- “**caretaker**” means the official whom the municipality appoints from time to time in a supervisory capacity with regard to a cemetery or crematorium or his or her delegate;
- “**cemetery**” means a land or part of a land within the municipal area set aside by the municipality for the interment of corpses;
- “**ceremony**” means any ceremony relating to the interment of a corpse;
- “**child**” means a person who is not an adult, and where the word is used to define a corpse, means a deceased person whose coffin will fit into the grave opening prescribed for children in section 18, and includes the corpse of a stillborn child and a foetus;
- “**columbarium**” means the place set aside in the basement of a crematorium or chapel containing rows of niches for the purpose of placing receptacles containing the ashes of cremated corpses therein;
- “**corpse**” means the remains of a deceased person and includes a still-born child and foetus;
- “**cremation**” means the process whereby a corpse is disposed of by fire or by any other means that yields a comparable result;
- “**crematorium**” means a place where corpses are cremated;
- “**cremated remains**” means all recoverable ashes after the cremation;
- “**exhumation**” means the removal of a corpse from its grave ;
- “**garden of remembrance**” means a section of a cemetery or crematorium set aside for the erection of memorial work or a wall of remembrance;
- “**grave**” means a piece of land, within a cemetery or heritage site, excavated for the burial of a corpse and includes the headstone, number or marker of and a structure on or associated with the grave;
- “**interment**” means any method used for disposing of a corpse;
- “**memorial section**” means a section of a cemetery set aside for the erection of memorials;
- “**memorial work**” means any headstone, monument, plaque, other work or object, erected or intended to be erected in a cemetery or crematorium to commemorate a deceased person, and includes a kerb demarcating a grave, and a slab covering a grave;
- “**municipality**” means the Berggrivier Municipality and includes any political structure, political office-bearer, duly authorised agent thereof, or a service provider fulfilling a responsibility under this by-law assigned to it in terms of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) or any other law, as the case may be, or any employee thereof, acting in connection with this by-law by virtue of a power vested in the municipality and delegated to such political structure, political office bearer, agent or employee;
- “**niche**” means a compartment in a columbarium or wall of remembrance for the placing of ashes;
- “**open section**” means a section in a cemetery set aside by the municipality where memorial work may be erected at a later stage at the prescribed tariff;
- “**prescribed**” means prescribed by the municipality;
- “**prescribed tariff**” means a fee set by the municipality in terms of its Customer Care and Revenue Management By-law;
- “**private cemetery**” means a cemetery which is used as a cemetery but which has not been set aside as such by the municipality;
- “**tomb**” means an above-ground burial vault;
- “**wall of remembrance**” means a structure in a cemetery which contains niches in which urns containing ashes can be stored.

## 2. Principles and objectives

The purpose of this by-law is to make provision for the allocation of land for the purposes of the burial of human remains, to develop and maintain existing cemeteries, to permit its residents to dispose of a corpse by cremation, burial or any other approved method and to provide space allowing the preservation of the remains of a cremation in a dignified manner.

### CHAPTER 1

#### ESTABLISHMENT OF CEMETERIES

### 3. Establishment of cemeteries

- (1) The municipality may set apart any piece of land within its area of jurisdiction for the purposes of a cemetery.
- (2) The municipality may, within such a cemetery, provide separate areas for exclusive use by different religious or cultural groups, taking into consideration the customs or religious conventions of such groups.
- (3) The establishment of a cemetery as contemplated in subsection (1) must be preceded by a process of public participation in terms of the municipality’s public participation policy.

#### 4. Alternatives to burial

The municipality may, if compelled to do so by environmental considerations, or the shortage of land for burial purposes, and subject to the provisions of any other law regarding the rights of a person, request that a corpse be disposed of by any other accepted method other than burial.

### CHAPTER 2

#### GENERAL PROVISIONS RELATING TO PLACES OF INTERMENT

#### 5. Appointment of caretaker

- (1) The municipality may appoint a caretaker for each place of interment or crematorium to control and administer the place of interment.
- (2) The caretaker must take into account the customs of the deceased person and the people responsible for the interment and must accommodate these within the framework of this by-law.

#### 6. Hours of admission for public

- (1) Places of interment are normally open to the public during the hours determined by the municipality, but if it is in the interest of the public, the municipality may close a place of interment or part thereof for such periods as may be necessary.
- (2) No person, excluding workers or persons with permission, may be in or remain in a place of interment before or after the hours mentioned in sub-section (1) or during a period when it is closed to the public.
- (3) The municipality must display the hours that every place of interment is open to the public on a notice board that must be placed at each entrance to the place of interment.

#### 7. Keeping to paths

Except for purposes permitted by this by-law, a person may only use a path provided in the place of interment, and failure to do so constitutes an offence.

#### 8. Prohibited conduct within cemeteries and crematoria

- (1) No person may in a cemetery or crematorium:
  - (a) commit or cause a nuisance;
  - (b) ride an animal or cycle except with the approval of the caretaker;
  - (c) with the exception of a blind person making use of a guide dog, bring into or allow an animal to wander inside such cemetery;
  - (d) plant, uproot, cut, pick or remove a tree, plant, shrub or flower without the permission of the caretaker;
  - (e) hold or take part in a demonstration;
  - (f) interrupt a funeral or an official or workman employed by the municipality during the performance of his or her duties;
  - (g) obstruct, resist or oppose the caretaker in the course of his or her duty or refuse to comply with an order or request which the caretaker is entitled to make under this by-law;
  - (h) mark, draw, scribble, erect an advertisement or object on a wall, building, fence, gate, memorial work or other erection;
    - (i) use water for any form of gardening without the permission of the caretaker;
  - (j) leave or dump any rubbish, soil, stone, debris or litter;
  - (k) in any way damage, destroy or deface a grave, memorial, wall, building, fence, railing, path or other construction or any part thereof;
  - (l) solicit any business, order or exhibit, or distribute or leave a tract, business card or advertisement;
  - (m) treat a grave or memorial work with disrespect, such as climbing or sitting on a grave or memorial work;
  - (n) enter an office, building or fenced place except in connection with lawful business;
  - (o) expose a corpse or a part thereof;
  - (p) exceed the prescribed speed limit;
  - (q) allow or cause any animal to enter, with the exception of a caretaker living on site and who is keeping pets with the prior approval of the municipality;
  - (r) bring in any alcohol or consume any alcohol; or
  - (s) be in possession of any fire arms or traditional weapons except in the case of a police or military funeral.
- (2) A person who contravenes any of the provisions of subsection (1) commits an offence.
- (3) The municipality may impound an animal found in any cemetery or crematorium.

#### 9. Right of interest in ground

- (1) No person shall acquire any right to or interest in any ground or grave in a cemetery other than such rights or interests as may be obtainable under this by-law.
- (2) The municipality may, subject to the provisions of section 17, and on payment of the prescribed fee, reserve a grave plot in a cemetery.

**CHAPTER 3**  
**GENERAL PROVISIONS RELATING TO INTERMENT**

**10. Consent required**

- (1) No person may dispose of a corpse in any other man-ner than that prescribed by the municipality, and a person who wishes to dispose of a corpse must obtain the written consent of the municipality and must comply with any requirements set by the municipality.
- (2) A person who wishes to obtain the consent as contemplated in subsection (1) must submit to the caretaker an application in writing together with:
  - (a) proof of payment of the prescribed tariff;
  - (b) a death certificate;
  - (c) a burial order issued in terms of the Births and Deaths Registration Act, 1992; and
  - (d) if the application relates to a corpse in which was inserted radioactive material or a pacemaker, a statement indicating whether the said material or pacemaker was removed from the corpseand the caretaker may not approve the application unless all of the above requirements are met.
- (3) An application must be submitted to the caretaker, in respect of:
  - (a) an interment allowing sufficient time to prepare the place of interment; and
  - (b) practices that need to be adhered to by certain religious groups other than those prescribed by this by-law.
- (4) Should any alteration be made in the day or hour previously fixed for an interment, or an interment be cancelled, in the instance where the municipality is responsible for the digging of a grave, notice of the alteration must be given to the caretaker at least eight hours before the time fixed for the interment, and no refund will be made on monies paid in respect of the opening of an existing grave.
- (5) An application contemplated in subsection (2) must be signed by a surviving relative of the deceased person; however, if the caretaker is satisfied that the signature of a surviving relative cannot be obtained timeously, or for any other valid reason, he or she may, in his or her discretion, grant an application signed by any other interested person
- (6) The municipality reserves the right to:
  - (a) inspect the contents of a coffin before interment; and
  - (b) decide which method of interment may be used.
- (7) The municipality may refuse a person, including a funeral undertaker, to inter a corpse if documentation required by the municipality has not been submitted.

**11. Interment times**

- (1) An interment may take place between 09:00 and 16:00 daily.
- (2) A person contemplated in section 10(2) will be allocated an interment time by the caretaker, and interments that are not undertaken within the times allocated will result in such interment being postponed until such time as an interment time is available without inconveniencing other interments taking place within the time allocated.
- (3) Despite the provisions of subsection (1), the caretaker to whom an application is made may, in the case of emergency, permit interment outside the times contemplated in subsection (1), in which case an additional fee as prescribed by the municipality from time to time is payable.
- (4) A person who interrs a corpse in contravention of the provisions of subsection (1) or (2) commits an offence.

**12. Register**

The caretaker must keep a record of all interments, and the record must contain:

- (a) The particulars of the person who requested the interment;
- (b) the particulars of the deceased person whose corpse is to be interred, such as the name, address, and identification number;
- (c) the date of the interment; and
- (d) the number of the grave in which the corpse is interred.

**13. Interment of destitute persons**

- (1) The removal and interment of a destitute person who has died within the area of jurisdiction of the municipality is the responsibility of
  - (a) the municipality if:
    - (i) the destitute person's corpse has not been claimed by a competent person; or
    - (ii) a competent person has undertaken to inter the corpse of the destitute person but has failed to do so;
  - (b) a hospital or other institution in terms of the provisions of section 48(2) of the Health Act, 1977 (Act 63 of 1977), if the destitute person died in that hospital or other institution.
- (2) In terms of section 48(2A)(a) of the Health Act, 1977 (Act 63 of 1977), the municipality may direct that the corpse of a destitute person be interred in any manner it sees fit instead of being buried.
- (3) The corpses of more than one destitute person may be buried in one grave.



- (4) Where a corpse contemplated in subsection (2) is cremated, the caretaker of the crematorium must retain the ashes, and should the ashes not be claimed, such caretaker must bury the ashes in an area set aside for that purpose.

#### **14. Number of corpses in one coffin**

- (1) Subject to the provisions of subsection (2) and section 13(3), only one corpse may be contained in a coffin.
- (2) More than one corpse may be contained in one coffin if the consent of the caretaker has been obtained and the prescribed tariff has been paid, in the case of:
- (a) a mother and child who died during childbirth; or
  - (b) family members who:
    - (i) died together; or
    - (ii) died a short while after each other, and the interment of the first dying member has not yet taken place.
- (3) A person who contravenes a provision of subsection (1) or who fails to obtain the consent as contemplated in subsection (2) commits an offence.

### **CHAPTER 4**

#### **BURIAL**

#### **15. Dimensions of graves**

- (1) The standard dimensions of a grave for an adult person are as follows: Length: 2200mm; Width: 900mm; Depth: 2000mm.
- (2) Any person requiring a grave of a size larger than the standard dimensions must, when submitting an application in terms of section 10, specify the measurements of the coffin, and pay the tariff prescribed by the municipality from time to time for the enlarging of a grave
- (3) A person who digs a grave in contravention of the dimensions stipulated in subsection (1) commits an offence.

#### **16. Burial**

- (1) The lid of the coffin, or where one coffin has been buried on top of another coffin, the lid of the top coffin, may not be less than 1200mm from the natural ground level.
- (2) A person responsible for the burial must ensure that surrounding property is not damaged and must prevent graves from caving in.
- (3) Soil mounds on a grave may be removed by the municipality one month after the burial.
- (4) On completion of a burial, it is the duty of the undertakers, or the person who dug the grave, to clear the surrounding areas (pathways and graves) of all soil, debris, etc.
- (5) A person, who buries a coffin in contravention of the provisions of subsection (1) or who contravenes subsections (2) or (4) commits an offence.

#### **17. Reservation of grave plots**

- (1) A person desiring to reserve the use of a grave plot must submit an application to the caretaker and must pay the prescribed tariff.
- (2) A restriction is placed on the reservation of grave plots, and reservations shall only be accepted for adult grave plots in the monumental section as set out in subsection (3).
- (3) Only one adjoining grave plot may be reserved for a surviving family member for a period of 20 years, against payment of the tariff prescribed by the municipality, subject to the provisions of section 20, and no refund will be considered if the right provided by the reservation is not exercised.
- (4) Where another person, other than the applicant, has mistakenly used a grave, the caretaker must allocate another grave within the cemetery to the applicant.

#### **18. Child's grave**

The dimensions of a child's grave will be the same as that of an adult and more than one child may be interred in the same grave, provided that there is at least 200 millimetres of soil between the coffins and provided further that there is at least 1200 millimetres of soil between the top coffin and the natural ground level

#### **19. Construction material of coffin**

- (1) A coffin interred in a grave must be constructed of bio-degradable material.
- (2) A person who interrs a coffin in contravention of subsection (1) commits an offence.

#### **20. Number of bodies in one grave**

Subject to the provisions of sections 14(2), 16(1) and 18, more than one corpse may be interred in a single grave.

**21. Hearse and vehicle at cemetery**

- (1) No hearse or other vehicle may enter a cemetery without the prior permission of the caretaker.
- (2) No hearse or other vehicle may use any other route to enter a cemetery than the routes set aside for that purpose.

**22. Music inside cemetery**

Only sacred singing is allowed in a cemetery, except in the case of a police or military funeral, in which case the prior permission of the caretaker must be obtained.

**23. Number on grave**

No person may bury a corpse in a grave on which a peg marked with the number of the grave has not been fixed.

**CHAPTER 5****EXHUMATION OF CORPSE AND RE-OPENING OF GRAVE****24. Disturbance of mortal remains**

- (1) Subject to permission from the municipality, or the provisions of an exhumation order given in terms of section 3(4) of the Inquests Act, 1959 (Act 58 of 1959) or any other provision of any Act relating to the exhumation of corpses, no person may without an Environmental Health Practitioner being present:
  - (a) disturb a corpse or mortal remains or ground surrounding it in a cemetery; or
  - (b) remove a corpse from a grave.
- (2) Any person requesting for a corpse to be exhumed or a grave to be opened must provide the municipality with an affidavit certifying that he or she has the authority to do so, and such an affidavit must be accompanied by any supporting documentation that may be required in terms of any Act relating to the exhumation of corpses.
- (3) The prescribed tariff for exhumation must be paid to the municipality at least two days before the date fixed for the exhumation or removal of the corpse.
- (4) A person who contravenes the provisions of subsection (1) commits an offence.

**25. Time of exhumation**

No person may exhume or cause a corpse to be ex-humed at any other time than that specified by the municipality.

**26. Re-opening of grave**

- (1) No person may re-open a grave for the purpose of interring a second corpse in the same grave without permission of the municipality
- (2) When considering an application contemplated in subsection (1), the municipality may impose such conditions it may deem necessary.
- (3) The municipality may re-open a grave for the purpose of establishing the identity of the corpse.
- (4) In the event of a police investigation, a corpse may be exhumed on receipt of a written request from the investigating officer, provided that the provisions of the Inquests Act, 1959 (Act 58 of 1959) have been complied with.
- (5) A person who contravenes subsection (1) or any condition imposed in terms of subsection (2) commits an offence.

**CHAPTER 6****CARE OF GRAVES****27. Shrubs and flowers**

The municipality may, at any time, prune, cut down, dig up or remove any shrub, plant, flower, foliage, wreath or adornment if it becomes unsightly, is damaged or wilted.

**28. Care of grave**

- (1) The maintenance of a grave is the responsibility of the person contemplated in section 10(1).
- (2) The municipality may, on application by a person contemplated in section 10(1), and upon payment of a tariff prescribed by the municipality, undertake to keep any grave in order for any period.

**CHAPTER 7****CREMATION****29. Receptacles and ashes**

- (1) Unless the ashes are to be buried by the municipality, the person contemplated in section 10(1) must provide a receptacle, on which the full name of the deceased person is indicated, for receiving the ashes.
- (2) The quantity of ashes to be kept, as indicated on the application form by the person contemplated in subsection (1) must, after the cremation, be collected by him or her, and should he or she fail to collect the ashes, the ashes will be dealt with in terms of section 30(1)

- (3) Where a receptacle is intended to be placed in a niche in the columbarium
- (a) it must:
    - (i) be made of wood or stone; and
    - (ii) be of a size and design as to fit into the niche; and
  - (b) if the niche is not meant to be sealed, have affixed to it a plate on which the full name of the deceased person is inscribed.

### **30. Burial and exhumation of ashes**

- (1) In the absence of an arrangement between the caretaker and the person contemplated in section 29 regarding the ashes, the caretaker may bury or scatter the ashes in a garden of remembrance, where such a facility is available.
- (2) A person may deposit ashes in a:
- (a) grave; or
  - (b) niche in a—
    - (i) columbarium;
    - (ii) wall of remembrance; or
    - (ii) memorial work.
- (3) A person must obtain the consent of the caretaker and an immediate family member, if the applicant is not an immediate family member, if he or she wishes to:
- (a) bury ashes in a grave;
  - (b) exhume ashes from a grave; or
  - (c) scatter ashes,
- and the caretaker must, on receiving payment of the prescribed tariff:
- (i) give written consent to the applicant to bury, exhume or scatter the ashes; and
  - (ii) in the instance of burial or exhumation, prepare the grave for burial or exhumation.
- (4) A grave for the burial of ashes or a niche in a columbarium must measure 610mm in length, 610mm in width and 610mm in depth.

### **31. Cremation certificate**

- (1) On completion of a cremation, the caretaker must supply a cremation certificate to the person contemplated in section 29(1).
- (2) The caretaker must, on application and after receipt of the prescribed fee, issue a duplicate cremation certificate to a person.

## **CHAPTER 8**

### **ERECTION AND MAINTENANCE OF MEMORIAL WORK**

### **32. Consent of municipality**

- (1) No person may bring any memorial work into a cemetery or erect, alter, paint, clean, renovate, decorate, remove or otherwise interfere with any memorial work or cut any inscription thereon without the written consent of the municipality.
- (2) When erecting a memorial work, the following must be submitted:
- (a) a plan which gives an indication of the measurements and the position;
  - (b) specification of the material of which the memorial work is to be constructed; and
  - (c) the wording of the epitaph.
- (3) The plan must be submitted 30 days before the erection commences, and the municipality may impose such conditions as it deems necessary.
- (4) No person may bring into a cemetery any material for the purpose of constructing therewith any memorial work on any grave unless:
- (a) the provisions of subsection (1) to (3) have been complied with; and
  - (b) proof of payment in respect of work to be carried out has been submitted.
- (5) The municipality's consent of the proposed work is valid for six months only, and in the event of the memorial work not being erected within the prescribed time, a new application must be submitted.
- (6) The grave number must be indicated, in a workmanlike manner, in figures 30mm in size.
- (7) A person who contravenes a provision of subsection (1), (4)(a) or (6) commits an offence

### **33. Requirements for erection of memorial work**

- (1) A person erecting a memorial work must comply with the following:
- (a) he or she must be in possession of a plan approved by the municipality;
  - (b) all work must be effected according to the conditions contemplated in section 32(3);

- (c) proceedings must be of such a nature that no damage be caused to any structure or offence given;
  - (d) where a memorial has a pedestal on ground level or on the berm, the pedestal may not be more than 900mm in length, 250mm in width and 250mm in height for a single grave, and not more than 2700mm in length, 250mm in width, and 250mm in height for a double grave;
  - (e) with the next of kin's permission, the name of the maker can be displayed on a memorial work, but no address or any other particulars may be added thereto, and the space utilized for it may not be larger than 40 × 100mm; and
  - (f) tiles in the Garden of Remembrance must be 240mm × 300mm large and must be manufactured out of non-corrosive metal;
  - (g) all unused material, after the completion of the work, must be removed, the adjoining areas are to be left neat and clean and any damage caused must be repaired at the cost of the person responsible for such damage and should the responsible person fail to effect such repair, after due notice, the municipality will undertake the remedial work at the cost of the person who erected the memorial work
- (2) A person who does not comply with a provision in subsection (1) commits an offence.

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

- (1) No person may erect a memorial work on a grave before the position in which such memorial work is to be placed has been indicated by the municipality.
- (2) Should the condition of subsection (1) not be complied with, the municipality has the right to alter the position of the memorial work and to recover the costs of the alteration from the person who erected the memorial work.
- (3) A memorial work placed, erected, constructed, built, altered, decorated, painted or otherwise dealt with in a cemetery in such manner that any provisions of this by-law are contravened thereby, may be removed, after due notice, by the municipality at the cost of the person who erected the memorial work, without payment of any compensation.

#### **35. Repairs to memorial work**

- (1) Should the person who erected a memorial work allow such memorial work to fall into such a state of disrepair that it may cause danger or deface the cemetery, the municipality may cause a notice of compliance, as contemplated in section 56, to be served on such a person.
- (2) If the person contemplated in subsection (1) fails to comply with the notice of compliance, the municipality may demolish or remove the memorial work and recover the cost for demolition or removal from the person served with the notice of compliance.
- (3) If the person contemplated in subsection (1) cannot be traced, the municipality may demolish or remove the memorial work.

#### **36. Supervision of work**

A person engaged upon any work in a cemetery must effect the work under the supervision of the caretaker, and failure to do so constitutes an offence.

#### **37. Conveying of memorial work**

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

#### **38. Vehicle and tools**

Every person engaged in work upon a grave or plot must ensure that the vehicles, tools or appliances be of such a kind as not to contravene this by-law and by no means block any road or roads.

#### **39. Times for bringing in material and doing work**

- (1) No person may bring memorial work or material into or do any work, other than the dismantling of memorial work for burial purposes, within a cemetery except during official working hours of the municipal employees on Mondays to Fridays.
- (2) No person may engage in work which may disturb a funeral in progress and for the duration of the funeral.

#### **40. Production of written permission**

A person charged with a work or on his or her way to or from work within the cemetery must, upon demand from the municipality, produce the written consent issued to him or her in terms of section 32.

#### **41. Memorial work in crematorium**

- (1) Unless a corpse was cremated in the crematorium, or a cremation certificate issued by another crematorium is submitted, no person may, without the prior consent of the caretaker, erect a memorial work in a crematorium.
- (2) A memorial work
  - (a) if erected in a Garden of Remembrance:
    - (i) must be made of marble or granite; and
    - (ii) may not exceed a size of 250mm in width, 305mm in length, and 25mm in thickness;
  - (b) if intended to seal a niche, must conform in size and material to the memorial work next to it and may have a photograph of the deceased person affixed to it; or

- (c) erected on a grave, may not exceed 1.2m in height, 610mm in length, and 610mm in width.

#### **42. Commonwealth War Graves**

The graves of people who fell in conflict, whose graves are cared for or maintained by the Commonwealth War Graves Commission in terms of the Commonwealth War Graves Act, 1992, (Act 8 of 1992), or the South African Heritage Resources Agency in terms of the National Heritage Resources Act, 1999 (Act 25 of 1999), or by any other recognised body, or by any foreign government, may, on application to the municipality, be exempted from the requirements of this chapter.

### **CHAPTER 9 SECTIONS IN CEMETERIES**

#### **43. Municipality may establish sections**

- (1) The municipality may establish one or more of the following sections in a cemetery:
- memorial section;
  - open section;
  - aesthetic section
  - berm section.
  - Heroes Acre; and
  - Garden of Remembrance

#### **44. Memorial section**

- (1) Memorial work may be erected upon the whole surface of a grave subject to the provisions of section 33 and provided that the following measurements may not be exceeded:
- Height: 2000mm.
  - Width: 900mm in case of a single grave, and 700mm in case of a double grave.
  - Thickness: 250mm.
- (2) Flowers, foliage, wreaths or any adornment may be placed upon the berm only of graves, except in the case of graves which have not yet been levelled.
- (3) A person commits an offence if he or she:
- exceeds the measurements stipulated in subsection (1); or
  - contravenes section (2).

#### **45. Open section**

This section allows for the purchase of the grave only, and at a later stage may request permission to erect memorial work on payment of the prescribed tariff.

#### **46. Aesthetic section**

- (1) Only a headstone may be erected, and a slab may not be erected on, and a kerb may not be erected around a grave.
- (2) The dimensions of a headstone are as follows:
- Adult's grave:
    - Single grave: 900mm in length by 260mm in width.
    - Double grave: 2200mm in length by 260mm in width.
  - Child's grave:
    - Single grave: 610mm in length by 260mm in width.
    - Double grave: 1200mm in length by 260mm in width.
- (3) No headstone may exceed a height of 1500mm above the berm.
- (4) person who contravenes a provision of this section commits an offence.

#### **47. Berm section**

- (1) A concrete base is laid at the head of a grave and on which a memorial is erected;
- (2) The following measurements must be adhered to:
- base not to exceed 1200mm wide and 250mm deep
  - horizontally on ground level; and

- (c) on a concrete foundation.
- (3) A person who contravenes a provision of subsection (2) commits an offence.

#### **48. Garden of Remembrance**

- (1) This section contains the wall of remembrance with niches, and a garden area in which plaques can be erected.
- (2) A container intended to be placed in a niche may not exceed 300mm × 150mm × 150mm in size.
- (3) Flowers and wreaths may only be placed on the places provided for them.

#### **49. Heroes' Acre**

- (1) A Heroes' Acre consists of a structure erected for the purpose and contains no corpse but is a memorial only.
- (2) No person may erect such structure without the written approval of the municipality and the municipality decides upon the merits of such matters.
- (3) The size of the structure must be 500mm × 350mm and must be manufactured from a non-corrodible metal or masonry upon which, inter alia, the contribution made by the person in question is mentioned.
- (4) A person who interrs a corpse in contravention of subsection (1) or contravenes subsection (2) or who fails to comply with the requirements of subsection (3) commits an offence.

### **CHAPTER 10 PRIVATE CEMETERIES**

#### **50. By-laws apply**

The provisions of this by-law apply, mutatis mutandis, to private cemeteries.

#### **51. Establishment and continued use of cemeteries**

- (1) No person may, without the municipality's prior consent, establish a private cemetery, and no proprietor of a private cemetery already in existence may, if the use of the cemetery was not previously authorised by the municipality, continue to use the existing cemetery for burial purposes.
- (2) A person who wishes to apply for the municipality's consent to establish a cemetery or use a cemetery as contemplated in subsection (1), must submit to the municipality a written application, together with:
  - (a) a locality plan to a scale of not less than 1:10 000 which shows:
    - (i) the position of the proposed cemetery or existing cemetery in relation to the boundaries of the land on which it is proposed to establish it or upon which it is situated, as the case may be;
    - (ii) the registered description of the site; and
    - (iii) all streets, public places and privately-owned property within a distance of 100 metres of the site;
  - (b) a "block" plan to a scale of not less than 1: 500 showing the position of external boundaries, internal roads and paths, sub-divisions, grave sites, drainage and any buildings existing or proposed to be erected;
  - (c) a plan and sections to a scale of not less than 1: 100 of any building existing or proposed to be erected, and which must, in this case, conform with the National Building Regulations and the Water Services and Sanitation By-laws of the municipality;
  - (d) a list of registers or records kept or proposed to be kept with reference to:
    - (i) identification of graves;
    - (ii) sale of grave sites, transfer of grave sites; and
    - (iii) interments;
  - (e) the full name and address of the proprietor;
  - (f) particulars regarding the nature of the title under which the proprietor will hold or holds the land on which cemetery is to be established or which is being used as a cemetery, and whether such land is subject to any mortgage or trust; and
  - (g) a schedule of the burial fees proposed to be charged or actually in force.
- (3) On receipt of an application, the municipality must cause to be inserted in one or more newspapers circulating in the municipal area, a notice stating the nature of the application and specifying the date, being not less than 14 days after the date of publication of such notice, by which objections to the granting of an application may be lodged with the municipality.
- (4) The municipality may, upon receipt of the payment of the prescribed tariff, and if satisfied, after consideration of the application and any objections which may have been lodged, that no interference with any public amenity, or nuisance or danger to the public health is likely to take place or arise as a result, grant written consent for the establishment of the proposed private cemetery or the continued use of the private cemetery in accordance with the plans submitted and subject to any variation or amendment, which it may require and to any conditions which it may prescribe.
- (5) No departure from the plans as approved are permitted without the prior approval of the municipality.
- (6) A person who contravenes a provision of subsections (1) or (5) commits an offence.



**52. Duties of proprietors**

- (1) The proprietor of a private cemetery for which the consent of the municipality has been obtained must:
  - (a) comply with:
    - (i) any special conditions prescribed by the municipality; and
    - (ii) the relevant provisions of this by-law and any other applicable law;
  - (b) keep a record which shows:
    - (i) the number of each grave site and the ownership of the site; and
    - (ii) the number of interments in each grave site and the name, age, sex, last known address, date and cause of death of the deceased;
  - (c) maintain the grounds, fences, gates, roads, paths and drains in good order and condition and clear of weeds and overgrowth;
  - (d) provide for the identification of grave sites by subdividing the cemetery into blocks, each containing a number of graves or grave sites, and:
    - (i) each block must be demarcated by means of signs showing the number and situation of each block;
    - (ii) the graves or grave sites in each block must be separately numbered by means of durable number plates; and
    - (iii) all signs and number plates must be maintained in a neat and legible condition;
  - (e) allow an official to enter or inspect the cemetery and all records kept in connection therewith;
  - (f) render a monthly return to the municipal manager on or before the 7th day in each month of all burials, which sets out the:
    - (i) name, last known address, age, sex, date and cause of death of each deceased person interred in the cemetery;
    - (ii) name of the medical practitioner who issued the death certificate;
    - (iii) authority which issued the burial order;
    - (iv) block and grave site number;
    - (v) date of burial; and
    - (vi) particulars of a change in the identity of the caretaker or of a person newly appointment;
  - (g) render an annual return to the municipal manager on or before the 31st day of June each year, which contains a detailed list of the names and addresses of all trustees, committee members or persons controlling the place of interment; and
  - (h) appoint a caretaker to manage the cemetery and to keep the records.
- (2) The owner of a private cemetery or private property may refuse permission to have a corpse interred in the cemetery.
- (3) A person who contravenes a provision of subsection (1) commits an offence.

**CHAPTER 11****DISUSED CEMETERIES****53. Use of disused cemeteries**

- (1) Notwithstanding any provision in this by-law, and subject to the provisions of subsection (4), the municipality may use any cemetery or portion thereof, which has been closed or disused for a period of not less than 20 years, and of which the municipality is the cemetery authority, for such purpose as will not desecrate the ground, any human remains or any memorials in such cemetery.
- (2) The municipality may, subject to the provisions of subsection (4), remove to another cemetery the human remains, memorials and other structures from a cemetery of which it is the cemetery authority, which has been closed or disused for a period of not less than 20 years and which has been approved for other usage.
- (3) All rights possessed or enjoyed by any person in respect of a cemetery contemplated in subsection (2) shall thereupon cease.
- (4) Before acting in terms of subsections (1) and (2) the municipality must give notice of its intention to do so in terms of its public participation policy.

**CHAPTER 12****MISCELLANEOUS****54. Authentication and service of order, notice or other document**

- (1) An order, notice or other document requiring authentication must be signed by the municipality.
- (2) Any notice or other document that is served on a person in terms of this by-law, is regarded as having been served when it is served in accordance with section 115(1) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000).
- (3) Service of a copy shall be deemed to be service of the original.
- (4) Any legal process is effectively and sufficiently served on the municipality when it is delivered to the municipal manager or a person in attendance at the municipal manager's office.

**55. Complaint**

A person wishing to lodge a complaint must lodge such complaint in writing with the municipality.

**56. Notice of compliance and representations**

- (1) A notice of compliance must state:
  - (a) the name and residential and postal address, if either or both of these be known, of the person;
  - (b) the nature of the state of disrepair;
  - (c) in sufficient detail to enable compliance with the notice, the measures required to remedy the memorial work;
  - (d) that the person must, within a specified time period, take the measures to comply with the notice, to diligently continue with the measures, and to complete the measures before a specific date;
  - (e) that failure to comply with the requirements of the notice within the period contemplated in paragraph (d) is an offence;
  - (f) that written representations, as contemplated in subsection (3), may, within the time period stipulated under paragraph (d) above, be made to municipality at a specified place.
- (2) The municipality, when considering any measure or time period envisaged in subsections (1)(d) and (e), must have regard to:
  - (a) the principles and objectives of this by-law;
  - (b) the state of disrepair;
  - (c) any measures proposed by the person on whom measures are to be imposed; and
  - (d) any other relevant factors.
- (3) A person may, within the time period contemplated in paragraph (1)(f), make representations, in the form of a sworn statement or affirmation to municipality at the place specified in the notice.
- (4) Representations not lodged within the time period will not be considered, except where the person has shown good cause and the municipality condones the late lodging of the representations.
- (5) The municipality must consider the representations and any response thereto by an authorised official or any other person, if there be such a response.
- (6) The municipality may, on its own volition, conduct any further investigations to verify the facts, if necessary, and the results of the investigation must be made available to the person, who must be given an opportunity of making a further response if he or she so wishes, and the municipality must also consider the further response.
- (7) The municipality must, after consideration of the representations and response, if there be such a response, make an order in writing and serve a copy of it on the person.
- (8) The order must:
  - (a) set out the findings of the municipality;
  - (b) confirm, alter or set aside in whole, or in part, the notice of compliance; and
  - (c) specify a period within which the person must comply with the order made by the municipality.
- (9) If the notice of compliance is confirmed, in whole or in part, or is altered but not set aside, the municipality will inform the person that he or she:
  - (a) must discharge the obligations set out in the notice; or
  - (b) may elect to be tried in court.
- (10) If the person elects to be tried in court, he or she must, within seven calendar days, notify the municipality of his or her intention to be so tried.
- (11) If the person does not elect to be tried in court, he or she must, within the prescribed manner and time, discharge his or her obligations under the order.

**57. Costs**

Should a person fail to take the measures required of him or her by notice, the municipality may recover from such person all costs incurred as a result of it acting in terms of section 56.

**58. Appeal**

A person whose rights are affected by a decision delegated by the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefor in terms of section 62 of the Local Government: Municipal Systems Act (Act 32 of 2000) to the municipal manager within 21 days of the date of the notification of the decision.

**59. Tariffs**

Should a person fail to pay a prescribed tariff, the municipality may act in accordance with the provisions of its Customer Care and Revenue Management By-law.

**60. Offences and Penalties**

A person who contravenes any provision or fails to comply with any provision of this by-law commits an offence and shall on conviction be liable to—

- (a) a fine or imprisonment, or either such fine or imprisonment or to both such fine and such imprisonment and,

- (b) in the case of a continuing offence, to an additional fine or an additional period of imprisonment or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued and,
- (c) a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as result of such contravention or failure.

#### **61. Exemptions**

- (1) Any person may by means of a written application, in which the reasons are given in full, apply to the municipality for exemption from any provision of this by-law.
- (2) The municipality may:
  - (a) grant an exemption in writing and the conditions in terms of which, if any, and the period for which such exemption is granted must be stipulated therein;
  - (b) alter or cancel any exemption or condition in an exemption; or
  - (c) refuse to grant an exemption.
- (3) An exemption does not take effect before the applicant has undertaken in writing to comply with all conditions imposed by the municipality under subsection (2); however, if an activity is commenced before such undertaking has been submitted to the municipality, the exemption lapses.
- (4) If any condition of an exemption is not complied with, the exemption lapses immediately.

#### **62. Liaison forums in community**

- (1) The municipality may establish one or more liaison forums in a community for the purposes of developing and maintaining cemeteries and crematoria and promoting the achievement of a healthy environment
- (2) A liaison forum may consist of:
  - (a) a member or members of an interest group, or an affected person;
  - (b) a member or members of a community in whose immediate area a cemetery or crematorium exists;
  - (c) a designated official or officials of the municipality; and
  - (d) the councillor responsible for cemeteries.
- (3)
  - (a) The municipality may, when considering an application for consent, permit or exemption certificate in terms of this by-law, request the input of a liaison forum.
  - (b) A liaison forum or any person or persons contemplated in subsection (2) may, on their own initiative, submit an input to the municipality for consideration.

#### **63. Conflict with other legislation**

In the event of any conflict between any provision of this by-law and National and Provincial legislation, standards, policies or guidelines, the National and Provincial legislation, standards, policies or guidelines shall prevail.

#### **64. Revocation of by-laws**

The provisions of any by-laws previously promulgated by the municipality or by any of the disestablished municipalities now incorporated in the municipality, are hereby repealed as far as they relate to matters provided for in this by-law, and insofar as it has been made applicable to the municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Local Government: Municipal Structures Act, Act 117 of 1998.

#### **65. Short title and commencement**

This by-law may be cited as the Cemeteries and Crematoria By-law, and commences on the date of publication thereof in the Provincial Gazette.

**BERGRIVIER MUNICIPALITY**  
**COMMONAGE BY-LAW**

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, the Bergrivier Municipality enacts as follows:—

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**1. Definitions**

“**Act**” means the Animal Identification Act, 2002 (Act 6 of 2002);

“**brand**” means any registered mark registered in terms of section 5 (2) of the Act and placed on any animal for any purpose, and includes any representation of a mark intended to be placed on any animals, as the circumstances may require, but does not include any—

- (a) mark made or placed on the horn or hoof;
- (b) mark made with paint on any animal;
- (c) clasp, rivet or tag attached to the ear, or any mark made on such clasp, rivet or tag; or
- (d) notch or hole;

“**commonage**” means land or a portion of land owned by, or under control of, the municipality, which the municipality uses, or in consultation with the community, may be utilised for such other purposes as laid down in a commonage management plan;

“**commonage management plan**” means a plan, developed with due regard to the municipality’s Integrated Development Plan and in consultation with the community, which contains guidelines on the sustainable utilisation of the commonage and the preservation of the agricultural potential thereof;

“**depasture**” means to allow an animal to graze on the commonage;

“**large stock**” means cattle and equine, and includes any other species of animals which the Minister may by notice in the Gazette declare to be large stock for the purposes of the Act;

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

“**prescribed**” means prescribed by the municipality;

“**small stock**” means sheep and goats, and includes any other species of animals which the Minister may by notice in the Gazette declare to be small stock for the purposes of this Act;

**2. Purpose of by-law and objectives**

The purpose of this by-law is to provide for use and management of the commonage in the interests of the community of Bergrivier Municipality and to ensure the sustainable utilisation of the agricultural potential thereof and to protect the infrastructure and resources thereon.

**3. Establishment of camps for grazing**

- (1) The municipality may reserve and fence off a portion of the commonage and establish camps for the grazing of the stock of the residents.
- (2) The municipality may set apart portions of the commonage for the grazing of small stock and large stock.
- (3) The municipality may erect paddocks or enclosures for animals of residents.

**4. Closing of camps**

- (1) The municipality may, whenever it deems it necessary for a purpose such as, but not limited to, maintenance or allowing a meadow to regenerate grass growth, close and prohibit the grazing of a camp or section thereof on the commonage, during certain periods of the year.
- (2) No person may allow his or her animal to graze in a camp which has been closed by the municipality for whatever purpose or reason.
- (3) The municipality may impound an animal found in a camp which has been closed in terms of subsection (1).
- (4) A person who contravenes subsection (2) commits an offence.

**5. Approval to graze animals**

- (1) No person may keep or depasture any animal in a camp on a commonage without first having obtained written approval from the municipality.
- (2) A person who wishes to obtain approval must submit the prescribed form to the municipality which may, after considering the following factors, grant approval:
  - (a) for the total number of animals already accommodated in the camps;
  - (b) for the number of animals, and the kind of animal, which he or she wishes to have accommodated in a camp;
- (3) The approval contemplated in subsection (1) may be granted subject to the condition of the meadows (pastures), or the provisions of an approved grazing- or commonage management plan, and any other factor which the municipality deems necessary.
- (4) The right of depasturing is personal only, and no person is entitled to transfer or cede his or her right to another.
- (5) A person who contravenes subsection (1) or fails to comply with any condition imposed in terms of subsection (3), commits an offence.

**6. Confinement of stock to camps**

- (1) A person depasturing on commonage must confine his or her stock to the camp set apart by the municipality.
- (2) A person who contravenes subsection (1) commits an offence.

**7. Numbers and condition of animals**

- (1) The municipality may determine the numbers and kinds of animals that may be accommodated on the commonage by a person.
- (2) A person keeping an animal on the commonage must ensure that the animal is in a healthy condition.
- (3) The municipality may require from a person keeping or applying to keep an animal on the commonage to file with the municipality a sworn declaration as to the ownership and condition of the animal.
- (4) A person who—
  - (a) keeps more than the determined number of animals as contemplated in subsection (1) on a commonage;
  - (b) who fails to keep an animal in a healthy condition as contemplated in subsection (2);
  - (c) fails to file a declaration as contemplated in subsection (3); or
  - (d) provides false information to the municipality, commits an offence.

**8. Branding of stock**

- (1) A person who depastures any stock on the commonage must ensure that all his or her animals are branded in terms of section 7 of the Act.
- (2) No person may keep or depasture any animal on the municipal commonage without it being branded.
- (3) Stock found on the commonage without such branding, may be impounded by the municipality.

**9. Grazing fees**

- (1) The municipality may determine grazing fees that must be paid to the municipality.
- (2) Should a person fail to pay a grazing fee, the municipality may take such measures as provided for in its Credit Control, Tariffs and Debt Collection By-law.

**10. Infected or contagious animals**

- (1) No person may graze, bring or leave any stock suffering from, or suspected of being infected with, any contagious or infectious disease, on the commonage.

- (2) Any stock found on the commonage suspected of being infected with any contagious or infectious disease must, at the cost of the owner, be inspected by a veterinary surgeon, and if he or she finds that the disease is contagious or infectious, he or she may cause such stock to be isolated or destroyed.
- (3) A person who contravenes subsection (1) commits an offence.

#### **11. Carcasses of animals**

- (1) The owner of an animal which has died on the commonage must within 24 hours from discovery of the carcass cause it to be buried, and should he or she fail to do so, the municipality will bury the carcass and claim the expenses from the owner.
- (2) A person who fails to dispose of a carcass as contemplated in subsection (1) commits an offence.

#### **12. Prohibited conduct**

- (1) No person may without the prior written consent of the municipality—
  - (a) erect any hut, shelter, kraal, habitation or structure of any kind nor occupy, camp or squat on any portion of the commonage;
  - (b) accumulate, dump or deposit or cause to be accumulated, dumped or deposited on any portion of the commonage any derelict motor cars or other vehicles or machinery or any derelict parts thereof;
  - (c) dig on or remove soil, clay, sand, gravel or boulders from the commonage;
  - (d) make bricks, or erect brick-, lime- or charcoal kilns on the commonage;
  - (e) cut, damage, burn, destroy, gather or remove any plants, shrubs, trees, timber, firewood, brushwood, manure or any grass growing or being upon any portion of the commonage;
  - (f) interfere with or cause damage to any fence, gate, drinking trough, water tap or other appliance or thing, or set fire to the pasture or any bush, tree, shrub on the commonage;
  - (g) make use of any road over the commonage other than roads allowed to be used by the municipality from time to time, and roads that the public have a legal right to use;
  - (h) deposit, or in any way leave, any poison for whatever purpose on the commonage;
  - (i) kill, catch, capture, or hunt, or attempt to kill, any game or birds of whatsoever description on the commonage;
  - (j) set traps of whatsoever description on the commonage;
  - (k) destroy the nests, or remove the eggs or young therefrom, of any birds or water-fowl on the commonage; or
  - (l) fish in any dam, river or any other water on the commonage.
- (2) The municipality may take, or cause to be taken, any steps necessary to rectify any contravention of subsection (1) and may claim the costs incurred by the municipality from the person responsible for the contravention.
- (3) A person who contravenes subsection (1) commits an offence.

#### **13. Exemptions**

- (1) Any person may by means of a written application, in which the reasons are given in full, apply to the municipality for exemption from any provision of this by-law.
- (2) The municipality may—
  - (a) grant an exemption in writing and the conditions in terms of which, if any, and the period for which such exemption is granted, must be stipulated therein;
  - (b) alter or cancel any exemption or condition in an exemption; or
  - (c) refuse to grant an exemption.
- (3) An exemption does not take effect before the applicant has undertaken in writing to comply with all conditions imposed by the municipality under subsection (2). However, if an activity is commenced before such undertaking has been submitted to the municipality, the exemption lapses.
- (4) If any condition of an exemption is not complied with, the exemption lapses immediately.

#### **14. Liaison forums in the community**

- (1) The municipality may establish one or more liaison forums in a community for the purposes of—
  - (a) creating conditions for a local community to participate in the affairs of the municipality;
  - (b) encouraging a local community to participate in the affairs of the municipality; and
  - (c) promoting the achievement of a properly controlled and administered commonage.
- (2) A liaison forum may consist of—
  - (a) a member or members of an interest group, or an affected person;
  - (b) a member or members of a community in whose immediate area a commonage has been established;
  - (c) a designated official or officials of the municipality; and



- (d) a councillor.
- (3) (a) The municipality may, when considering an application for an approval, or exemption certificate in terms of this by-law, request the input of a liaison forum.
- (b) A liaison forum or any person or persons contemplated in subsection (2) may, on their own initiative give input to the municipality for consideration.

#### **15. Commonage management plan and agreements**

- (1) The municipality must, within one year after the publication of this by-law, and in consultation with the community, develop a commonage management plan as contemplated in section 1 which plan must be reviewed and adjusted annually as part of the municipality's Integrated Development Plan.
- (2) Subject to the provisions of the Asset Transfer Regulations promulgated in terms of the Municipal Finance Management Act, 2003 (Act 56 of 2003) the municipality may enter into a written agreement with any party regarding the use and management of the commonage or any part thereof.

#### **16. Authentication and service of notices and other documents**

- (1) A notice issued by the municipality in terms of this by-law is deemed to be duly issued if an official of the municipality has signed it.
- (2) Any notice or other document that is served on a person in terms of this by-law is regarded as having been duly served—
  - (a) when it has been delivered to that person personally;
  - (b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of 16 years;
  - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic, and an acknowledgment of the posting thereof from the postal service is obtained;
  - (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 by paragraphs (a), (b) or (c);
  - (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 land or business premises to which it relates;
  - (f) in the event of a body corporate, when it has been delivered at the registered office of the business premises of the body corporate; or
  - (g) when it has been delivered, at the request of that person, to his or her e-mail address.
- (3) Service of a copy is deemed to be service of the original.
- (4) When any notice or other document is served on the owner, occupier, or holder of any property, or right in any property, it is sufficient if that person is described in the notice or other document as the owner, occupier, or holder of the property or right in question, and it is not necessary to name that person.

#### **17. Appeal**

A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefor in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision.

#### **18. Offences and Penalties**

A person who contravenes any provision or fails to comply with any provision of this by-law commits an offence and shall on conviction be liable to—

- (a) a fine or imprisonment, or either such fine or imprisonment or to both such fine and such imprisonment and,
- (b) in the case of a continuing offence, to an additional fine or an additional period of imprisonment or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued and,
- (c) a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as result of such contravention or failure.

#### **19. Conflict with other legislation**

In the event of any conflict between any provision of this by-law and National and Provincial legislation, standards, policies or guidelines, the National and Provincial legislation, standards, policies or guidelines shall prevail.

#### **20. Revocation of by-laws**

The provisions of any by-laws previously promulgated by the municipality or by any of the disestablished municipalities now incorporated in the municipality, are hereby repealed as far as they relate to matters provided for in this by-law, and insofar as it has been made applicable to the municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Local Government: Municipal Structures Act, Act 117 of 1998.

**21. Short title and commencement**

This by-law shall be known as the Commonage By-law and shall come into operation on the date of publication thereof in the Provincial Gazette.

9 November 2009

20647

**BERGRIVIER MUNICIPALITY**

**CREDIT CONTROL, TARIFFS AND DEBT COLLECTION BY-LAW**

Under section 156 of the Constitution of the Republic of South Africa, 1996, the Bergrivier Municipality, enacts as follows:—

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**1. Definitions**

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

**“account holder”** means any person who is due to receive a municipal account, which includes a user of pre-paid electricity or water;

**“annual budget”** means the budget approved by the municipal council for any particular financial year, and includes any adjustments to such budget;

**“applicant”** means a person who applies for the supply of municipal services;

**“availability charge”** means a fixed monthly or annual charge levied against the owner of the property which is based on the cost for providing a municipal service to the premises;

**“billing”** means invoicing on a municipal account to an account holder of an amount or amounts payable for rates, metered services, other municipal charges, levies, fees, fines, taxes, or any other amount or amounts payable arising from any other liability or obligation;

**“consumer”** means the occupier of any premises to which the municipality has agreed to supply or is actually supplying municipal services, or if there is no occupier, then any person who has entered into a service agreement with the municipality for the supply of municipal services to such premises, or, if there be no such person, then the owner of the premises, and **“domestic consumer”** or **“domestic user”** of municipal services means the person or household to which municipal services are rendered in respect of residential property;

**“consumer price index”** means the consumer price index (CPIX) as determined and gazetted by the South Bureau of Statistics;

**“Council”** means the Council of the Bergrivier Municipality (or any service provider to the municipality);

**“credit control”** means all the functions relating to the collection of revenue;

**“customer management”** means the focusing on the account holder's needs in a responsive and proactive way to encourage payment and thereby limiting the need for enforcement;

**“customer service centre”** means and serves as—

- (a) an office where an applicant may apply for services and enter into a service agreement with the municipality;
- (b) an office where an account holder may settle an account or may make pre-payment for services;

- (c) a credit screening point where the credit assessment of an applicant can be processed; or
- (d) an office where an account holder may query or verify accounts and metered consumption, and may communicate grievances, inquiries, recommendations and other relevant issues to the municipality and from where the response from the municipality can be conveyed to the account holder;

**“domestic consumer or domestic user”** of municipal services means the person or household to which municipal services are rendered to a residential property;

**“due date”** means the date specified as such on a municipal account for any charges payable and which is the last day allowed for the payment of such charges;

**“interest”** means an amount calculated at a rate determined by the municipality on a municipal account in arrears;

**“land reform beneficiary”**, in relation to a property, means a person who—

- (a) acquired the property through the provision of the Land and Assistance Act, 1993 (Act 126 of 1993);
- (b) acquired the property through the provision of the Restitution of Land Rights Act, 1994 (Act 22 of 1994);
- (c) holds the property subject to the Communal Property Associations Act, 1996 (Act 29 of 1996); or
- (d) holds or acquires the property in terms of such other land tenure reform legislation as may be enacted;

**“local community”** or **“community”**, in relation to the municipality, means that body of persons comprising the residents of the municipality, the ratepayers of the municipality, any civic, non-governmental, private sector or labour organisations or bodies involved in local affairs within the municipality, and visitors and other people residing outside the municipality who, because of their presence in the municipality, make use of services or facilities provided by the municipality;

**“major services”** means those services contemplated in section 17(5);

**“market value”** in relation to a property means the value of the property as determined in accordance with section 46 of the Property Rates Act, 2004 (Act 6 of 2004);

**“minor tariffs”** means all tariffs, charges, fees, rentals or fines levied or imposed by the municipality in respect of services, other than major services provided, and includes services incidental to the provision of the major services.

**“month”** means one of 12 months of a calendar year;

**“municipal account”** means an account rendered on which is billed an amount or amounts payable to the municipality for rates, metered services, other municipal charges, levies, fees, fines, interest, taxes or any other amount or amounts payable arising from any other liability or obligation;

**“municipal entity”** means—

- (a) a private company referred to in section 86B (1) (a) of the Municipal Systems Act, Act 32 of 2000;
- (b) a service utility; or
- (c) a multi-jurisdictional service utility;

**“municipality”** means the Municipality of Bergrivier, and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, municipality or, agent or employee;

**“municipal manager”** is the person appointed by the municipality in terms of Section 82 of the Municipal Structures Act, 1998 and includes any person:

- (a) acting in such position; and
- (b) to whom the municipal manager has delegated any power, function or responsibility in as far as it concerns the execution of those powers, functions or duties.

**“municipal property”** includes a property owned by a municipal entity;

**“multiple purposes”**, in relation to a property, means the use of a property for more than one purpose;

**“municipal service”** means a service that a municipality in terms of its powers and functions provides or may provide to or for the benefit of the local community irrespective of whether—

- (a) such a service is provided, or to be provided, by the municipality through an internal mechanism contemplated in section 76 of the Municipal Systems Act, 2000 or by engaging an external mechanism contemplated in the said section 76; and
- (b) fees, charges or tariffs are levied in respect of such a service or not;

**“municipal tariff”** means a tariff for services which the municipality sets for the provision of a service to the local community, such as a tariff set for major services or a minor tariff, and includes a surcharge on such service;

**“occupier”** means any person who occupies any premises or part thereof without regard to the title under which the person occupies, and includes—

- (a) any person in actual occupation of those premises;
- (b) any person legally entitled to occupy those premises;
- (c) in the case of those premises being subdivided and let to lodgers or various tenants, the person receiving the rent payable by such lodgers or tenants whether on the person’s own account or as agent for any person entitled thereto or interested therein;
- (d) any person having the charge or management of those premises, and includes the agent of any such person when the person is absent from the Republic of South Africa or his or her whereabouts are unknown; and
- (e) the owner of those premises;

**“officer”** means an employee of the municipality or any other person who is specifically authorised thereto by the municipality to perform any act,

function or duty in terms of, or exercise any power under this by-law;

**“organ of state”** means an organ of state as defined in section 239 of the Constitution;

**“owner”** means—

- (a) a person in whom the legal title to a premises is vested;
- (b) in a case where the person in whom the legal title is vested is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration of and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;
- (c) in the case where the municipality is unable to determine the identity of the person in whom the legal title is vested, the person who is entitled to the benefit of such premises or a building thereon;
- (d) in the case of premises for which a lease of 30 years or more has been entered into, the lessee thereof;
- (e) in relation to—
  - (i) a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act 95 of 1986), and without restricting the above, the developer or the body corporate in respect of the common property; or
  - (ii) a section as defined in such Act, the person in whose name such section is registered under a sectional title deed and includes the lawfully appointed agent of such a person;
- (f) any legal person including, but not limited to—
  - (i) a company registered in terms of the Companies Act, 1973 (Act 61 of 1973), Trust inter vivos, Trust mortis causa, a Closed Corporation registered in terms of the Closed Corporation’s Act, 1984 (Act 69 of 1984), a voluntary association;
  - (ii) any Department of State;
  - (iii) any council or Board established in terms of any legislation applicable to the Republic of South Africa; and
  - (iv) any Embassy or other foreign entity; and
- (g) a lessee of municipal property who is deemed to be the owner for the purposes of rendering a municipal account;

**“owner”**, in relation to—

- (a) a property referred to in paragraph (a) of the definition of “property”, means a person in whose name ownership of the property is registered;
- (b) a right referred to in paragraph (b) of the definition of “property”, means a person in whose name the right is registered;
- (c) a land tenure right referred to in paragraph (c) of the definition of “property”, means a person in whose name the right is registered or to whom it was granted in terms of legislation; and
- (d) public service infrastructure referred to in paragraph (d) of the definition of “property”, means the organ of state which owns or controls that public service infrastructure as envisaged in the definition of “publicly controlled”, however, the municipality may, for the purposes of the Property Rates Act, 2004 (Act 6 of 2004), regard as the owner of a property—
  - (i) in the case of a property in a trust, but excluding state trust land, a trustee,;
  - (ii) in the case of a property in a deceased estate, an executor or administrator;
  - (iii) in the case of a property in an insolvent estate or in liquidation, a trustee or liquidator;
  - (iv) in the case of a property in the estate of a person under judicial management, a judicial manager;
  - (v) in the case of a property in the estate of a person under curatorship, a curator;
  - (vi) in the case of a property that is subject to a usufruct or other personal servitude, a person in whose name a usufruct or other personal servitude is registered;
  - (vii) in the case of a property that is registered in the name of the municipality and is leased by it, a lessee; and
  - (viii) in the case of a property sold by the municipality and of which possession was given to the buyer pending registration of ownership in the name of such buyer, a buyer;

**“permitted use”**, in relation to a property, means the limited purposes for which the property may be used in terms of any restrictions imposed by a condition of title, a provision of the municipality’s town planning or land use scheme, or any legislation applicable to any specific property or properties, or any alleviation of any such restrictions;

**“person”** includes a legal person and an organ of state;

**“preferred customer”** means a person who may be granted special concessions by the municipality;

**“premises”** means any piece of land, the external surface boundaries of which are delineated on—

- (a) a general plan or diagram registered in terms of Land Survey, Act of 1927 (Act 9 of 1927), or in terms of the Deeds Registry, Act of 1937 (Act 47 of 1937); or
- (b) a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act 93 of 1986), which is situated within the area of jurisdiction of the municipality;
- (c) and includes any other land and any building or structure above or below the surface of any land;

**“property”** means—

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

- (b) a right registered against immovable property in the name of the person, but excluding a mortgage bond registered against the property;
- (c) a land tenure right registered in the name of a person or granted to a person in terms of legislation, such as a “land reform beneficiary”;  
and
- (d) public service infrastructure;

“**publicly controlled**” means owned by or otherwise under the control of an organ of state, including a public entity listed in the Public Finance Management Act, 1999 (Act 1 of 1999), a municipality, or a municipal entity;

“**public service infrastructure**” means publicly controlled infrastructure of the following kinds:

- (a) national, provincial or other public roads on which goods, services or labour move across a municipal boundary;
- (b) water or sewer pipes, ducts or other conduits, dams, water supply reservoirs, water treatment plants or water pumps forming part of a water or sewer scheme servicing the public;
- (c) power stations, power sub-stations or power lines forming part of an electricity scheme serving the public;
- (d) gas or liquid fuel plants or refineries or pipelines for gas or liquid fuel forming part of the scheme for transporting such fuels;
- (e) railway lines forming part of a national railway system;
- (f) communication towers, masts, exchanges and lines forming part of a communication system serving the public;
- (g) runways or aprons at national or provincial airports;
- (h) breakwaters, seawalls, channels, basins, quay walls, jetties, roads, railway or infrastructure used for the provision of water, lights, power, sewerage or similar services of ports, or navigational aids comprising lighthouses, radio navigational aids, buoys, beacons or any other device or system used to assist the safe and efficient navigation of vessels;
- (i) any other publicly controlled infrastructure as may be prescribed by law; and
- (j) rights of way, easements or servitudes in connection with infrastructure mentioned in paragraphs (a) to (i);

“**revenue**” means all monies due to the municipality and to which the municipality has the right to exact and to enforce payment of, irrespective of the reason for or the origin of its factuality;

“**sectional title scheme**” means a scheme as defined in section 1 of the Sectional Titles Act, 1986 (Act 95 of 1986);

“**tampering**” means any unauthorised interference with the municipality’s supply, seals and metering equipment and “tamper” has a corresponding meaning;

“**target**” means realistic targets which may be set by the municipality ; and

“**tariffs for major services**” means tariffs set for the supply and consumption or usage of major services;

“**unreliable customer**” includes an account holder, who according to his or her payment record fails to settle his or her municipal account by the due date or who is in arrears with payments due to council or who tampers or interferes with metering equipment, seals or the supply of municipal services.

## CHAPTER 1

### CUSTOMER CARE PRINCIPLES, OBJECTIVES AND IMPLEMENTATION, AND DIFFERENTIATION

#### 2. Customer care principles, and objectives

- (1) The municipality aims—
  - (a) to move progressively towards the social and economic upliftment of the community in harmony with its natural environment;
  - (b) to provide basic services that are affordable to all its people, and specifically to the poor and disadvantaged, provided that, where applicable, service fees, rates, metered services, other municipal charges, levies, fees, fines, interest, taxes or any other amount or amounts payable, arising from any other liability or obligation, are paid for;
  - (c) to engage the active participation of the community in the municipality’s affairs, in particular in planning, service delivery and performance management;
  - (d) to provide efficient, effective and transparent administration that conforms to constitutional principles;
  - (e) to ensure that the municipality is financially and economically viable; and
  - (f) to create a harmonious relationship between the municipality and the community through the acknowledgement of reciprocal rights and duties;
- (2) The municipality by this by-law, designs, regulates on and implements a customer care and management system as contemplated in section 95 of the Municipal Systems Act.

#### 3. Municipal manager responsible officer

The municipal manager—

- (a) is responsible to the Executive Mayor for the implementation and enforcement of the provisions of this by-law;
- (b) must, for the purposes of paragraph (a) take the necessary steps to implement and enforce the provisions of this by-law;
- (c) is accountable to the Executive Mayor for the agreed performance targets as approved by the municipality and the Executive Mayor, and for these purposes must—
  - (i) report to the Executive Mayor on matters relating to this by-law, including but not limited to—



- (aa) the effectiveness of administrative mechanisms, resources processes and procedures to collect money that is due and payable to the municipality;
- (bb) billing information, including the number of account holders, accruals, cash-flow, and customer management;
- (cc) the satisfaction levels of account holders regarding services rendered; and
- (dd) the effectiveness of the municipality's indigence relief measures; and
- (ii) encourage and bear on account holders, where needed, to settle outstanding accounts within the ambit of this by-law; and
- (iii) with the consent of an account holder, enter into an agreement with the account holder's employer to deduct from the salary or wages of the account holder—
  - (aa) any outstanding amounts as may be agreed; or
  - (bb) such regular monthly amounts as may be agreed, and may provide special incentives for employers to enter into such agreements, and employees to consent to such agreements.

#### 4. Differentiation between customers and exemption

- (1) In accordance with the principles embodied in the Constitution and sections 74(3) and 75 of the Local Government: Municipal Systems Act, 2000, the municipality may differentiate between different categories of users and consumers in regard to the tariffs which it levies, categories of ratepayers, account holders, customers, debtors, taxes, services, service standards and other matters, however, such differentiation must at all times be reasonable, and must be fully disclosed in each annual budget.
- (2) The municipality may, in writing exempt an account holder, category of account holders, or other persons from complying with a provision of this by-law, subject to any conditions it may impose, if the application or operation of that provision would be unreasonable, however the municipality or its authorised agent may not grant exemption from any section of this by-law that may result in—
  - (a) the wastage or excessive consumption of water or electricity;
  - (b) the evasion or avoidance of water or electricity restrictions;
  - (c) significant negative effects on public health, safety or the environment;
  - (d) the non-payment for services;
  - (e) the installation of pipes and fittings which are not acceptable in terms of the municipality's prescribed standard; or
  - (f) any Act, or any regulation made under it, not being complied with.
- (3) The municipality or its authorised agent may at any time after giving written notice of at least 30 days, withdraw any exemption given under subsection (2).

### CHAPTER 2

#### SUPPLY OF MUNICIPAL SERVICES

##### *Part 1:*

*Application for supply and service agreements, credit screening, deposits, billing and payment, and termination of service agreements*

#### 5. Application for supply of municipal services and service agreements

- (1) Any application for any supply of services to any premises must be made at the municipal offices at least four working days, or such lesser period as may be accepted by the municipality, prior to the service being required and must comply with the conditions determined by the Municipal Manager.
- (2) After the commencement of this by-law only the owner of a property or a person who has written authority from the owner, may apply for municipal services to be supplied to a property.
- (3) No services shall be supplied unless and until application has been made by the owner and a service agreement in the format prescribed by the municipality has been entered into and a deposit provided for in section 6 has been paid.
- (4) Upon receipt of an application for services the municipality must notify the applicant of the different levels of services and the tariffs payable in respect of each level of service.
- (5) The municipality shall only be responsible to provide a specific level of services if it already provides such level of services in the ordinary run of matters and if it has the capacity to provide such level of services.
- (6) Where the municipality—
  - (a) refuses to provide a specific level of services;
  - (b) is not in a position to provide such a level of service on the date it is requested;
  - (c) is not in a position whatsoever to provide such a level of service, it must notify the applicant within a reasonable time of its inability to provide the service, the reasons therefor and if applicable, when the municipality will be in a position to provide such service.

#### 6. Deposits

- (1) On approval of the application and before the service is made available, the municipality may require the applicant—
  - (a) to deposit for municipal services with the municipality a sum of money;
  - (b) to provide any other form of security; or

- (c) to agree to special conditions regarding payment of the municipal account, and monies so deposited with the municipality serve as security.
- (2) The amount payable as deposit shall be determined as part of the municipality's tariff policy and may be determined for different kinds of consumers.
- (3) The director: Financial Services may, in respect of preferred clients, grant a relaxation of the conditions applicable to deposits as contemplated in subsections (1) and (2), and may in the case of services being suspended or restricted, decide to increase the deposit for re-connection.
- (4) Upon the suspension of services, the deposit, minus any payments due to the municipality, must be refunded to the account holder.
- (5) The municipality is not liable for interest payable on deposits held.

## **7. Billing and payment**

- (1) The account holder must pay all amounts due to the municipality as reflected in the municipal account, and the onus is on the account holder to verify the accuracy of such account.
- (2) An account holder must pay for metered services, and must pay the rates, other municipal charges, levies, fees, fines, interest, taxes or any other liability or obligation from the date of origin of such municipal charges until the written termination of the services.
- (3) An account holder—
  - (a) must, where possible, be rendered one account, on which the due date for settlement of the total amount owing is reflected, subject to the provisions of subsection (14); and
  - (b) must be billed monthly in cycles of approximately 30 days.
- (4) Payment must be received on or before the close of business on the due date.
- (5) Payment made via electronic media or any of the service providers appointed by the municipality to receive payments on its behalf, should be made at least four working days before the due date to enable the payment to be processed, and interest accrues should the municipality receive payment after the due date.
- (6) Where the account holder effects payment of an account via a service provider four working days or more before the due date and such service provider fails to furnish the municipality with the relevant payment details, such service provider may be held liable for all charges incurred by the municipality to recover an arrear amount erroneously reflected on the account of the account holder, as well as for interest charges.
- (7) The municipality may estimate the quantity of metered services supplied in respect of a period or periods within the interval between actual successive readings of the meters, which intervals may not exceed 4 months, and may render an account to an account holder for the quantity of metered services so estimated.
- (8) If an account holder is dissatisfied with an account rendered for metered services supplied by the municipality, such account holder may, prior to the due date stipulated therein object to the account, setting out reasons for such dissatisfaction.
- (9) Should any dispute arise as to the amount owing by an account holder, and subject to the provisions of section 102 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), the account holder must notwithstanding such dispute proceed to make regular payments by the due date based on the calculation of the average municipal account for the preceding three months prior to the arising of the dispute and taking into account interest as well as the annual amendments of tariffs of the municipality.
- (10) An error or omission in any account or failure to render an account does not relieve the account holder of the obligation to pay by the due date.
- (11) If an account holder uses water or electricity for a category of use other than that for which it is supplied by the municipality and is in consequence not charged for water or electricity so used, or is charged for the water or electricity at a rate lower than that at which the account holder should be charged, the account holder is liable for the amount due to the municipality in accordance with the prescribed charges in respect of—
  - (a) the quantity of water or electricity which the account holder has used and for which the account holder has not been charged; or
  - (b) the difference between the cost of the water or electricity used by the account holder at the rate at which the account holder has been charged and the cost of the water or electricity at the rate at which the account holder should have been charged.
- (12) An account holder is not entitled to a reduction of the amount payable for metered services which are lost due to a fault in the meter, until such time as the provisions of section 13(8)(c) have been met.
- (13) The municipality may—
  - (a) consolidate any separate accounts of an account holder liable for payment to the municipality; and
  - (b) credit any payment by an account holder against any debt of that account holder.
- (14) The owner of property may enter into an agreement with the municipality in terms of which payment for rates is made annually, in which case payment must be made on or before the date determined by the municipality.
- (15) Where an account is not paid in full, any lesser amount offered and accepted by the municipality, shall not be regarded as full and final settlement of the account, unless the municipal manager has accepted in writing such payment as full and final settlement of the account.
- (16) The municipality undertakes to provide and maintain strategically situated payment offices and cashiers throughout the municipal area.

## **8. Termination of service agreement**

- (1) Termination of the service agreement must be in writing to the other party of the intention to do so.
- (2) Where a property is sold, an owner may terminate a service agreement by giving the municipality not less than four working days' notice in writing.
- (3) The municipality may, by notice in writing of not less than 14 working days, advise an account holder of the termination of the agreement for

a supply of municipal services if—

- (a) the account holder has committed a breach of this by-law and has failed to rectify such breach; or
- (b) the municipality cannot continue to supply the account holder with municipal services, as in terms of an arrangement with another authority supplying municipal services such authority must in future supply municipal services to the account holder.

*Part 2:*

*Non-payment of municipal accounts*

**9. Arrangements for payments**

- (1) Should an account holder, before any of the steps have been taken in terms of section 11, not be able to pay the municipal account in full, the account holder may approach the municipality with the aim of making short-term arrangements to settle the account.
- (2) Should an account holder, after any of the steps have been taken in terms of section 13, experience difficulties in paying the municipal account, the account holder may approach the municipality with the aim of making arrangements to settle the account, and the account holder must enter into a written agreement with the municipality to repay to the municipality the outstanding and due amount under the conditions and on a basis determined, by the Municipal Manager,.
- (3) The written agreement must be signed on behalf of the municipality by a duly authorised officer.
- (4) In the instance where arrangements for payment have been made the municipality may—
  - (a) review the deposit;
  - (b) require of an account holder to pay by means of a stop order or debit order;
  - (c) require of an account holder to convert to a pre-paid metering system; or
  - (d) require any other form of security, including personal suretyship by the directors or members of a company, closed corporation, trust or body corporate.

**10. Interest on overdue municipal accounts**

- (1) The municipality may, charge or recover interest at a rate determined by it in respect of any arrear amounts due and payable.
- (2) Irrespective of the reason for non-payment, or where an arrangement has been made in terms of section 9, interest accrues if an account is unpaid.
- (3) Interest is calculated monthly according to the interest rate approved by the municipality, and a portion of a month is regarded as a month.
- (4) Interest is payable if payment is not received at an office of the municipality or to the credit of the bank account of the municipality at the close of business on the due date.

**11. Debt collection mechanisms**

- (1) Where appropriate, the municipality must at all times attempt to advise an account holder of an impending disconnection or restriction of a supply, and the following mechanisms may be applied should an account holder fail to settle a municipal account by the due date:
  - (a) delivering or mailing of a final demand and explaining to the account holder the status of the account and the consequences of not paying or concluding an arrangement;
  - (b) informing the account holder verbally, in writing, telephonically, or by electronic means of the overdue amount and the impending disconnection or restriction of services;
  - (c) disconnecting or restricting the supply of municipal services to the premises and the serving of a disconnection or restriction notice on the account holder; or
  - (d) debiting the municipal account of the account holder with all relevant fees or penalties approved by the municipality.
- (2) Where the water- or electricity supply had been disconnected in terms of this section, such supply shall be re-connected only when—
  - (a) all amounts due plus interest are paid in full or an agreement for settlement has been entered into in terms of the municipality's Credit control and Debt Collection Policy; and
  - (b) the fees for disconnection or re-connection as determined in the municipality's Tariff Policy has been paid.
- (3) Where the metered usage is discontinued or restricted and the account holder remains in default of payment, the premises may visited at regular intervals to ensure that metered supply remains discontinued or restricted and where it is found that such services have been re-connected, the municipality shall have the right to—
  - (a) take the steps required in terms of section 31, in which case the account holder remains responsible for the charges or costs for damages incurred;
  - (b) refuse to provide services for a period determined by the municipality; and
  - (c) in the case of a pre-payment meter, to terminated further selling of prepaid services.
- (4) Where a duly authorised officer of the municipality has visited the premises for the purpose of disconnecting or restricting the supply and was obstructed or prevented from effecting such disconnection or restriction, an amount equal to the prescribed fee for a reconnection becomes payable for each visit necessary for the purpose of such disconnection or restriction, subject to a maximum of two such visits during which disconnection or restriction could not be effected.
- (5) The municipality may use any one or more of the following mechanisms to secure full payment of any amounts owing to it:
  - (a) requiring of the account holder to convert to another metering system;

- (b) allocating a portion of any pre-paid payment to other debts;
  - (c) publishing a list of account holders who remain in default;
  - (d) withholding payment of a grant-in-aid and subject to the provisions of section 30, excluding the account holder from the tender process;
  - (e) withholding payment on contracts for settlement of the municipal account;
  - (f) reviewing and altering the conditions of the service agreement;
  - (g) instituting legal proceedings for the recovery of the debt;
  - (h) classifying the account holder as an unreliable customer;
  - (i) using the services of external debt collection specialists or agencies;
  - (j) insisting on conversion to pre-paid metering at the cost of the account holder; or
  - (k) employing any other methods authorised by the municipality from time to time to recover arrear amounts.
- (5) The cost of collection, where applicable, is for the account holder's account.
- (6) Subject to the provisions of sections 28 and 29 of the Property Rates Act, 2004 Act 6 of 2004), the right to deny, restrict, disconnect or terminate services due to the non-payment for any rates, metered services, other municipal charges, levies, fees, fines, interest, taxes or any other amount or amounts payable arising from any other liability or obligation prevails notwithstanding the fact that—
- (a) payment was intended for any specific service; or
  - (b) the person who entered into a service agreement for supply of services with the municipality and the owner are different entities or persons, as the case may be.

*Part 3:*

*Metering equipment and metering of services*

## 12. General provisions

The municipality may introduce various metering equipment and may encourage an account holder to convert to a system which will benefit the municipality and account holders.

## 13. Metering equipment and measuring of consumption

- (1) The municipality must, at the consumer's cost in the form of a direct charge or prescribed fee, provide, install and maintain appropriately rated metering equipment at the point of metering for measuring metered services.
- (2) The municipality reserves the right to meter the supply to a block of shops, flats, tenement-houses and similar buildings for the building as a whole, or for an individual unit, or for a group of units.
- (3) Where any building referred to in subsection (2) is metered by the municipality as a whole —
  - (a) the owner may, at own cost, provide and install appropriate sub-metering equipment for each shop, flat and tenement; or
  - (b) the municipality may require the installation, at the account holder's expense, of a meter for each unit of any premises in separate occupation for the purpose of determining the quantity of metered services supplied to each such unit.
- (4) Where the electricity used by consumers is charged at different tariffs, the consumption must be metered separately for each tariff.
- (5) Where sub-metering equipment is installed, accommodation separate from the municipality's metering equipment must be provided where appropriate.
- (6) Except in the case of pre-payment meters, the quantity of metered services used by a consumer during any metering period is ascertained by reading the appropriate meter or meters supplied and installed by the municipality at the beginning and end of such metering period, except where the metering equipment is found to be defective.
- (7) For the purpose of calculating the amount due and payable for the quantity of metered services consumed, the same amount of metered services is deemed to be consumed during every period of 24 hours between readings.
- (8) The following apply to the accuracy of metering:
  - (a) a meter is conclusively presumed to be registering accurately if its error, when tested in the manner prescribed in subsection (13), is found to be within the limits of error as provided for in the applicable standard specifications;
  - (b) the municipality has the right to test its metering equipment, and if it is established by test or otherwise that such metering equipment is defective, the Municipality must—
    - (i) in case of a credit meter, adjust the account rendered; or
    - (ii) in the case of prepayment meters:
      - (aa) render an account where the meter has been under-registering; or
      - (bb) issue a free token where the meter has been over-registering; and
  - (c) the consumer is entitled to have the metering equipment tested by the municipality on payment of the prescribed fee, and if the metering equipment is found not to comply with the system accuracy requirements as provided for in the applicable standard specifications, an adjustment in accordance with the provisions of paragraph (b) and subsection (7) must be made and the aforesaid fee must be refunded.
- (9) No alterations, repairs, additions or connections of any description may be made on the supply side of the point of metering unless specifically approved in writing by the municipal manager.
- (10) Prior to the municipality making any upward adjustment to an account in terms of subsection (8)(b), the municipality must—

- (a) notify the consumer in writing of the monetary value of the adjustment to be made and the reasons therefor;
  - (b) in such notification provide sufficient particulars to enable the consumer to submit representations thereon; and
  - (c) call upon the consumer in such notice to present it with reasons in writing, if any, within 21 days or such longer period as the municipality may permit, why the account should not be adjusted as notified, and should the consumer fail to provide any representation during the period the municipality is entitled to adjust the account as notified in paragraph (a).
- (11) The municipality must consider any representation provided by the consumer in terms of subsection (10) and may adjust the account appropriately.
- (12) If the Municipal Manager decides that such representation does not establish a case warranting an amendment to the monetary value established in terms of subsection (15), the municipality is entitled to adjust the account as notified in terms of subsection (10)(a), and the consumer has the right to appeal the decision of the official in terms of section 62 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000).
- (13) Meters are tested in the manner provided for in the applicable standard specifications.
- (14) When an adjustment is made to the consumption registered on a meter in terms of subsection (8)(b) or (8)(c), such adjustment is based either on the percentage error of the meter as determined by the test referred to in subsection (13), or upon a calculation by the municipality from consumption data in its possession, and where applicable, due allowance must be made, where possible, for seasonal or other variations which may affect consumption.
- (15) When an adjustment is made as contemplated in subsection (14), the adjustment may not exceed a period of six months preceding the date on which the metering equipment was found to be inaccurate, however the application of this subsection does not bar a consumer from claiming back overpayment for any longer period where the consumer is able to prove the claim in the normal legal process.
- (16) The municipality may dispense with the use of a meter in case of—
- (a) an automatic sprinkler fire installation; or
  - (b) special circumstances that may justify such dispensation.
- (17) The municipality may by notice—
- (a) prohibit or restrict the consumption of metered services—
    - (i) for specified or non-specified purposes;
    - (ii) during specified hours of the day or on specified days or otherwise than during specified hours of the day or on specified days; and
    - (iii) in a specified or non-specified manner; and
  - (b) determine and impose—
    - (i) limits on the quantity of metered services which may be consumed over a specified period;
    - (ii) charges additional to those prescribed in respect of the supply of metered services in excess of a limit contemplated in subparagraph (i); and
    - (iii) a general surcharge on the prescribed charges in respect of the supply of metered services; and
  - (c) impose restrictions or prohibitions on the use or manner of use or disposition of an appliance by means of which metered services is used or consumed, or on the connection of such appliance.
- (18) The municipality may limit the application of the provisions of a notice contemplated by subsection (17) to specified areas and classes of account holders, premises and activities, and may provide for the municipality to permit deviations and exemptions from, and the relaxation of any of the provisions.
- (19) To ensure compliance with a notice published in terms of subsection (17), the municipality may take, or by written notice require an account holder at the account holder's expense to take, such measures, including the installation of measuring devices and devices for restricting the flow of metered services as may be necessary.
- (20) In addition to the person by whose act or omission a contravention of or failure to comply with the terms of a notice published in terms of subsection (17) is actually committed, an account holder in respect of the premises to which metered services are supplied is presumed also to have committed the contravention or to have so failed to comply, unless evidence is adduced that the account holder had taken all reasonable steps to prevent such a contravention or failure to comply by any other person, however, the fact that the account holder issued instructions to the other person shall not of itself be accepted as sufficient proof that the account holder took all such reasonable steps.
- (21) The provisions of this section also apply in respect of metered services supplied directly by the municipality to account holders outside its area of jurisdiction, notwithstanding anything to the contrary in the conditions governing such supply, unless otherwise specified in the notice published in terms of subsection (17).
- (22) If action is necessary as a matter of urgency to prevent waste of metered services, refuse or sewerage, damage to property, danger to life, or pollution of water, the municipality may—
- (a) without prior notice disconnect the supply of metered services to any premises; and
  - (b) enter upon such premises and do emergency work, as it may deem necessary, and in addition by written notice require the account holder to do within a specified period such further work as the municipality may deem necessary.
- (23) The municipality may recover from the account holder the cost of any work undertaken in terms of subsection (22)(b) where such work was undertaken because of an unlawful act or omission by the account holder.
- (24) Before any metered or pre-paid metered supplies which have been disconnected or restricted for non-payment is restored, an account holder must pay all fees and charges as determined by the municipality.
- (25) The municipality may, at the written request of an account holder and on the dates requested by the account holder—
- (a) disconnect the supply of metered services to the account holder's premises; and
  - (b) upon payment of the prescribed charge for restoration, restore the supply of such services.

- (26) After disconnection for non-payment of an account or a contravention of any provision of this by-law, the prescribed fees must be paid before reconnection is made.
- (27) The following apply to the reading of credit meters:
- (a) unless otherwise prescribed, credit meters are normally read at intervals of approximately one month and the fixed or minimum charges due in terms of the tariff are assessed accordingly and the municipality is not obliged to effect any adjustments to such charges;
  - (b) if for any reason the credit meter cannot be read, the municipality may render an estimated account, and estimated consumption must be adjusted in a subsequent account in accordance with the consumption actually consumed;
  - (c) when an account holder vacates a property and a final reading of the meter is not possible, an estimation of the consumption may be made and the final account rendered accordingly;
  - (d) if a special reading of the meter is desired by a consumer, this may be obtained upon payment of the prescribed fee; and
  - (e) if any calculating, reading or metering error is discovered in respect of any account rendered to a consumer—
    - (i) the error must be corrected in subsequent accounts;
    - (ii) any such correction applies only in respect of accounts for a period of six months preceding the date on which the error in the accounts was discovered,
    - (iii) the correction is based on the actual tariffs applicable during the period; and
    - (iv) the application of this section does not prevent a consumer from claiming back overpayment for any longer period where the consumer is able to prove the claim in the normal legal process.
- (28) The following apply to prepayment metering:
- (a) no refund of the amount tendered for the purchase of electricity or water credit is given at the point of sale after initiation of the process by which the pre-payment meter token is produced; provided that this section will only apply to Standard Transfer Specification equipment (STS tokens);
  - (b) copies of previously issued tokens for the transfer of credit to the pre-payment meter may be issued at the request of the consumer;
  - (c) when an account holder vacates any premises where a pre-payment meter is installed, no refund for the credit remaining in the meter is made to the owner by the municipality;
  - (d) the municipality is not liable for the re-instatement of credit in a prepayment meter lost due to tampering with, or the incorrect use or the abuse of, pre-payment meters or tokens;
  - (e) where an account holder is indebted to the municipality for any rates, metered services, other municipal charges, levies, fees, fines, interest, taxes or any other amount or amounts payable arising from any other liability or obligation, the municipality may deduct a percentage from the amount tendered to offset the amount owing to the municipality; and
  - (f) the municipality may appoint vendors for the sale of credit for prepayment meters and does not guarantee the continued operation of any vendor.

#### **14. Resale of water or electricity**

- (1) No account holder who is supplied with metered services in terms of this by-law may sell or supply water or electricity to any other person or persons for such use upon any premises other than those in respect of which such agreement is made, or permit or offer such resale or supply to be made, unless prior permission from the municipality has been obtained.
- (2) If the municipality grants the permission referred to in subsection (1), it may stipulate the maximum price at which the water or electricity may be sold and impose such other conditions as it may deem fit.
- (3) Permission referred to in subsection (1) may be withdrawn at any time.
- (4) Where water or electricity is resold for use on the same premises, such resale must be in accordance with the tariff and subject to such conditions as the municipality may impose.

#### *Part 4: Indigence relief measures*

#### **15. Requirements for indigence relief**

- (1) To qualify for indigence relief, the following requirements must be met:
  - (a) The applicant must be an account holder;
  - (b) the applicant must, before a date determined by the municipality, apply annually, or at such intervals as determined by the municipality, to be granted the status as a poor household, and for these purposes must—
    - (i) complete and sign the prescribed forms; and
    - (ii) provide any other documentation as may be required by the municipality;
  - (c) the applicant may not be the owner of more than one property and he or she must occupy the property; and
  - (d) the collective household income may not exceed the amount determined by the municipality in terms of subsection (2).
- (2) For the purposes of determining the collective household income as contemplated in subsection (1)(d), the municipality may stipulate an amount, or may determine a maximum amount based on any one or more of the following:
  - (a) consumption of water;
  - (b) consumption of electricity; or



- (c) the municipal valuation of the property, which valuation may not exceed the value determined by the municipality .
- (3) In the case of a tenant—
  - (a) the tenant must apply in person and may qualify for electricity, water and refuse and sewage charges only, for which charges he or she must receive a municipal account; and
  - (b) the person receiving the rent payable by the tenant whether on the person's own account or as agent for any other person entitled thereto or interested therein, is responsible for rates.
- (4) In the instance where the account holder is deceased, the existing and future accounts of the household must be accepted under the indigence relief measures, on condition that only the surviving spouse or dependent children may apply or benefit.
- (5) The onus is on the head of an indigent household to notify the municipality of any change in the circumstances which causes non-compliance with this section and at the same time furnish all detail with regard to such changed circumstances.

#### **16. Credit given**

- (1) Households which qualify for indigence relief measures may receive a credit for some or all of the following as determined by the municipality:
  - (a) a quantity of electricity plus basic fee;
  - (b) a quantity of water plus basic fee;
  - (c) refuse removal charges;
  - (d) sewerage charges;
  - (e) rates; or
  - (f) any other service fees, taxes or charges over and above the rendered services.
- (2) The municipality has the right to review an application for indigence relief on a regular basis and to visit the property mentioned in section 15(1)(c) at any reasonable time for the purposes of verifying the information given in an application.
- (3) The normal rates, fees and charges and the requirement to pay an account will apply should a household account exceed the credit limits approved by the municipality.
- (4) Where it has been established that indigence relief has been granted on the basis of false or fraudulent information supplied, the municipality may withdraw such relief with immediate effect.

#### **17. Cancellation of registration**

- (1) Registration as an indigent household shall be cancelled in the cases mentioned below and such household shall forfeit all assistance granted for the unexpired term for which assistance was granted:
  - (a) where it is found that false information was furnished in the application or other documentation or statements;
  - (b) where the head of the indigent household refuses or fails to furnish the information required in terms of section 15(1)(b) for a period of 30 days after suspension of assistance because of failure to prove qualification for assistance;
  - (c) if it is found that circumstances have changed to such an extent that the indigent household no longer satisfies one or more of the requirements for registration.

### **CHAPTER 3**

#### **TARIFFS**

##### *Part 1:*

##### *General principles, calculation of tariffs for major services*

#### **18. General principles**

- (1) The municipality adopts, subject to subsection (14), sections 21(3)(d) and (e) and 22(5)(d), a two-part tariff structure consisting of a basic charge coupled with a charge based on consumption which tariffs may be adjusted during the financial year when such adjustment is required or approved in terms of national or provincial legislation.
- (2) In setting its annual tariffs the municipality must at all times take due cognisance of the—
  - (a) tariffs applicable elsewhere in the economic region; and
  - (b) impact which its own tariffs may have on local economic development.
- (3) With the exception of the indigence relief measures approved by the municipality, service tariffs imposed by the municipality should be viewed as user charges and not as taxes, and the ability of the relevant consumer or user of the services to which such tariffs relate, to pay for such services, should not be considered as a relevant criterion.
- (4) The municipality must ensure that its tariffs are uniformly and fairly applied throughout the municipal area.
- (5) Tariffs for the following services rendered by the municipality, must as far as possible recover the expenses associated with the rendering of each service concerned, and, where feasible, generate a surplus as determined in each annual budget:
  - (a) supply of electricity;
  - (b) supply of water;
  - (c) sanitation services, including sewerage and waste water disposal services;
  - (d) refuse (solids waste) removal services; or

- (e) any other services rendered by the municipality.
- (6) The tariff, which a particular consumer or user pays, must be directly related to the standard of service received and the quantity of the particular service used or consumed.
- (7) The municipality must annually review its indigence relief measures, as contemplated in sections 15 and 16, and must set out the—
  - (a) municipality's cost recovery policy in respect of the tariffs which it levies on registered indigents; and
  - (b) the implications of such policy for the tariffs which it imposes on other users and consumers in the municipal region.
- (8) (a) The municipality's tariff policy must be transparent.
  - (b) The extent to which there is cross-subsidisation between categories of consumers or users must be evident to all consumers or users of the service in question.
- (9) The municipality undertakes to—
  - (a) ensure that its tariffs are explained to and understood by all consumers and users affected by this by-law;
  - (b) render its services cost effectively in order to ensure the best possible cost of service delivery.
- (10) In the case of the directly measurable services, namely electricity and water, the consumption of such services must be properly metered by the municipality, and meters must be read, wherever circumstances reasonably permit, on a monthly basis, and the charges levied on consumers must be proportionate to the quantity of the service which they consume.
- (11) In considering the costing of its water, electricity and sewerage services, the municipality must take due cognisance of the high capital cost of establishing and expanding such services, and of the resultant high fixed costs, as opposed to variable costs of operating these services.
- (12) (a) The municipality's tariffs for electricity services are determined to ensure that those consumers who are mainly responsible for peak demand, and therefore for the incurring by the municipality of the associated demand charges from Eskom, have to bear the costs associated with these charges.
  - (b) For the purposes of paragraph (a), the municipality may install demand meters to measure the maximum demand of such consumers during certain periods.
  - (c) Such consumers must pay the relevant demand charge as well as a service charge directly related to their actual consumption of electricity during the relevant metering period.

## 19. Calculation of tariffs for major services

In order to calculate the tariffs which must be charged for the supply of the services contemplated in section 18(5), the municipality must identify all the costs of operation of the undertakings concerned, including specifically the following:

- (a) cost of bulk purchases in the case of water and electricity;
- (b) distribution costs;
- (c) distribution losses in the case of electricity and water;
- (d) depreciation expenses;
- (e) maintenance of infrastructure and other fixed assets;
- (f) administration and service costs, including—
  - (i) service charges levied by other departments such as finance, human resources and legal services;
  - (ii) reasonable general overheads, such as the costs associated with the office of the municipal manager;
  - (iii) adequate contributions to the provisions for bad debts and obsolescence of stock; and
  - (iv) all other ordinary operating expenses associated with the service concerned including, in the case of the electricity service, the cost of providing street lighting in the municipal area; and
- (g) the cost of indigence relief measures.

### *Part 2:*

#### *Structure of tariffs for major services, minor tariffs*

## 20. Structure of tariffs

- (1) The municipality may—
  - (a) determine the kilowatt-hours of electricity per month and the kilolitres of water which will be provided free of charge to any category of consumer; and
  - (b) consider relief in respect of the tariffs for sewerage and refuse removal for such registered indigent to the extent that the council deems such relief affordable in terms of each annual budget, however, such relief may not be less than a discount as determined by the municipality.
- (2) The tariff for consumption for a pre-paid meter is the same as the ordinary consumption tariffs levied on the category of consumer concerned, and no basic charge is payable on a property where a pre-paid meter has been installed.

## 21. Electricity

- (1) The various categories of electricity consumers, as set out in subsection (3), are charged at the applicable tariffs, as approved by the municipality in each annual budget.

- (2) Subject to section 18(1), tariff adjustments are effective in respect of July accounts each year.
- (3) Categories of consumers and charges are as follows:
  - (a) with the exception of a registered indigent, a consumer must be billed for all the electricity consumed at the tariff applicable to the category in which the particular consumer falls.
  - (b) the tariff for domestic consumption of electricity may not exceed such percentage, per kilowatt-hours, as determined by the municipality, of the tariff applicable to other consumers, and all consumers with the same type of connection must pay the same tariff per kilowatt-hour.
  - (c) electricity consumers of a category determined by the municipality must receive free the amount of kilowatt-hours of electricity as determined in terms of section 20(1).
  - (d) a domestic electricity consumer other than a registered indigent and sub-economic (Government subsidised Housing) consumer may additionally be billed a basic charge per meter installed.
  - (e) a commercial, industrial and other non-domestic property may additionally be billed a monthly basic charge per meter installed and, where applicable, a demand charge appropriate to its respective levels of consumption.

## 22. Water

- (1) The categories of water consumers as set out in subsection (5), are charged at the applicable tariffs, as approved by the municipality in each annual budget.
- (2) Subject to section 18(1), tariff adjustments are effective in respect of July accounts each year.
- (3) The tariff levied for domestic consumption of water escalates according to the volume of water consumed, and will be based on a monthly consumption as determined by the municipality.
- (4) The tariff for non-domestic water consumption is based on monthly consumption as determined by the municipality.
- (5) Categories of consumers and charges are as follows:
  - (a) a domestic water consumer registered as an indigent with the municipality must receive free the first six kilolitre of water consumed per month, thereafter a tariff as determined by the municipality is applicable on metered water consumption.
  - (b) all other domestic consumers are charged for actual water consumption at a stepped tariff per kilolitre as determined by the municipality.
  - (c) the tariff applicable to domestic consumption of water may not exceed such percentage per kilolitre as determined by the municipality, of the tariff applicable to other consumers and all other consumers, including businesses, industries and institutional consumers, must pay the tariff as contemplated in subsection (4).
  - (d) a basic charge per water meter, as determined by the municipality, is charged on a water consumer.

## 23. Refuse removal

- (1) The categories of refuse removal users as set out in subsection (3) are charged at the applicable tariffs, as approved by the municipality in each annual budget.
- (2) Subject to section 18(1), tariff adjustments are effective in respect of July accounts each year.
- (3) A separate fixed monthly refuse removal charge applies to each of the following categories of users, based on the costs of the service concerned:
  - (i) domestic and other users, where refuse is removed by the municipality once weekly; and
  - (ii) business and other users, where refuse is removed by the municipality twice weekly;
  - (iii) business and other users, where refuse is removed by the municipality thrice weekly; and
  - (iv) business and other bulk consumers.
- (4) A registered indigent may receive a discount on this charge as the municipality deems affordable when approving each annual budget, which discount may not be less than the percentage, as determined by the municipality, of the monthly amount billed as a refuse removal charge.

## 24. Sewerage

- (1) The categories of sewerage users as set out in subsection (3) are charged per month at the applicable tariff as approved by the municipality in each annual budget.
- (2) Subject to section 18(1), tariff adjustments are effective in respect of July accounts each year.
- (3) Categories of users and charges are:
  - (a) an availability charge is charged per month or annually for an undeveloped erf, irrespective of its permitted or intended use.
  - (b) a fixed monthly charge based on the costs of the service, is charged for a domestic user, however, a registered indigent may receive such discount on this charge as the municipality deems affordable when approving each annual budget, which discount may not be less than the percentage, as determined by the municipality, of the monthly amount billed for this service.
  - (c) a fixed monthly charge based on the costs of the service is charged for a domestic user, however, a registered indigent may receive such discount on this charge as the municipality deems affordable when approving each annual budget, which discount may not be less than the percentage, as determined by the municipality, of the monthly amount billed for this service.
  - (d) a fixed monthly charge based on the costs of the service is charged to all businesses, industries and institutional users.
  - (e) an effluent fee is payable by a factory and another industrial user where the wastewater emanating from such user requires special

purification measures by the municipality, and the fee is based on the toxic content of the wastewater concerned and the costs of the purification.

- (f) a tariff, at a cost determined annually in the budget, will be levied for each visit to empty a septic tank on the premises of a person requiring such service.

## 25. Minor tariffs

- (1) All minor tariffs are standardised within the municipal region.
- (2) All minor tariffs are approved by the municipality in each annual budget and are, when deemed appropriate by the municipality, subsidised by property rates and general revenues, particularly when the—
- (a) tariffs prove uneconomical when charged to cover the cost of the service concerned;
  - (b) cost cannot accurately be determined; or
  - (c) tariff is designed purely to regulate rather than finance the use of the particular service or amenity.
- (3) Unless there are compelling reasons why such adjustment should not be effected, all minor tariffs over which the municipality has full control, and which are not directly related to the cost of a particular service, are adjusted annually at least in accordance with the prevailing consumer price index.
- (4) The following services are subsidised services, and the tariffs levied cover 50%, or as near as possible to 50%, of the annual operating expenses budgeted for the service concerned:
- (a) burial services and the provision of cemeteries; and
  - (b) the provision of municipal sports facilities for use against a fee.
- (5) The following services are considered as being community services, and no tariffs are levied for their use:
- (a) a municipal swimming pool;
  - (b) a municipal museum and art gallery;
  - (c) the disposal of garden refuse at the municipal disposal site;
  - (d) a municipal reference library;
  - (e) a municipal lending library, except for fines determined;
  - (f) a municipal botanical garden, other park or open space;
- (6) The following services are considered as being economic services, and the tariffs levied cover 100%, or as near as possible to 100%, of the budgeted annual operating expenses of the service concerned:
- (a) The maintenance of graves, gardens of remembrance and crematoria against payment of a fee;
  - (b) the availability of a house against payment of a housing rental;
  - (c) subject to subsection (9), the use of a municipal hall and other premises against payment of a fee;
  - (d) the supply of a building plan against payment of a fee;
  - (e) the selling of—
    - (i) plastic refuse bags;
    - (ii) the selling of refuse bins; or
    - (iii) livestock and plants;
  - (f) the cleaning of stands against payment of a fee;
  - (g) the connection of electricity, water and sewerage against payment of a connection fee;
  - (h) the photostatting of copies against payment of a fee; and
  - (i) the issuing of a clearance certificate against payment of a fee.
- (7) The following charges and tariffs are considered as regulatory or punitive, and are determined as appropriate in each annual budget:
- (a) fines for lost or overdue library books;
  - (b) advertising sign fees;
  - (c) pound fees;
  - (d) disconnection and reconnection fees of electricity and water;
  - (e) penalty and other charges imposed in terms of Chapters 1 and 2; and
  - (f) penalty charges for the submission of dishonoured, stale, post-dated or otherwise unacceptable cheques.
- (8) The costs of the democratic process in the municipality such as, but not limited to, all expenses associated with the political structures of the municipality, form part of the expenses to be financed from property rates and general revenues, and are not included in the costing of the major services of the municipality.

## CHAPTER 4 AVAILABILITY CHARGES

### 26. Availability charges

Availability charges in respect of water, electricity, sewerage and refuse removal, as determined annually in the budget by the municipality, is payable by all owners of undeveloped property where none of the said services are connected, but can be reasonably connected. If one or more of the services are connected, then the basic charge in respect of all the services that can reasonably be connected shall still apply.

## CHAPTER 5 ENFORCEMENT

### 27. Municipality's powers to restrict or disconnect supply of services

The municipality may, over and above the provisions of any other provisions in this by-law restrict or disconnect the supply of water and electricity, or discontinue any other service to any premises if—

- (a) an administration order is granted in terms of section 74 of the Magistrates Court Act, 1944 (Act 37 of 1944), in respect of an account holder; provided further that such services will only be suspended if the account holder fails to make regular payments in respect of the current services;
- (b) an account holder of any service fails to comply with a condition of supply imposed by the municipality;
- (c) an account holder obstructs the efficient supply of electricity, water or any other municipal services to another account holder;
- (d) an account holder supplies such municipal services to any person who is not entitled thereto or permits such service to continue;
- (e) an account holder causes a situation which is dangerous or a contravention of relevant legislation; or
- (f) an account holder is placed under provisional registration, liquidation or judicial management, or commits an act of insolvency in terms of the Insolvency Act, 1936 (Act 24 of 1936).

### 28. Tampering, unauthorised connections and reconnections, and improper use

- (1) The municipality reserves the right to monitor the service network for signs of tampering or irregularities.
- (2) No person may in any manner or for any reason tamper or interfere with any meter or metering equipment or service connection or service protective device or supply mains or any other equipment of the municipality.
- (3) Where evidence exists of an account holder or any person having contravened subsection (2), the municipality has the right to disconnect the supply immediately and without prior notice to the account holder, and the account holder is liable for all fees and charges levied by the Municipality for such disconnection.
- (4) Where an account holder or any person has contravened subsection (2) and such contravention has resulted in the meter recording less than the true consumption, the municipality has the right to recover from the account holder the full cost of his or her estimated consumption.

### 29. Clearance certificate

To effect the transfer of any immovable property from one registered owner to another, the Registrar of Deeds requires a clearance certificate, which certificate is obtainable from the municipal manager upon payment of the prescribed fee and subject to the conditions of section 118 of the Municipal Systems Act, 2000 (Act 32 of 2000) being met.

### 30. Tenders and grants-in-aid

- (1) Each tender submitted to the municipality must be accompanied by a certificate from the municipality stating that the proposed supplier/service provider is not indebted to the municipality for any arrear amount reflected on the municipal account.
- (2) Should a proposed supplier or service provider be so indebted, the municipality may disallow the tender.
- (3) The municipality may only consider a tender once the proposed supplier or service provider has made satisfactory arrangements to pay the outstanding amount by means of instalments, or has settled all arrear amounts in full.
- (4) The municipal manager or a duly authorised officer of the municipality must in the condition of contract, provide for the deduction from moneys owed to the supplier or service provider in order to settle any outstanding amount.
- (5) Payment of any grants-in-aid approved by the municipality may be withheld pending payment of any outstanding municipal account, or pending an agreement between the municipality and the receiver of a grant-in-aid in which satisfactory arrangements have been made regarding the settlement of the outstanding municipal account.

### 31. Power of council to recover costs

- (1) Where a bank dishonours any payment made to the municipality, the municipality may levy and recover all related costs and any administration fees against an account of the defaulting account holder and may disconnect or restrict the supplies to the premises of such account holder.
- (2) All legal costs, excluding attorney-and-client costs incurred in the recovery of amounts in arrears and payable in terms of the Magistrates Court Act, 1944 (Act 32 of 1944), must be levied against the arrears account of the account holder.
- (3) For any action taken in demanding payment from an account holder or reminding an account holder by means of telephone, fax, electronic mail, letter or otherwise that payments are due, a fee will be levied against the municipal account of the account holder in terms of the municipality's tariff policy.

**32. Prima facie evidence**

A certificate reflecting the amount due and payable to the municipality, signed by the municipal manager, is upon mere production thereof prima facie evidence of the indebtedness of the person mentioned in it.

**33. Abandonment of bad debts, and full and final settlement of account**

- (1) Before terminating the debt collection procedure in any individual instance, the municipal manager must—
  - (a) ensure that all debt collection mechanisms as provided for in section 11 have been utilised where reasonable;
  - (b) maintain an audit trail; and
  - (c) document the reasons for terminating the debt collection procedure, including the cost of enforcement and necessary financial adjustments.
- (2) The municipal manager may consider an offer for full and final settlement, and must, if in the interests of the municipality, in writing consent to the acceptance of a lesser amount as full and final settlement of the amount due and payable.
- (3) Where the exact amount due and payable to the municipality has not been paid in full, any lesser amount tendered to and accepted by any municipal employee, except the municipal manager, shall not be deemed to be in full and final settlement of such an amount.

**34. Power of entry and inspection**

- (1) A duly authorised representative of the municipality may for any reason related to the implementation or enforcement of this by-law at all reasonable times or in emergency at any time, enter premises, request information and carry out such inspection as deemed necessary, and may for purposes of installing or repairing any meter or service connection for reticulation disconnect, stop or restrict the provision of any service.
- (2) If the municipality considers it necessary for work to be performed to enable an officer to perform a function referred to in subsection (1) properly and effectively, it may—
  - (a) by written notice require an account holder to do, at own expense, specified work within a specified period; or
  - (b) if the situation is a matter of urgency, without prior notice do such work or cause it to be done at the expense of the account holder.
- (3) If the work referred to in subsection (2) is carried out for the sole purpose of establishing whether a contravention of this by-law has been committed and no such contravention has taken place, the municipality must bear the expense connected therewith together with that of restoring the premises to their former condition.

**35. Authentication and service of orders, notices and other documents**

- (1) An order, notice or other document requiring authentication by the municipality must be signed by the municipal manager and when issued by the municipality in terms of this by-law is deemed to be duly issued if it is signed by an officer authorised by the municipality.
- (2) Any notice or other document that is served on a person by a duly authorised officer of the municipality in terms of this by-law, is regarded as having been served—
  - (a) when it has been delivered to that person personally;
  - (b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of 16 years;
  - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic and an acknowledgement of the posting thereof from the postal service is obtained;
  - (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 by paragraphs (a), (b) or (c);
  - (e) if that person's address and agent or representative in the Republic is unknown, when it has been placed in a conspicuous place on the property or premises, if any, to which it relates;
  - (f) in the event of a body corporate, when it has been delivered at the registered office of the business premises of such body corporate to a person apparently over the age of 16 years; or
  - (g) when it has been delivered, at the request of a person, to that person's electronic mail address.
- (3) When any notice or other document has to be served on the owner, an account holder or holder of any property or right in any property, it is sufficient if that person is described in the notice or other document as the owner, account holder or holder of the property or right in question, and it is not necessary to name that person.
- (4) Service of a copy is deemed to be service of the original.
- (5) Any legal process is effectively and sufficiently served on the municipality when it is delivered to the municipal manager or a person in attendance at the municipal manager's office.

**CHAPTER 6****GENERAL PROVISIONS****36. Right of appeal**

A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefor in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision



**37. Offences and penalties**

A person is, on conviction, and subject to penalties prescribed in any other law, liable to a fine or in default of payment, to imprisonment, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment, and in the case of a successive or continuing offence, to a fine for every day such offence continues, or in default of payment thereof, to imprisonment if he or she—

- (a) fails to give access required by an officer in terms of section 34;
- (b) obstructs or hinders an officer in the exercise of his or her powers or the performance of functions or duties under this by-law;
- (c) uses or interferes with the municipality's equipment for consumption of services supplied;
- (d) fails or refuses to give the municipality or an officer such information as the municipality or the officer may reasonably require for the purpose of exercising powers or functions under this by-law, or gives the municipality or the officer false or misleading information knowing it to be false or misleading;
- (e) fails to comply with the terms of a notice served upon him or her in terms of this by-law; or
- (f) tampers or breaks any seal on a meter or on any equipment belonging to the municipality, or for any reason causes a meter not to register the services used properly, and the person shall furthermore be charged for usage of electricity or water, as the case may be.

**38. Repeal of by-laws**

Any by-law previously promulgated by the municipality or any of the disestablished municipalities now incorporated into the municipality, in so far as it relates to any matter provided for in this by-law is hereby repealed

**39. Conflict with other legislation**

In the event of any conflict between any provision of this by-law and National and Provincial legislation, standards, policies or guidelines, the National and Provincial Legislation, standards, policies or guidelines shall prevail.

**40. Short title and commencement**

This by-law may be cited as the Credit Control, Tariffs and Debt Collection By-law and commences on the date of publication thereof in the Provincial Gazette.

9 November 2009

20648

**BERGRIVIER MUNICIPALITY  
ELECTRICITY SUPPLY BY-LAW**

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996 the Bergrivier Municipality, enacts as follows:—

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**1. Definitions**

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

**“accredited person”** means a person registered in terms of the Regulations as an electrical tester for single phase, an installation electrician or a master installation electrician, as the case may be;

**“applicable standard specification”** means—

SANS 1019 Standard voltage-, currents- and insulation levels for electricity supply

SANS 1607 Electromechanical watt-hour meters,

SANS 1524 Parts 0,1 & 2—Electricity dispensing systems,

SANS IEC 60211 Maximum demand indicators, Class 1.0,

SANS IEC 60521 Alternating current electromechanical watt-hour meter (Classes 0.5, 1 & 2),

SANS 0142 Code of practice for the wiring of premises;

NRS 047 National Rationalized Specification for the Electricity Supply—Quality of Service

NRS 048 National Rationalized Specification for the Electricity Supply—Quality of Supply, and

NRS 057 Electricity Metering: Minimum Requirements;

**“certificate of compliance”** means a certificate issued in terms of the Regulations in respect of an electrical installation or part of an electrical installation by an accredited person;

**“consumer”** in relation to premises means:

- (a) any occupier thereof or any other person with whom the municipality has contracted to supply or is actually supplying electricity thereat; or
- (b) if such premises are not occupied, any person who has a valid existing agreement with the municipality for the supply of electricity to such premises; or
- (c) if there is no such person or occupier, the owner of the premises;

**“credit meter”** means a meter where an account is issued subsequent to the consumption of electricity;

**“electrical contractor”** means an electrical contractor as defined in the Regulations;

**“electrical installation”** means an electrical installation as defined in the Regulations;

**“high voltage”** means the set of nominal voltage levels that are used in power systems for bulk transmission of electricity in the range of 44kV

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

**“the law”** means any applicable law, proclamation, ordinance, act of parliament or enactment having force of law;

**“medium voltage”** means the set of nominal voltage levels that lie above low voltage and below high voltage in the range of 1 kV <Un 44 kV. [SANS 1019];

**“meter”** means a device which records the demand or the electrical energy consumed and includes conventional and prepayment meters;

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

**“motor rating”** means the maximum continuous kW output of a motor as stated on the maker’s rating plate;

**“motor starting current”** in relation to alternating current motors means the root mean square value of the symmetrical current taken by a motor when energized at its rated voltage with its starter in the starting position and the rotor locked;

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

**“occupier”** in relation to any premises means—

- (a) any person in actual occupation of such premises;
- (b) any person legally entitled to occupy such premises;
- (c) in the case of such premises being subdivided and let to lodgers or various tenants, the person receiving the rent payable by such lodgers or tenants, whether on his own account or as agent for any person entitled thereto or interested therein, or
- (d) any person in control of such premises or responsible for the management thereof, and includes the agent of any such person when he or she is absent from the Republic of South Africa or his/her whereabouts are unknown;

**“owner”** in relation to premises means the person in whom is vested the legal title thereto; provided that—

- (a) in the case of immovable property—
  - (i) leased for a period of not less than 50 years, whether the lease is registered or not, the lessee thereof, or
  - (ii) beneficially occupied under a servitude or right analogous thereto, the occupier thereof;
- (b) if the owner as hereinbefore defined—
  - (i) is deceased or insolvent, has assigned his estate for the benefit of his creditors, has been placed under curatorship by order of court or is a company being wound up or under judicial management, the person in whom the administration of such property is vested as executor, administrator, trustee, assignee, curator, liquidator or judicial manager, as the case may be, or
  - (ii) is absent from the Republic of South Africa, or if his address is unknown to the municipality, any person who as agent or otherwise receives or is entitled to receive the rent in respect of such property, and
  - (iii) if the municipality is unable to determine who such person is, the person who is entitled to the beneficial use of such property,

shall be deemed to be the owner thereof to the exclusion of the person in whom is vested the legal title thereto;

**“point of consumption”** means a point of consumption as defined in the Regulations;

**“point of metering”** means the point at which the consumer’s consumption of electricity is metered and which may be at the point of supply or at any other point on the distribution system of the municipality or the electrical installation of the consumer, as specified by the municipality or any duly authorized official of the municipality; provided that it shall meter all of, and only, the consumer’s consumption of electricity;

**“point of supply”** means the point determined by the municipality or any duly authorized official of the municipality at which electricity is supplied to any premises by the municipality;

**“premises”** means any land or any building or structure above or below ground level and includes any vehicle, aircraft or vessel;

**“prepayment meter”** means a meter that can be programmed to allow the flow of pre-purchased amounts of energy in an electrical circuit;

**“Regulations”** means Regulations made in terms of the Occupational Health and Safety Act, 1993 (Act 85 of 1993), as amended;

**“safety standard”** means the Code of Practice for the Wiring of Premises SANS 10142-1 incorporated in the Regulations;

**“service connection”** means all cables and equipment required to connect the supply mains to the electrical installation of the consumer at the point of supply;

**“service protective device”** means any fuse or circuit breaker installed for the purpose of protecting the municipality’s equipment from overloads or faults occurring on the installation or on the internal service connection;

**“standby supply”** means an alternative electricity supply not normally used by the consumer;

**“supply mains”** means any part of the municipality’s electricity network;

**“tariff”** means the municipality’s tariff for the supply of electricity, and

**“token”** means the essential element of a prepayment metering system used to transfer information from a point of sale for electricity credit to a prepayment meter and vice versa;

**“voltage”** means the root-mean-square value of electrical potential between two conductors.

## CHAPTER 1

### GENERAL CONDITIONS OF SUPPLY

#### 2. Provision of electricity services

Only the municipality shall supply or contract for the supply of electricity within the jurisdiction of the municipality except in those areas where Eskom is the sole supplier of electricity services.

#### 3. Supply by agreement

No person shall use or be entitled to use an electricity supply from the municipality unless or until such person shall have entered into an agreement in writing with the municipality for such supply, and such agreement together with the provisions of this by-law shall in all respects govern such supply. If a person uses an electricity supply without entering into an agreement he or she shall be liable for the cost of electricity used as stated in section 44 of this by-law.

#### 4. Service of notice

- (1) Any notice or other document that is served on any person in terms of this by-law is regarded as having been served—
  - (a) when it has been delivered to that person personally;
  - (b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of sixteen years;
  - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic and an acknowledgement of the posting thereof from the postal service is obtained;
  - (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 by paragraphs (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 property or premises, if any, to which it relates.
- (2) When any notice or other document must be authorized or served on the owner, occupier or holder of any property or right in any property, it is sufficient if that person is described in the notice or other document as the owner, occupier or holder of the property or right in question, and it is not necessary to name that person.
- (3) Any legal process is effectively and sufficiently served on the municipality when it is delivered to the municipal manager or a person in attendance at the municipal manager's office.

#### 5. Compliance with notices

Any person on whom a notice duly issued or given under this by-law is served shall, within the time specified in such notice, comply with its terms.

#### 6. Application for supply

- (1) Application for the supply of electricity shall be made in writing by the prospective consumer on the prescribed form obtainable at the office of the municipality, and the estimated load, in kVA, of the installation, shall be stated therein. Such application shall be made as early as possible before the supply of electricity is required in order to facilitate the work of the municipality.
- (2) An application for an electricity supply for a period of less than one year shall be regarded as an application for a temporary supply of electricity and shall be considered at the discretion of the municipality or any duly authorized official of the municipality, which may specify any special conditions to be satisfied in such case.

#### 7. Processing of requests for supply

Applications for the supply of electricity will be processed and the supply made available within the periods stipulated in NRS 047.

#### 8. Way leaves

- (1) The municipality may refuse to lay or erect a service connection above or below ground on any thoroughfare or land not vested in the municipality or on any private property, unless and until the prospective consumer shall have obtained and deposited with the municipality written permission granted by the owner of the said private property or by the person in whom is vested the legal title to the land or thoroughfare as aforesaid exists, as the case may be, authorizing the laying or erection of a service connection thereon.
- (2) If such permission is withdrawn at any time or if the aforesaid private property or thoroughfare changes ownership and the new owner refuses to grant or continue such permission, the cost of any alteration required to be made to a service connection in order that the supply of electricity may be continued, and of any removal thereof which may become necessary in the circumstances, shall be borne by the consumer to whose premises the supply of electricity is required to be continued.

#### 9. Statutory Servitude

- (1) Subject to the provisions of subsection (3) the municipality may within its municipal area:
  - (a) provide, establish and maintain electricity services;
  - (b) acquire, construct, lay, extend, enlarge, divert, maintain, repair, discontinue the use of, close up and destroy electricity supply mains;
  - (c) construct, erect or lay any electricity supply main on, across, through, over or under any street or immovable property and the ownership of any such main shall vest in the municipality;
  - (d) do any other thing necessary or desirable for or incidental, supplementary or ancillary to any matter contemplated in subsections (a) to (c).
- (2) If the municipality constructs, erects or lays any electricity supply main on, across, through, over or under any street or immovable property not owned by the municipality or under the control of or management of the municipality it shall pay to the owner of such street or property compensation in an amount agreed upon by such owner and the municipality or, in the absence of agreement, as determined either by arbitration or a court of law.
- (3) The municipality must, before commencing any work other than repairs or maintenance on or in connection with any electricity supply main on immovable property not owned by the municipality or under the control or management of the municipality, give the owner or occupier of such property reasonable notice of the proposed work and the date on which it proposes to commence such work.

#### 10. Right of admittance to inspect, test or do maintenance work

- (1) The municipality shall, through its employees, contractors and their assistants and advisers, have access to or over any property for the purposes of—

- (a) doing anything authorized or required to be done by the municipality under this by-law or any other law;
  - (b) inspecting and examining any service mains and anything connected therewith;
  - (c) enquiring into and investigating any possible source of electricity supply or the suitability of immovable property for any work, scheme or undertaking of the municipality and making any necessary survey in connection therewith;
  - (d) ascertaining whether there is or has been a contravention of the provisions of this by-law or any other law, and
  - (e) enforcing compliance with the provisions of this by-law or any other law.
- (2) The municipality shall pay to any person suffering damage as a result of the exercise of the right of access contemplated by subsection (1), except where the municipality is authorized to execute on the property concerned any work at the cost of such person or some other person or to execute on such property any work and recover the cost thereof from such person or some other person, compensation in such amount as may be agreed upon by the municipality and such person or, in the absence of agreement, as may be determined by arbitration or court of law.
- (3) An employee of the municipality authorized thereto by such municipality may, by notice in writing served on the owner or occupier of any property, require such owner or occupier to provide, on the day and at the hour specified in such notice, access to such property to a person and for a purpose referred to in subsection (1).
- (4) The municipality may gain access to or over any property without notice and may take whatever action as may, in its opinion, be necessary or desirable in consequence of the existence of a state of war or the occurrence of any calamity, emergency or disaster.

#### **11. Refusal or failure to give information**

No person shall refuse or fail to give such information as may be reasonably required of him or her by any duly authorized official of the municipality or render any false information to any such official regarding any electrical installation work completed or contemplated.

#### **12. Refusal of admittance**

No person shall wilfully hinder, obstruct, interfere with or refuse admittance to any duly authorized official of the municipality in the performance of his duty under this by-law or of any duty connected therewith or relating thereto.

#### **13. Improper use**

If the consumer uses the electricity for any purpose or deals with the electricity in any manner which the municipality has reasonable grounds for believing interferes in an improper or unsafe manner or is calculated to interfere in an improper or unsafe manner with the efficient supply of electricity to any other consumer, the municipality may, with or without notice, disconnect the electricity supply but such supply shall be restored as soon as the cause for the disconnection has been permanently remedied or removed. The tariff as prescribed by the municipality for the disconnection and reconnection shall be paid by the consumer before the electricity supply is restored, unless it can be shown that the consumer did not use or deal with the electricity in an improper or unsafe manner.

#### **14. Electricity tariffs**

Copies of tariffs may be obtained free of charge at the offices of the municipality.

#### **15. Deposits**

The municipality reserves the right to require the consumer to deposit a sum of money as security in payment of any tariff which is due or may become due to the municipality. The amount of the deposit in respect of each electricity installation shall be determined by the municipality, and each such deposit may be increased if the municipality deems the deposit held to be inadequate. Such deposit shall not be regarded as being in payment or part payment of any accounts due for the supply of electricity for the purpose of obtaining any discount provided for in the electricity tariff referred to in this by-law. On cessation of the supply of electricity, the amount of such deposit, free of any interest, less any payments due to the municipality shall be refunded to the consumer.

#### **16. Payment of tariffs**

- (1) The consumer shall be liable for all tariffs listed in the prescribed tariff for the electricity service as approved by the municipality.
- (2) All accounts shall be deemed to be payable when issued by the municipality and each account shall, on its face, reflect the due date and a warning indicating that the supply of electricity may be disconnected should the tariff in respect of such supply remain unpaid after the due date.
- (3) An error or omission in any account or failure to render an account shall not relieve the consumer of his obligation to pay the correct amount due for electricity supplied to the premises and the onus shall be on the consumer to satisfy himself/herself that the account rendered is in accordance with the prescribed tariff in respect of electricity supplied to the premises.
- (4) Where a duly authorized official of the municipality has visited the premises for the purpose of disconnecting the supply of electricity in terms of subsection (2) and he or she is obstructed or prevented from effecting such disconnection, the prescribed tariff shall become payable for each visit necessary for the purpose of such disconnection.
- (5) After disconnection for non-payment of an account, the prescribed tariffs and any amounts due for electricity consumed shall be paid before the electricity supply is re-connected.

#### **17. Interest on overdue accounts**

The municipality may charge interest on accounts which are not paid by the due date appearing on the account, at an interest rate as approved by the municipality from time to time.

**18. Principles for the resale of electricity**

- (1) Unless otherwise authorized by the municipality, no person may sell or supply electricity, supplied to his or her premises under an agreement with the municipality, to any other person or persons for use on any other premises, or permit or allow such resale or supply to take place. If electricity is resold for use upon the same premises, the electricity resold shall be measured by a sub meter of a type which has been approved by South African Bureau of Standards and supplied, installed and programmed in accordance with the standards of the municipality.
- (2) The tariff at which and the conditions of sale under which electricity is thus resold shall not be less favourable to the purchaser than those that would have been payable and applicable had the purchaser been supplied directly with electricity by the municipality. Every reseller shall furnish the purchaser with monthly accounts that are at least as detailed as the relevant billing information details provided by the municipality to its electricity consumers.

**19. Right to disconnect supply**

- (1) The municipality shall have the right to disconnect the supply of electricity to any premises if the person liable to pay for such supply fails to pay any charge due to the municipality in connection with any supply of electricity which he or she may at any time have received from the municipality in respect of such premises, or, where any of the provisions of this by-law or the Regulations are being contravened, provided the municipality has given the person 14 (fourteen) days notice to remedy his/her default and the person has failed to remedy such default after notice has been given, or, in the case of a grave risk to person or property, or as envisaged in terms of Section 26 of this by-law, without notice. After disconnection for non-payment of accounts or the improper or unsafe use of electricity, the tariff as prescribed by the municipality shall be paid.
- (2) In the case where an installation has been illegally reconnected on a consumer's premises after having been previously legally disconnected by the municipality, or in the case where the municipality's electrical equipment has been tampered with to prevent the full registration of consumption by the meter, the electricity supply may be removed from those premises.

**20. Non-liability of the municipality**

The municipality shall not be liable for any loss or damage, direct or consequential, suffered or sustained by a consumer as a result of or arising from the cessation, interruption or any other abnormality of the supply of electricity, unless caused by negligence on the part of the municipality.

**21. Leakage of electricity**

Under no circumstances shall any rebate be allowed on the account for electricity supplied and metered in respect of electricity wasted owing to leakage or any other fault in the electrical installation.

**22. Failure of supply**

The municipality does not undertake to attend to a failure of supply of electricity due to a fault in the electrical installation of the consumer, except when such failure is due to the operation of the service protective device of the municipality. When any failure of supply of electricity is found to be due to a fault in the electrical installation of the consumer or to the faulty operation of apparatus used in connection therewith, the municipality shall have the right to charge the consumer the tariff as prescribed by the municipality for each restoration of the supply of electricity in addition to the cost of making good or repairing any damage which may have been done to the service main and meter by such fault or faulty operation as aforesaid.

**23. Seals of the municipality**

The meter, service protective devices and all apparatus belonging to the municipality shall be sealed or locked by a duly authorized official of the municipality, and no person not being an official of the municipality duly authorized thereto shall in any manner or for any reason whatsoever remove, break, deface, or tamper or interfere with such seals or locks.

**24. Tampering with service connection or supply mains**

- (1) No person shall in any manner or for any reason whatsoever tamper or interfere with any meter or metering equipment or service connection or service protective device or supply mains or any other equipment of the municipality.
- (2) Where prima facie evidence exists of a consumer or any person having contravened subsection(1), the municipality shall have the right to disconnect the supply of electricity immediately and without prior notice to the consumer. The person shall be liable for all tariffs levied by the municipality for such disconnection.
- (3) Where a consumer or any person has contravened subsection(1) and such contravention has resulted in the meter recording less than the true consumption, the municipality shall have the right to recover from the consumer the full cost of his estimated consumption.

**25. Protection of municipality's supply mains**

- (1) No person shall, except with the consent of the municipality and subject to such conditions as may be imposed—
  - (a) construct, erect or lay, or permit the construction, erection or laying of any building, structure or other object, or plant trees or vegetation over or in such a position or in such a manner as to interfere with or endanger the supply mains.
  - (b) excavate, open up or remove the ground above, next to, under or near any part of the supply mains.
  - (c) damage, endanger, remove or destroy, or do any act likely to damage, endanger or destroy any part of the supply mains; or
  - (d) make any unauthorized connection to any part of the supply mains or divert or cause to be diverted any electricity there from.
- (2) The owner or occupier shall limit the height of trees or length of projecting branches in the proximity of overhead lines or provide a means of protection which in the opinion of the municipality will adequately prevent the tree from interfering with the conductors should the tree or branch fall or be cut down. Should the owner fail to observe this provision the municipality shall have the right, after prior written notification,



or at any time in an emergency, to cut or trim the trees or other vegetation in such a manner as to comply with this provision and shall be entitled to enter the property for this purpose.

- (3) The municipality may subject to obtaining an order of court demolish, alter or other wise deal with any building, structure or other object constructed, erected or laid in contravention with this by-law.
- (4) The municipality may in the case of an emergency or disaster remove anything damaging, obstructing or endangering or likely to damage, obstruct, endanger or destroy any part of the electrical distribution system.

#### **26. Prevention of tampering with service connection or supply mains**

If the municipality decides that it is necessary or desirable to take special precautions in order to prevent tampering with any portion of the supply mains, service connection or service protective device or meter or metering equipment, the consumer shall either supply and install the necessary protection or pay the costs involved where such protection is supplied by the municipality.

#### **27. Unauthorized connections**

No person other than a person specifically authorized thereto by the municipality in writing shall directly or indirectly connect, attempt to connect or cause or permit to be connected any electrical installation or part thereof to the supply mains or service connection.

#### **28. Unauthorized reconnections**

- (1) No person other than a person specifically authorized thereto by the municipality in writing shall reconnect, attempt to reconnect or cause or permit to be reconnected to the supply mains or service connection any electrical installation or installations which has or have been disconnected by the municipality.
- (2) Where the supply of electricity that has previously been disconnected is found to have been reconnected, the consumer using the supply of electricity shall be liable for all tariffs for electricity consumed between the date of disconnection and the date the electricity supply was found to be reconnected and any other tariff raised in this regard. Furthermore, the municipality reserves the right to remove part or all of the supply equipment until such time as payment has been received in full. In addition, the consumer will be responsible for all the costs associated with the reinstatement of such supply equipment.

#### **29. Temporary disconnection and re-connection**

- (1) The municipality shall, at the request of the consumer, temporarily disconnect and reconnect the supply of electricity to the consumer's electrical installation upon payment of the tariff as prescribed by the municipality for each such disconnection and subsequent reconnection.
- (2) In the event of the necessity arising for the municipality to effect a temporary disconnection and reconnection of the supply of electricity to a consumer's electrical installation and the consumer is in no way responsible for bringing about this necessity, the municipality shall waive payment of the tariff hereinbefore referred to.
- (3) The municipality may only under exceptional circumstances temporarily disconnect the supply of electricity to any premises without notice, for the purpose of effecting repairs or carrying out tests or for any other legitimate purpose. In all other instances adequate notice shall be given.

#### **30. Temporary supplies**

It shall be a condition of the giving of any temporary supply of electricity, as defined in this by-law, that, if such supply is found to interfere with the efficient and economical supply of electricity to other consumers, the municipality shall have the right, with notice, or under exceptional circumstances without notice, to terminate such temporary supply at any time and, the municipality shall not be liable for any loss or damage occasioned by the consumer by such termination.

#### **31. Temporary work**

Electrical installations requiring a temporary supply of electricity shall not be connected directly or indirectly to the supply mains except with the permission in writing of the municipality. Full information as to the reasons for and nature of such temporary work shall accompany the application for the aforesaid permission, and the municipality may refuse such permission or may grant the same upon such terms and conditions as it may appear desirable and necessary.

#### **32. Load reduction**

- (1) At times of peak load, or in an emergency, or when, in the opinion of the municipality, it is necessary for any reason to reduce the load on the electricity supply system of the municipality, the municipality may without notice interrupt and, for such period as the municipality may deem necessary, discontinue the electricity supply to any consumer's electrically operated thermal storage water heater or any specific appliance or the whole installation. The municipality shall not be liable for any loss or damage directly or consequentially due to or arising from such interruption and discontinuance of the electricity supply.
- (2) The municipality may install upon the premises of the consumer such apparatus and equipment as may be necessary to give effect to the provisions of subsection (1), and any duly authorized official of the municipality may at any reasonable time enter any premises for the purpose of installing, inspecting, testing adjusting or changing such apparatus and equipment.
- (3) Notwithstanding the provisions of subsection (2), the consumer or the owner, as the case may be, shall, when installing an electrically operated water storage heater, provide such necessary accommodation and wiring as the municipality may decide to facilitate the later installation of the apparatus and equipment referred to in subsection (2).



**33. High, medium and low voltage switchgear and equipment**

- (1) In cases where a supply of electricity is given at either high, medium or low voltage, the supply and installation of the switchgear, cables and equipment forming part of the service connection shall, unless otherwise approved by the municipality or any duly authorized official of the municipality, be paid for by the consumer.
- (2) All such equipment installed on the consumer's premises shall be compatible with the municipality's electrical performance standards.
- (3) No person shall open, close, isolate, link or earth high or medium voltage switchgear or equipment without giving reasonable prior notice to the municipality.
- (4) In the case of a high or medium voltage supply of electricity, where the consumer has high or medium voltage switchgear installed, the municipality shall be advised of the competent person appointed by the consumer in terms of the Regulations, and of any changes made to such appointments.
- (5) In the case of a low voltage supply of electricity, the consumer shall provide and install a low voltage main switch or any other equipment required by the municipality or any duly authorized official of the municipality.

**34. Substation accommodation**

- (1) The municipality may, on such conditions as may be deemed fit, require the owner to provide and maintain accommodation which shall constitute a substation and which shall consist of a separate room or rooms to be used exclusively for the purpose of housing medium voltage cables and switchgear, transformers, low voltage cables and switchgear and other equipment necessary for the supply of electricity requested by the applicant. The accommodation shall be situated at a point to which free, adequate and unrestricted access is available at all times for purposes connected with the operation and maintenance of the equipment.
- (2) The municipality reserves the right to supply its own networks from its own equipment installed in such accommodation, and if additional accommodation is required by the municipality, such additional accommodation shall be provided by the applicant at the cost of the municipality.

**35. Wiring diagram and specification**

- (1) When more than one electrical installation or electricity supply from a common main or more than one distribution board or meter is required for any building or block of buildings, the wiring diagram of the circuits starting from the main switch and a specification shall on request be supplied to the municipality in duplicate for approval before the work commences.
- (2) Where an electrical installation is to be supplied from a substation on the same premises on which the current is transformed from high voltage, or from one of the substations of the municipality through mains separate from the general distribution system, a complete specification and drawings for the plant to be installed by the consumer shall, if so required, be forwarded to the municipality for approval before any material in connection therewith is ordered.

**36. Standby supply**

No person shall be entitled to a standby supply of electricity from the municipality for any premises having a separate source of electricity supply except with the written consent of the municipality and subject to such terms and conditions as may be laid down by the municipality.

**37. Consumer's emergency standby supply equipment**

- (1) No emergency standby equipment provided by a consumer in terms of any Regulations or for his own operational requirements shall be connected to any installation without the prior written approval of the municipality. Application for such approval shall be made in writing and shall include a full specification of the equipment and a wiring diagram. The standby equipment shall be so designed and installed that it is impossible for the municipality's supply mains to be energized by means of a back-charge from such equipment. The consumer shall be responsible for providing and installing all such protective equipment.
- (2) Where by special agreement with the municipality, the consumer's standby generating equipment is permitted to be electrically coupled to, and run in parallel with the municipality's supply mains, the consumer shall be responsible for providing, installing and maintaining all the necessary synchronizing and protective equipment required for such safe parallel operation, to the satisfaction of the municipality.

**38. Circular letters**

The municipality may from time to time issue circulars detailing its requirements regarding matters not specifically covered in the Regulations or this by-law but which are necessary for the safe, efficient operation and management of the supply of electricity.

**CHAPTER 2****RESPONSIBILITIES OF CONSUMERS****39. Consumer to erect and maintain electrical installation**

Any electrical installation connected or to be connected to the supply mains, and any additions or alterations thereto which may be made from time to time, shall be provided and erected and maintained and kept in good order by the consumer at his own expense and in accordance with this by-law and the Regulations.

**40. Fault in electrical installation**

- (1) If any fault develops in the electrical installation, which constitutes a hazard to persons, livestock or property, the consumer shall immediately disconnect the electricity supply. The consumer shall without delay give notice thereof to the municipality and shall immediately take steps to remedy the fault.

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

#### **41. Discontinuance of use of supply**

In the event of a consumer desiring to discontinue using the electricity supply, he or she shall give at least two full working days' notice in writing of such intended discontinuance to the municipality, failing which he or she shall remain liable for all payments due in terms of the tariff for the supply of electricity until the expiration of two full working days after such notice has been given.

#### **42. Change of occupier**

- (1) A consumer vacating any premises shall give the municipality not less than two full working days' notice in writing of his intention to discontinue using the electricity supply, failing which he or she shall remain liable for such supply.
- (2) If the person taking over occupation of the premises desires to continue using the electricity supply, he or she shall make application in accordance with the provisions of section 3 of this by-law, and if he or she fails to make application for an electricity supply within ten working days of taking occupation of the premises, the supply of electricity shall be disconnected, and he or she shall be liable to the municipality for the electricity supply from the date of occupation till such time as the supply is so disconnected.
- (3) Where premises are fitted with pre-payment meters any person occupying the premises at that time shall be deemed to be the consumer. Until such time as an application is made by this person for a supply of electricity, in terms of section 3 of this by-law, he or she shall be liable for all tariffs owed to the municipality for that metering point as well as any outstanding tariffs whether accrued by that person or not.

#### **43. Service apparatus**

- (1) The consumer shall be liable for all costs to the municipality arising from damage to or loss of any metering equipment, service protective device, service connection or other apparatus on the premises, unless such damage or loss is shown to have been occasioned by an Act of God or an act or omission of an employee of the municipality or caused by an abnormality in the supply of electricity to the premises.
- (2) If, during a period of disconnection of an installation from the supply mains, the service main, metering equipment or any other service apparatus, being the property of the municipality and having been previously used, have been removed without its permission or have been damaged so as to render re-connection dangerous, the owner or occupier of the premises, as the case may be, during such period shall bear the cost of overhauling or replacing such equipment.
- (3) Where there is a common metering position, the liability detailed in subsection (1) shall devolve on the owner of the premises.
- (4) The amount due in terms of subsection (1) shall be evidenced by a certificate from the municipality which shall be final and binding.

### **CHAPTER 3**

#### **SPECIFIC CONDITIONS OF SUPPLY**

#### **44. Service connection**

- (1) The consumer shall bear the cost of the service connection, as approved by the municipality.
- (2) Notwithstanding the fact that the consumer bears the cost of the service connection, ownership of the service connection, laid or erected by the municipality, shall vest in the municipality, the municipality shall be responsible for the maintenance of such service connection up to the point of supply. The consumer shall not be entitled to any compensation from the municipality in respect of such service connection.
- (3) The work to be carried out by the municipality at the cost of the consumer for a service connection to the consumer's premises shall be determined by the municipality or any duly authorized official of the municipality.
- (4) A service connection shall be laid underground, whether the supply mains are laid underground or erected overhead, unless an overhead service connection is specifically required by the municipality.
- (5) The consumer shall provide, fix or maintain on his premises such ducts, wire ways, trenches, fastenings and clearance to overhead supply mains as may be required by the municipality for the installation of the service connection.
- (6) The conductor used for the service connection shall have a cross-sectional area according to the size of the electrical supply but shall not be less than 10mm<sup>2</sup> (copper or copper equivalent), and all conductors shall have the same cross-sectional area, unless otherwise approved by any duly authorized official of the municipality.
- (7) Unless otherwise approved, the municipality shall only provide one service connection to each registered erf. In respect of two or more premises belonging to one owner and situated on adjacent erven, a single bulk supply of electricity may be made available provided the erven are consolidated or notarially tied.
- (8) Any covers of a wire way carrying the supply circuit from the point of supply to the metering equipment shall be made to accept the seals of the municipality.
- (9) Within the meter box, the service conductor or cable, as the case may be, shall terminate in an unobscured position and the conductors shall be visible throughout their length when cover plates, if present, are removed.
- (10) In the case of blocks of buildings occupied by a number of individual consumers, separate wire ways and conductors or cables shall be laid from the common metering room or rooms to each individual consumer in the blocks of buildings. Alternatively, if trunking is used, the conductors of the individual circuits shall be clearly identified (tied together every 1,5m) throughout their length.

#### **45. Metering accommodation**

- (1) The consumer shall, if required by the municipality or any duly authorized official of the municipality, provide accommodation in an approved position, the meter board and adequate conductors for the municipality's metering equipment, service apparatus and protective devices. Such accommodation and protection shall be provided and maintained, to the satisfaction of the municipality, at the cost of the consumer or the owner, as the circumstances may demand, and shall be situated, in the case of credit meters, at a point to which free and unrestricted access

shall be had at all reasonable hours for the reading of meters but at all times for purposes connected with the operation and maintenance of the service equipment. Access at all reasonable hours shall be afforded for the inspection of prepayment meters.

- (2) Where sub metering equipment is installed, accommodation separate from the municipality's metering equipment shall be provided.
- (3) The consumer or, in the case of a common meter position, the owner of the premises shall provide adequate electric lighting in the space set aside for accommodating the metering equipment and service apparatus.
- (4) Where in the opinion of the municipality the position of the meter, service connection, protective devices or main distribution board is no longer readily accessible or becomes a course of danger to life or property or in any way becomes unsuitable, the consumer shall remove it to a new position, and the cost of such removal, which shall be carried out with reasonable dispatch, shall be borne by the consumer.
- (5) The accommodation for the municipality's metering equipment and protective devices may, if approved, include the consumer's main switch and main protective devices. No apparatus other than that used in connection with the supply of electricity and use of electricity shall be installed or stored in such accommodation unless approved.

#### CHAPTER 4 SYSTEMS OF SUPPLY

#### 46. Load requirements

Alternating current supplies shall be given as prescribed by the Electricity Act, 1987 (Act 41 of 1987), and in the absence of a quality of supply agreement, as set out in applicable standard specification.

#### 47. Load limitations

- (1) Where the estimated load, calculated in terms of the safety standard, does not exceed 15 kVA, the electrical installation shall be arranged for a two-wire single-phase supply of electricity, unless otherwise approved by the municipality or any duly authorized official of the municipality.
- (2) Where a three-phase four-wire supply of electricity is provided, the load shall be approximately balanced over the three phases but the maximum out-of-balance load shall not exceed 15kVA, unless otherwise approved by the municipality or any duly authorized official of the municipality.
- (3) No current-consuming appliance, inherently single phase in character, with a rating which exceeds 15kVA shall be connected to the electrical installation without the prior approval of the municipality.

#### 48. Interference with other persons' electrical equipment

- (1) No person shall operate electrical equipment having load characteristics which, singly or collectively, give rise to voltage variations, harmonic currents or voltages, or unbalanced phase currents which fall outside the applicable standard specification.
- (2) The assessment of interference with other persons' electrical equipment shall be carried out by means of measurements taken at the point of common coupling.
- (3) Should it be established that undue interference is in fact occurring, the consumer shall, at his or her own cost, install the necessary equipment to filter out the interference and prevent it reaching the supply mains.

#### 49. Supplies to motors

Unless otherwise approved by the municipality or any duly authorized official of the municipality the rating of motors shall be limited as follows:

- (1) Limited size for low voltage motors—

The rating of a low voltage single-phase motor shall be limited to 2kW or the starting current shall not exceed 70A. All motors exceeding these limits shall be wound for three phases at low voltage or such higher voltage as may be required.

- (2) Maximum starting and accelerating currents of three-phase alternating current motors:

The starting current of three-phase low voltage motors permitted shall be related to the capacity of the consumer's service connection, as follows:

Insulated service cable, size in mm <sup>2</sup> , copper equivalent mm <sup>2</sup>	Maximum permissible starting current A	Maximum motor rating in kW		
		Direct on line (6× full-load current)	Star/Delta (2,5 × full-load current)	Other means (1,5 × full-load current)
		kW	kW	kW
16	72	6	13,5	23
25	95	7,5	18	30
35	115	9	22	36,5
50	135	10	25	45
70	165	13	31	55
95	200	16	38	67
120	230	18	46	77
150	260	20	52	87

(3) Consumers supplied at medium voltage—

In an installation supplied at medium voltage the starting current of a low voltage motor shall be limited to 1,5 times the rated full-load current of the transformer supplying such a motor. The starting arrangement for medium voltage motors shall be subject to the approval of the municipality.

#### 50. Power factor

- (1) If required by the municipality, the power factor of any load shall be maintained within the limits 0,85 lagging and 0,9 leading.
- (2) Where, for the purpose of complying with subsection (1), it is necessary to install power factor corrective devices, such corrective devices shall be connected to the individual appliance terminals unless the correction of the power factor is automatically controlled.
- (3) The consumer shall, at his/her own cost, install such corrective devices.

#### 51. Protection

Electrical protective devices for motors shall be of such a design as effectively to prevent sustained over current and single phasing, where applicable.

### CHAPTER 5

#### MEASUREMENT OF ELECTRICITY

#### 52. Metering

- (1) The municipality shall, at the consumer's cost in the form of a direct charge or prescribed tariff, provide, install and maintain appropriately rated metering equipment at the point of metering for measuring the electricity supplied.
- (2) Except in the case of prepayment meters, the electricity used by a consumer during any metering period shall be ascertained by the reading of the appropriate meter or meters supplied and installed by the municipality and read at the end of such period except where the metering equipment is found to be defective, or the municipality invokes the provisions of section 54(2) of this by-law, in which case the consumption for the period shall be estimated.
- (3) Where the electricity used by a consumer is charged at different tariff rates, the consumption shall be metered separately for each rate.
- (4) The municipality reserves the right to meter the supply to blocks of shops and flats, tenement-houses and similar buildings for the buildings as a whole, or for individual units, or for groups of units.
- (5) No alterations, repairs or additions or electrical connections of any description shall be made on the supply side of the point of metering unless specifically approved in writing by the municipality or any duly authorized official of the municipality.

#### 53. Accuracy of metering

- (1) A meter shall be presumed to be registering accurately if its error, when tested in the manner prescribed in subsection (5) hereof, is found to be within the limits of error as provided for in the applicable standard specifications.
- (2) The municipality shall have the right to test its metering equipment. If it is established by test or otherwise that such metering equipment is defective, the municipality shall—
  - (i) in the case of a credit meter, adjust the account rendered;
  - (ii) in the case of prepayment meters, (a) render an account where the meter has been under-registering, or (b) issue a free token where the meter has been over-registering;in accordance with the provisions of subsection (6).
- (3) The consumer shall be entitled to have the metering equipment tested by the municipality on payment of the prescribed tariff. If the metering equipment is found not to comply with the system accuracy requirements as provided for in the applicable standard specifications, an adjustment in accordance with the provisions of subsections (2) and (6) shall be made and the aforesaid tariff shall be refunded.
- (4) In case of a dispute, the consumer shall have the right at his own cost to have the metering equipment under dispute tested by an approved independent testing authority, and the result of such test shall be final and binding on both parties.
- (5) Meters shall be tested in the manner as provided for in the applicable standard specifications.
- (6) When an adjustment is made to the electricity consumption registered on a meter in terms of subsection (2) or (3), such adjustment shall either be based on the percentage error of the meter as determined by the test referred to in subsection (5) or upon a calculation by the municipality from consumption data in its possession. Where applicable, due allowance shall be made, where possible, for seasonal or other variations which may affect the consumption of electricity.
- (7) When an adjustment is made as contemplated in subsection (6), the adjustment may not exceed a period of six months preceding the date on which the metering equipment was found to be inaccurate. The application of this section does not bar a consumer from claiming back overpayment for any longer period where the consumer is able to prove the claim in the normal legal process.
- (8) Where the actual load of a consumer differs from the initial estimated load provided for under section 47(1) to the extent that the municipality deems it necessary to alter or replace its metering equipment to match the load, the costs of such alteration or replacement shall be borne by the consumer.
- (9) (a) Prior to the municipality making any upward adjustment to an account in terms of subsection (6), the municipality shall—
  - (i) notify the consumer in writing of the monetary value of the adjustment to be made and the reasons therefor;
  - (ii) in such notification provide sufficient particulars to enable the consumer to submit representations thereon, and
  - (iii) call upon the consumer in such notice to provide it with reasons in writing, if any, within 21 days or such longer period as the municipality may permit why his/her account should not be adjusted as notified.

- (b) Should the consumer fail to make any representations during the period referred to in subsection 9(a)(iii) the municipality shall be entitled to adjust the account as notified in subsection 9(a)(i).
- (c) The municipality shall consider any reasons provided by the consumer in terms of subsection (9)(a) and shall, if satisfied that a case has been made out therefor, adjust the account appropriately.
- (d) If a duly authorized official of the municipality decides after having considered the representation made by the consumer that such representations do not establish a case warranting an amendment to the monetary value established in terms of subsection (6), the municipality shall be entitled to adjust the account as notified in terms of subsection 9(a)(i), subject to the consumer's right to appeal the decision of the official in terms of section 62 of this by-law.

#### **54. Reading of credit meters**

- (1) Unless otherwise prescribed, credit meters shall normally be read at intervals of one month and the fixed or minimum tariff due in terms of the tariff shall be assessed accordingly. The municipality shall not be obliged to effect any adjustments to such tariff.
- (2) If for any reason the credit meter cannot be read, the municipality may render an estimated account. The electrical energy consumed shall be adjusted in a subsequent account in accordance with the electrical energy actually consumed.
- (3) When a consumer vacates a property and a final reading of the meter is not possible, an estimation of the consumption may be made and the final account rendered accordingly.
- (4) If a special reading of the meter is desired by a consumer, this may be obtained upon payment of the prescribed tariff.
- (5) If any calculating, reading or metering error is discovered in respect of any account rendered to a consumer, the error shall be corrected in subsequent accounts. Any such correction shall only apply in respect of accounts for a period of 6 months preceding the date on which the error in the accounts was discovered, and shall be based on the actual tariffs applicable during the period. The application of this section does not prevent a consumer from claiming back overpayment for any longer period where the consumer is able to prove the claim in the normal legal process.

#### **55. Prepayment metering**

- (1) No refund of the amount tendered for the purchase of electricity credit shall be given at the point of sale after initiation of the process by which the prepayment meter token is produced.
- (2) Copies of previously issued tokens for the transfer of credit to the prepayment meter may be issued at the request of the consumer.
- (3) When a consumer vacates any premises where a prepayment meter is installed, no refund for the credit remaining in the meter shall be made to the consumer by the municipality.
- (4) The municipality shall not be liable for the reinstatement of credit in a prepayment meter lost due to tampering with, or the incorrect use or the abuse of, prepayment meters or tokens.
- (5) Where a consumer is indebted to the municipality for electricity consumed or to the municipality for any other service supplied by the municipality (including rates) or for any tariff previously raised against him or her in connection with any service rendered, the municipality may deduct a percentage from the amount tendered to offset the amount owing to the municipality, as set out in the section 3 agreement for the supply of electricity.
- (6) The municipality may, at its discretion, appoint vendors for the sale of credit for prepayment meters and shall not guarantee the continued operation of any vendor.

### **CHAPTER 6**

#### **ELECTRICAL CONTRACTORS**

#### **56. Electrical Contractors**

In addition to the requirements of the Regulations the following requirements shall apply:

- (1) Where an application for a new or increased supply of electricity has been made to the municipality, any duly authorized official of the municipality may at his/her discretion accept notification of the completion of any part of an electrical installation, the circuit arrangements of which permit the electrical installation to be divided up into well-defined separate portions, and such part of the electrical installation may, at the discretion of any duly authorized official of the municipality, be inspected, tested and connected to the supply mains as though it were a complete installation.
- (2) The examination, test and inspection that may be carried out at the discretion of the municipality or any duly authorized official of the municipality in no way relieves the electrical contractor/accredited person or the user or lessor, as the case may be, from his responsibility for any defect in the installation. Such examination, test and inspection shall not be taken under any circumstances (even where the electrical installation has been connected to the supply mains) as indicating or guaranteeing in any way that the electrical installation has been carried out efficiently with the most suitable materials for the purpose or that it is in accordance with this by-law or the safety standard, and the municipality shall not be held responsible for any defect or fault in such electrical installation.

#### **57. Liability**

The municipality shall not be held responsible for the work done by the electrical contractor/accredited person on a consumer's premises and shall not in any way be responsible for any loss or damage which may be occasioned by fire or by any accident arising from the state of the wiring on the premises.

## CHAPTER 7 COST OF WORK

### 58. Cost of work

The municipality may repair and make good any damage done in contravention of this by-law or resulting from a contravention of this by-law. The cost of any such work carried out by the municipality which was necessary due to the contravention of this by-law, shall be to the account of the person who acted in contravention of this by-law.

## CHAPTER 8 ENERGY SAVING MEASURES AND REDUCED USE OF ELECTRICITY

### 59. Norms, standards and guidelines

- (1) The municipality may determine and publish norms, standards and guidelines which prescribe appropriate measures to save energy or to reduce the use of electricity and such norms standards and guidelines must be kept in the form of an operational manual.
- (2) The norms, standards and guidelines contemplated in subsection (1) may differentiate between communities, geographical areas and different kinds of premises.

## CHAPTER 9 GENERAL PROVISIONS

### 60. Exemptions

- (1) Any person may in writing apply to the municipality for exemption from any provision of this by-law.
- (2) The municipality may—
  - (a) grant an exemption in writing and set and determine the period for which such exemption is granted;
  - (b) alter or cancel any exemption or condition in an exemption; or
  - (c) refuse to grant an exemption.
- (3) An exemption does not take effect before the applicant has undertaken in writing to comply with the conditions imposed by the municipality, however, if an activity is commenced before such undertaking has been submitted to the municipality, the exemption lapses.
- (4) If any condition of an exemption is not complied with, the exemption lapses immediately.

### 61. Liaison forums in community

- (1) The municipality may establish one or more liaison forums in a community for the purposes of obtaining community participation with regard to the matters dealt with in this by-law.
- (2) A liaison forum may consist of—
  - (a) a member of members of an interest group, or an affected person;
  - (b) a designated official or officials of the municipality; and
  - (c) a councillor.
- (3)
  - (a) The municipality may, when considering an application for consent, permit or exemption in terms of this by-law, request the input of a liaison forum.
  - (b) A liaison forum or any person may on own initiative submit an input to the municipality for consideration.

### 62. Appeal

A person whose rights are affected by a decision delegated by the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefor in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision.

### 63. Offences and Penalties

- (1) Any person who contravenes any of the provisions of sections 5, 6, 7,11,12, 13, 19, 23,24, 25, 27, and 28 of this by-law shall be guilty of an offence and shall on conviction be liable to—
  - (a) a fine or imprisonment, or either such fine or imprisonment or to both such fine and such imprisonment and,
  - (b) in the case of a continuing offence, to an additional fine or an additional period of imprisonment or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued and,
  - (c) a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as result of such contravention or failure.



**64. Conflict with other legislation**

In the event of any conflict between any provision of this by-law and National and Provincial legislation, standards, policies or guidelines, the National and Provincial legislation, standards, policies or guidelines shall prevail.

**65. Repeal of by-laws**

The provisions of any by-laws previously promulgated by the municipality or by any of the disestablished municipalities now incorporated in the municipality, are hereby repealed as far as they relate to matters provided for in this by-law, and insofar as it has been made applicable to the municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Local Government: Municipal Structures Act, Act 117 of 1998.

**66. Short title and commencement**

This by-law shall be known as the Electricity Supply By-law and shall come into operation on the date of publication thereof in the Provincial Gazette.

9 November 2009

20649

**BERGRIVIER MUNICIPALITY  
FENCES AND WALLS BY-LAW**

In terms of and under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, the Bergrivier Municipality, enacts as follows:—

**TABLE OF CONTENT**

1. Interpretation
2. Principles and objectives
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**SCHEDULE**

**1. Interpretation**

In this by-law, unless the context otherwise indicates—

“**alter**” includes to cause, allow or permit to be altered;

“**agent**”, in relation to the owner of a property, means a person appointed by the owner of the property—

- (a) to receive rental or other payments in respect of the property on behalf of the owner; or
- (b) to make payments in respect of the property on behalf of the owner;

“**boundary**” means the real or notional line marking the limits of premises;

“**erect**” includes to cause, allow or permit to be erected;

“**fence**” means—

- (a) any fence, together with any gate or any contrivance forming part or serving the purpose of such a gate, erected as a boundary between any erven, lots or stands within the municipal area;
- (b) a fence which is not erected on a boundary, such as a garden fence or a free-standing wall on an erf, lot or stand; or
- (c) a retaining wall erected on the boundary between two or more properties.



“**ground level**” means the natural level of the ground, except where such level has been disturbed, in which case the street level is to be regarded as the ground level;

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

“**public land**” means land the ownership of which is vested in an organ of state;

“**repair**” has the meaning assigned to it in the Fencing Act, 1963 (Act 31 of 1963);

“**rural settlement**” means any area outside the urban edge of a township which is utilised for residential purposes and includes, but is not limited to agri villages, Transnet property, Safcol settlements, mining settlements and townships to which the Rural Areas Act, 1987 (Act 9 of 1987) applied;

## 2. Principles and objectives

The Municipality, aware of its duty to provide a safe and healthy environment, in this by-law regulate fencing with the aim of safeguarding its residents and visitors to the area.

## 3. Application

Subject to the provisions of the Fencing Act, 1963 (Act 31 of 1963), as well as the applicable Zoning Scheme Regulations of the Municipality, the provisions of this by-law relating to an electrical fence, barbed wire and razor wire do not apply to land zoned for agricultural purposes, except where such electrical fence, barbed wire or razor wire is erected on the boundary between the agricultural land and public land or residential premises forming part of any township or a rural settlement.

## 4. Fences

- (1) No person may, without the consent of the municipality, and subject to any conditions imposed by the municipality, on a boundary of premises—
  - (a) erect a fence which is more than 2 metres in height from ground level;
  - (b) alter or make an addition to an existing fence which is more than 2 metres in height from ground level;
  - (c) erect or may have on a boundary, an electrified fence, electrified railing or other electrified barrier, unless it—
    - (i) is erected on top of a wall which may not be less than 1,8 metres high and built of brick, cement, concrete or similar material; and
    - (ii) it complies with the Electrical Machinery Regulations, as published in Government Notice R1593, dated 12 August, 1988; and
  - (d) erect a barbed-wire fence, railing, or other barrier with spikes or other sharp or pointed protrusions unless it is erected on top of a wall of not less than 2 metres in height.
- (2) A person who wishes to obtain the consent of the municipality must submit an application form similar to the form contained in the Schedule A, and the municipality may refuse or grant consent.
- (3) Should the municipality refuse permission, it must supply the applicant in writing with the reasons for the refusal.
- (4) Should the municipality grant consent, it may impose conditions, requirements or specifications according to each individual case, subject to the provisions of SANS Code No. 1372 relating to Prefabricated Concrete Components for Fences, and the consent must be entered in Item C of the form referred to in subsection (2), and a person who has obtained consent, must at the request of an authorised official, immediately produce the form.
- (5) A person who has obtained consent in terms of subsection (4) must ensure that the fence is maintained in a good condition.
- (6) No person may—
  - (a) without the prior written consent of the municipality demolish, interfere with or damage a fence for which consent has been granted in terms of subsection (4);
  - (b) having opened a gate in a fence, leave such gate open or unfastened;
  - (c) climb over or crawl through a fence without the permission of the owner or occupier of the land;
  - (d) erect a fence covered with—
    - (i) canvas, reeds, grass or any combustible material, except poles or split poles, or approved wood, within 4,5 metres of any street; or
    - (ii) sheet iron, corrugated galvanised iron or any other sheeting along or within 4,5 metres of any street;
  - (e) allow a fence to fall into disrepair; and
  - (f) affix to or allow to be affixed to a fence any posters, placards or similar notices, or draw or apply anything on a fence unless it is done so in terms of the Advertising and Signage By-law.
- (7) The municipality may, whenever it appears that, in the interests of safety—
  - (a) a fence needs to be erected or repaired, instruct the owner or occupier on whose premises such fence needs to be erected or repaired, to undertake such steps as stipulated in the instruction; or
  - (b) the height of a wall, hedge or fence at a street corner needs to be reduced, by order in writing instruct the owner or occupier property to reduce the height of such wall, hedge or fence to a height specified in such order.
- (8) A person commits an offence if he or she contravenes a provision of subsections (1) and (6) or fails to produce a form at the request of an authorised official as contemplated in subsection (4).
- (9) Should a person fail to comply with a provision of subsection (1), with a condition, requirement or specification contemplated in subsection

(4), or subsection (5) or an instruction issued in terms of subsection (7), the municipality may serve a notice of compliance or a demolition order on the person.

## 5. Offences and Penalties

A person who contravenes any provision or fails to comply with any provision of this by-law commits an offence and shall on conviction be liable to—

- (a) a fine or imprisonment, or either such fine or imprisonment or to both such fine and such imprisonment and,
- (b) in the case of a continuing offence, to an additional fine or an additional period of imprisonment or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued and,
- (c) a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as result of such contravention or failure.

## 6. Notice of compliance and representations

- (1) Where a person contravenes a provision of this by-law, the municipality may in writing issue a compliance notice and serve it on the person concerned to take remedial measures.
- (2) The notice of compliance must state—
  - (a) the name and residential or postal address of the affected person;
  - (b) the requirement which has not been complied with;
  - (c) detailed measures required to remedy the situation;
  - (d) that the person must within a specified period take the measures to comply with the notice and to complete the measures before a specified date; and
  - (e) the right to appeal as contained in section 10.
- (3) Where a person does appeal and fails to take the measures before the date contemplated in subsection (2)(d), he or she commits an offence, and the municipality may, irrespective of any penalty which may be imposed under section 5, act in terms of subsection (4).
- (4) The municipality may take such measures as it deems necessary to remedy the situation, including obtaining a demolition order contemplated in section 8, and the cost thereof must be paid to the municipality in accordance with section 7.

## 7. Costs

- (1) Should a person fail to take the measures required of him or her by a notice of compliance, the municipality may, subject to subsection (3) recover, as a debt, all costs incurred as a result of it remedying the situation from that person and any or all of the following persons:
  - (a) the owner of the land, building or premises; or
  - (b) the person or occupier in control of the land, building or premises or any person who has or had a right to use the land at the time when the situation came about.
- (2) The costs recovered must be reasonable and may include, without being limited to, costs relating to labour, water, equipment, administrative and overhead costs incurred by the municipality under section 6(3).
- (3) If more than one person is liable for costs incurred, the liability must be apportioned as agreed among the persons concerned according to the degree to which each was responsible for the emergency resulting from their respective failures to take the required measures.

## 8. Demolition order

- (1) A person on whom a demolition order has been served must demolish the fence and remove the materials.
- (2) Should the municipality demolish a fence, it may dispose of the whole or any part of the materials from any fence by public auction or public tender.
- (3) The municipality may deduct from the proceeds of any materials disposed of the costs of any pulling down, removal or demolition and the costs incurred of disposal and will thereafter pay any balance to the owner of the fence removed or demolished.

## 9. Authentication and service of notices and other documents

- (1) An order, notice or other document requiring authentication must be signed by the municipality.
- (2) Any notice or other document that is served on a person in terms of this by-law, is regarded as having been served when it is served in accordance with section 115(1) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000).
- (3) Service of a copy shall be deemed to be service of the original.
- (4) Any legal process is effectively and sufficiently served on the municipality when it is delivered to the municipal manager or a person in attendance at the municipal manager's office.

## 10. Appeal

A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefor in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision.

**11. Implementation and enforcement**

- (1) The municipality may appoint an official to administer the implementation and enforcement of this by-law.
- (2) A person commits an offence if he or she—
  - (a) hinders or interferes with an official in the execution of his or her official duties;
  - (b) falsely professes to be an official;
  - (c) furnishes false or misleading information when complying with a request of an official; or
  - (d) fails to comply with a request of an official.

**12. Saving and transitional provision**

An owner or occupier whose premises, at the date of commencement of this by-law, do not comply with the provisions of this by-law must, within a period of 6 months, ensure that his or her premises comply with the provisions of this by-law.

**13. Exemptions**

- (1) Any person may in writing apply to the municipality for exemption from any provision of this by-law.
- (2) The municipality may—
  - (a) grant an exemption in writing and set and determine the period for which such exemption is granted;
  - (b) alter or cancel any exemption or condition in an exemption; or
  - (c) refuse to grant an exemption.
- (3) An exemption does not take effect before the applicant has undertaken in writing to comply with the conditions imposed by the municipality, however, if an activity is commenced before such undertaking has been submitted to the municipality, the exemption lapses.
- (4) If any condition of an exemption is not complied with, the exemption lapses immediately.

**14. Liaison forums in community**

- (1) The municipality may establish one or more liaison forums in a community for the purposes of obtaining community participation with regard to the matters dealt with in this by-law.
- (2) A liaison forum may consist of—
  - (a) a member of members of an interest group, or an affected person;
  - (b) a designated official or officials of the municipality; and
  - (c) a councillor.
- (3)
  - (a) The municipality may, when considering an application for consent, permit or exemption in terms of this by-law, request the input of a liaison forum.
  - (b) A liaison forum or any person contemplated in sub section (2) may on own initiative submit an input to the municipality for consideration.

**15. Conflict with other legislation**

In the event of any conflict between any provision of this by-law and National and Provincial legislation, standards, policies or guidelines, the National and Provincial legislation, standards, policies or guidelines shall prevail.

**16. Revocation of by-laws**

The provisions of any by-laws previously promulgated by the municipality or by any of the disestablished municipalities now incorporated in the municipality, are hereby repealed as far as they relate to matters provided for in this by-law

**17. Short title and commencement**

This by-law shall be known the Fences and Walls By-law, and commences on the date of publication thereof in the Provincial Gazette.

**SCHEDULE A**  
**(Section 4(2))**

APPLICATION TO ERECT FENCE

**A. OWNER OR OCCUPIER**

Surname and first names of person

.....

I.D. Number .....

Address: Postal address:

.....

.....

Residential address:

.....

.....

Telephone number: Business .....

Residential .....

**B. PARTICULARS OF PREMISES AND FENCE**

Erf Number .....

Address where the premises can be inspected

.....

.....

**NATURE OF FENCE TO BE ERECTED/ALTERED**

.....

.....

**C. ISSUING LOCAL AUTHORITY**

Consent is hereby granted in terms of section 4(4) of the Bergrivier Fences and Fencing By-laws that the above-mentioned fence may be erected on above-mentioned premises

Conditions, requirements or specifications in terms of section 4(4):

.....

.....

.....

.....

**SIGNATURE OF INSPECTOR**

**DATE**

.....

.....

**Name of inspector:**

.....

**Official designation:**

.....

**BERGRIVIER MUNICIPALITY****FIRE SAFETY BY-LAW**

Under the provisions of section 156(2) of the Constitution of the Republic of South Africa, 1996, the Bergrivier Municipality, enacts as follows:—

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**CHAPTER I:**  
**DEFINITIONS AND INTERPRETATION OF THIS BY-LAW**

**1. Definitions and interpretation**

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

**“above ground storage tank”** means a tank situated above ground for the storage of flammable substances as contemplated in SANS 0131 and SANS 089 Part 1 and SANS 087 Part 3;

**“agricultural holding”** means a portion of land used solely or mainly for the purpose of agriculture, horticulture or for breeding or keeping domesticated animals, poultry or bees;

**“approved”** means as approved by the municipality;

**“automatic releasing hold-open device”** means a device used to hold open a fire door and operates on the detection of a fire to close the fire door;

**“boundary”** means any lateral or street boundary of a site;

**“building”** means—

- (a) any structure, whether of a temporary or permanent nature and irrespective of the materials used in the construction thereof, erected or used for or in connection with:—
  - (i) the accommodation or convenience of human beings or animals;
  - (ii) the manufacture, processing, storage or sale of any goods;
  - (iii) the rendering of any service;
  - (iv) the destruction or treatment of combustible refuse or combustible waste;
  - (v) the cultivation or growing of any plant or crop;
- (b) any wall, swimming pool, reservoir or bridge or any other structure connected therewith;
- (c) any fuel pump or any tank used in connection therewith;
- (d) any part of a building, including a building as defined in paragraph (a), (b) or
- (e) any facilities or system, or part or portion thereof, within or outside but incidental to a building, for the provision of a water supply, drainage, sewerage, storm water disposal, electricity supply or other similar service in respect of the building;

**“bund wall”** means a containment wall surrounding an above ground storage tank, constructed of an impervious material and designed to contain 110% of the contents of the tank;

“**Category B municipality**” means a municipality within the area of jurisdiction of the West Coast District municipality as contemplated in section 155(1) of the Constitution;

“**certificate of fitness**” means a certificate contemplated in section 40;

“**certificate of registration**” means a certificate contemplated in section 64;

“**chief fire officer**” means the chief fire officer appointed by the municipality in terms of section 5 of the Fire Brigade Services Act and includes any person appointed as acting chief fire officer;

“**Chief Inspector of Explosives**” means the Chief Inspector of Explosives appointed in terms of section 2 of the Explosives Act, 1956;

“**class**” means a class of petroleum product based on the following classification—

- (a) Class O: liquefied petroleum gasses;
- (b) Class I: liquids subdivided as follows:
  - (i) Class IA: liquids which have a closed-cap flash point below 23° C and a boiling point below 35° C;
  - (ii) Class IB: liquids which have a closed-cap flash point below 23° C and a boiling point of 38° C or above; and
  - (iii) Class IC: liquids which have a closed-cap flash point of 23° C or above but below 38° C;
- (c) Class II: liquids which have a closed-cap flash point of 38° C or above but below 60,5° C;
- (d) Class IIIA: liquids which have a closed-cap flash point of 60,5° C or above but below 93° C; and
- (e) Class IIIB: liquids which have a closed-cap flash point of 93° C or above;

“**combustible liquid**” means a liquid which has a close-cap flash point of 38° C or above;

“**combustible material**” means combustible refuse, combustible waste or any other material capable of igniting;

“**combustible refuse**” means combustible rubbish, litter or material that is discarded, refused, rejected, or considered worthless;

“**combustible waste**” means combustible waste material which is salvageable, retained or collected for scrap or reprocessing and may include all combustible fibres, hay, straw, hair, feathers, down, wood shavings, turnings, all types of paper products, cloth trimmings and cuttings, rubber trimmings and buffing, metal fines, and any mixture of the above items;

“**competent person**” means a person who is qualified by virtue of his or her experience and training;

“**Constitution**” means the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996);

“**Criminal Procedure Act**” means the Criminal Procedure Act, 1077 (No. 51 of 1977);

“**dangerous goods**” means any flammable gas, flammable liquid or flammable solid as contemplated in SANS 0228;

“**designated area**” means a place designated as such in terms of section 59;

“**district**” means the area of jurisdiction of the West Coast District municipality and includes the area of jurisdiction of the Category B municipalities within such area;

“**dwelling house**” means a single dwelling unit situated on its own site, including any motor vehicle garage and other domestic outbuildings on that site;

“**dump**” means to abandon or discard any hazardous substance by depositing, discharging, spilling or releasing it;

“**emergency**” means any incident or eventuality which seriously endangers or may endanger any person or property;

“**emergency evacuation plan**” means an emergency evacuation plan contemplated in section 37;

“**emergency route**” means that part of any escape route which—

- (a) protects the occupiers of any building from fire; and
- (b) leads to an escape door;

“**enclosed place**” in respect of domestic animals means any kraal, cage, camp or similar enclosure where domestic animals are kept or exercised;

“**escape door**” means any door at the end of an emergency route and includes any door providing entrance to, or exit from, a building;

“**escape route**” means the entire path of travel, measured from an escape door to the furthest point in any room in a building;

“**explosives**” means explosives as defined in section 1 of the Explosives Act, 1956;

“**Explosives Act**” means the Explosives Act, 1956 (Act No. 26 of 1956), and any regulations made under that Act;

“**extinguishing stream**” means the amount of water that the service needs in order to extinguish a fire;

“**feeder route**” means that part of an escape route which allows travel in two different directions to the access doors of at least two emergency routes;

“**firebreak burning season**” means a specific time bound period as determined by the Chief Fire Officer in conjunction with any other party which may include a registered Fire Protection Association, department of Water Affairs and Forestry, Cape Nature or the West Coast District Municipality;

“**Fire Brigade Services Act**” means the Fire Brigade Services Act, 1987 (Act No. 99 of 1987), and any regulations made under that Act;

“**fire control zone**” may include any premises or area that is close proximity to areas or premises of high fire risk or sensitive land use;

“**fire damper**” means an automatic damper, including its assembly, which complies with the requirements of SANS 193;

“**fire door**” means an automatic or self-closing door or shutter assembly especially constructed to prevent the passage of fire for a specific length of time;

**“fire extinguisher”** means a portable or mobile rechargeable container which has a fire extinguishing substance that is expelled by the action of internal pressure for the purposes of extinguishing a fire;

**“fire-fighting equipment”** means any portable or mobile fire extinguisher, hose reel or fire hydrant;

**“fire hazard”** means any situation, process, material or condition which may cause a fire or explosion or provide a ready fuel supply to increase the spread or intensity of the fire or explosion and which poses a threat to life or property;

**“fire installation”** means any water installation which conveys water solely for the purposes of fire-fighting;

**“fire protection installation”** means any device or system designed and installed to—

- (a) detect, control or extinguish a fire, or
- (b) alert occupants or the fire service, or both, to a fire;

but excludes portable and mobile fire extinguishers;

**“fireworks”** means any explosive device or substance which burns or explodes after ignition, including firecrackers, and which is regulated under the Explosives Act;

**“fireworks display”** means the use of fireworks for purposes of a public display;

**“flammable gas”** means a gas which at 20° C and a standard pressure of 101,3 kilopascals—

- (a) is ignitable when in a mixture of 13% or less by volume with air; or
- (b) has a flammable range with air of at least 12%, regardless of the lower flammable limit;

**“flammable liquid”** means a liquid or combustible liquid which has a closed-cap flash point of 93° C or below;

**“flammable solid”** as contemplated in SANS 0228, means a solid that is easily ignited by external sources, such as sparks and flames, solids that are readily combustible, solids that are liable to cause, or contribute to, a fire through friction or solids that are desensitised (wetted) explosives that can explode if not diluted sufficiently;

**“flammable store”** means a store that is used for the storage of flammable liquids and complies with the criteria set out in Chapter 9 of this by-law;

**“flammable substance”** means any flammable liquid, combustible liquid or flammable gas;

**“Group I, II, III, V, VI, VIII and IX hazardous substances”** means Group I, II, III, V, VI, VIII and IX hazardous substances, as the case may be, as contemplated in the Hazardous Substances Act;

**“hazardous substance”** means any hazardous substance contemplated in the Hazardous Substances Act;

**“Hazardous Substances Act”** means the Hazardous Substances Act, 1973 (Act No. 15 of 1973), and any regulations made under that Act;

**“Land Survey Act”** means the Land Survey Act, 1997 (Act No. 8 of 1997);

**“liquefied petroleum gas”** means a mixture of light hydrocarbons (predominantly propane, butane) that is gaseous under conditions of ambient temperature and pressure and that is maintained in a liquid state by an increase of pressure or lowering of temperature;

**“municipal manager”** means a person appointed in terms of section 82 of the Municipal Structures Act or his nominee;

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

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

**“member”** means a member of the service and includes the chief fire officer;

**“National Archives and Record Service of South Africa Act”** means the National Archives and Record Service of South Africa Act, 1996 (Act 43 of 1996);

**“National Building Regulations”** means the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977), and any regulations made under that Act;

**“National Road Traffic Act”** means the National Road Traffic Act, 1996 (Act No. 93 of 1996), and any regulations made under that Act;

**“Occupational Health and Safety Act”** means the Occupational Health and Safety Act, 1993 (Act No 85 of 1993);

**“occupier”** means any person who occupies or has control over any premises;

**“owner”** in relation to premises, means the registered owner of the premises and includes—

- (a) any person who receives rental or profit from the premises, whether on own account or as agent;
- (b) a body corporate in respect of any sectional title scheme contemplated under the Sectional Titles Act, 1986 (Act No. 95 of 1986); and
- (c) an executor or curator of any deceased or insolvent estate;

**“person in charge”** means:—

- (a) in relation to premises, either a natural or juristic person who is permanently or temporarily responsible for the management, maintenance or utilisation of the premises;
- (b) in relation to a building, either a natural or juristic person who is permanently or temporarily responsible for the management, maintenance or utilisation of the building;
- (c) in relation to an installation, either a natural or juristic person who is permanently or temporarily responsible for the management or utilisation of the installation; provided that such a person is not the person mentioned in (a); and
- (d) in the event of the chief fire officer being unable to determine the identity of a person mentioned in (a), (b) and (c), any person who is in the opinion of the chief fire officer deemed to be in charge of such premises, building or installation;

**“Promotion of Access to Information Act”** means the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000);

**“prescribed”** means as determined by the municipality;

**“premises”** means any land, building, terrain, road, construction or structure or part thereof and includes any train, boat, aircraft or other vehicle;

**“prescribed fee”** means a fee determined by the municipality;

**“public gathering”** includes any gathering by members of the public—

- (a) to view any theatrical or operatic performances, orchestral or choral recitals or cinematic-graphic screenings; or
- (b) to attend, practice or participate in any indoor sports activity, dance, physical activity or other recreational activity;
- (c) to attend any meeting or participate in activity whether political or not whether inside or outside a building where it is deemed necessary to have an emergency evacuation plan.

**“public place”** means any square, park, recreation ground, beach, sports ground, sanitary lane, building or open space which has—

- (a) been provided, reserved or set apart for use by the public or at any time been dedicated to the public;
- (b) been used by the public without interruption for a period of at least thirty years; or
- (c) at any time been declared or rendered such by the municipality or other competent authority;

**“registered premises”** means any premises in respect of which a certificate of registration has been issued;

**“SANS”** means the South African National Standards contemplated in section 2 of the Standards Act, 1993 (Act No. 29 of 1993), and SANS followed by any number means a reference to a SANS code of practice, specification or standard of the corresponding number;

**“service”** means the Fire Brigade Service established and maintained by the municipality as contemplated in section 4;

**“service installation”** means any automatic fire-extinguishing installation, fire pump connector, fire pump, emergency power or stand-by generator, fire detection, locating or alarm system, emergency lighting or evacuation communication system, mechanical ventilation system, pressure regulation system, smoke ventilation system, hoist, symbolic safety sign and smoke or fire door assembly;

**“spray”** means to spray, coat, plate or epoxy-coat with any hazardous substance and “spraying” has a corresponding meaning;

**“spraying permit”** means a permit contemplated in section 111;

**“spraying room”** means a room contemplated in section 110;

**“State”** means:—

- (a) any department of state or administration in the national, provincial or local sphere of government, or
- (b) any other functionary or institution—
  - (i) exercising a power or performing a function in terms of the Constitution or a provincial constitution; or
  - (ii) exercising a public power or performing a public function in terms of any legislation, but does not include a court or judicial officer;

**“store room”** means a room for storage of flammable substances contemplated in section 79;

**“street”** means any street, road, cycle path, thoroughfare or any other place, including—

- (a) the verge of any such road, street or thoroughfare;
- (b) any footpath, sidewalk or similar pedestrian portion of a road reserve;
- (c) any bridge, ferry or drift traversed by any such road, street or thoroughfare;
- (d) any other object belonging to such road, street or thoroughfare, which has at any time been—
  - (i) dedicated to the public;
  - (ii) used without interruption by the public for a period of at least thirty years;
  - (iii) declared or rendered such by the municipality or other competent authority, or
  - (iv) constructed by a local authority, and
  - (v) any land, with or without buildings or structures thereon, which is shown as a street on—
    - (aa) any plan of subdivision or diagram approved by the municipality or other competent authority and acted upon, or
    - (bb) any general plan as defined in the Land Survey Act, 1997 registered or filed in a deeds registry or Surveyor General’s office, unless such land is on such plan or diagram described as a private street;

**“this by-law”** includes the Schedules published in terms of this by-law;

**“summary abate”** means to immediately judge a condition to be a fire hazard or other threatening danger to life or property and to order immediate correction of such condition;

**“underground tank”** means any tank used or intended to be used for the storage of any flammable liquid and which is wholly sunk into and below the surface of the ground;

**“use”** in relation to fireworks means discharging, lighting or igniting;

**“vegetation”** includes grass, weeds, leaves, shrubs and trees; and

**“vehicle”** includes a trailer or semi-trailer which—

- (a) has at least 4 wheels with independent axles and suspension systems; and

(b) can be hitched to a truck-tractor or any other motor vehicle contemplated in the National Road Traffic Act.

**“West Coast District Municipality”** means the West Coast District municipality established in terms of section 12 of the Municipal Structures Act, 117 of 1998;

## CHAPTER 2

### PURPOSE AND APPLICATION OF BY-LAW

#### 2. Purpose of by-law

The purpose of this by-law is to establish and maintain a service for the area of jurisdiction of the municipality, to promote the achievement of a fire-safe environment for the benefit of all persons within the area of jurisdiction of the municipality and to provide for procedures, methods and practices to regulate fire safety within the area of jurisdiction of the municipality.

#### 3. Application of by-law

- (1) This by-law is applicable to all persons within the area of jurisdiction of the municipality and includes both formal and informal sectors of the community and economy.
- (2) Notwithstanding the provisions in either the Hazardous Substances Act or the Occupational Health and Safety Act, and in addition to any other applicable national or provincial law, this by-law regulates flammable substances in the area of jurisdiction of the municipality so as to prevent and reduce fire hazards or other threatening dangers.
- (3) The service may, in terms of an agreement as contemplated in section 12 of the Act, and the payment of tariffs in accordance with the municipality's tariff policy or as contemplated in this by-law, be employed outside the area of jurisdiction of the municipality.
- (4) If any provision in this by-law vests or imposes any power, function or duty of the municipality in or on an employee of the municipality and such power, function or duty has in terms of section 81(2) of the Municipal Systems Act or any other law been assigned to a service provider, the reference in such provision to such employee must be read as a reference to the service provider or, where applicable, an employee of the service provider authorized by it.

## CHAPTER 3

### ESTABLISHMENT OF A FIRE BRIGADE SERVICE

#### 4. Establishment and maintenance of service

- (1) A service for the area of jurisdiction of the municipality is established as contemplated in section 3(1) of the Act, read with section 156(1)(a) and Part B of Schedule 4 of the Constitution.
- (2) The municipality must maintain the service, which includes—
  - (a) appointing a chief fire officer and the necessary members of the service;
  - (b) ensuring that such officer and members are properly trained; and
  - (c) acquiring and maintaining the necessary vehicles, machinery, equipment, devices and accessories to ensure that the service is effective and able to fulfil its objects.

#### 5. Objects of the service

- (1) The objects of the service are—
  - (a) to prevent the outbreak or spread of a fire;
  - (b) to fight and extinguish any fire that endangers any person or property;
  - (c) to protect any person or property against any fire or other danger as contemplated in this by-law;
  - (d) to rescue any person or property from any fire or other danger as contemplated in this by-law; or
  - (e) to perform any other function connected with any of the matters referred to in subsection (a) to (d).
- (2) The service may provide any service related to its objects to any other person.
- (3) Any service contemplated in subsection (2) may, at the discretion of the chief fire officer, be terminated without notice if the services, equipment or members involved in providing that service are required to deal with an emergency situation, fire hazard or other threatening danger.

#### 6. Reporting a fire hazard and other threatening danger

- (1) An owner or the person in charge of premises, upon discovering any evidence of a fire hazard or other threatening danger as contemplated in this by-law, must immediately notify the service.
- (2) An owner or the person in charge of premises must provide all details pertaining to the incident as contemplated in subsection (1), to the service as requested.
- (3) Any person who contravenes subsections (1) and (2) commits an offence.

**7. Administration and enforcement**

- (1) The chief fire officer is responsible for the administration and enforcement of this by-law.
- (2) Where no chief fire officer has been appointed, or where no acting chief fire officer has been appointed by the municipal manager as contemplated in section 9(3), the municipal manager is responsible for the administration and enforcement of this by-law.

**8. Delegation**

- (1) The chief fire officer may delegate any power granted to him in terms of this by-law as contemplated in section 19 of the Act or in accordance with the system of delegation of the municipality developed in terms of section 59 of the Municipal Systems Act.
- (2) A municipal manager may delegate any power granted to him in terms of this by-law in accordance with the system of delegation of the municipality developed in terms of section 59 of the Municipal Systems Act.

**9. Chief fire officer**

- (1) The chief fire officer has the powers as contemplated in sections 8(1) and 8(2) of the Act, and must also—
  - (a) make or implement such general orders, procedures, rules and such other measures as he may consider necessary for the proper administration and enforcement of this by-law; provided that the making or implementation of such general orders, procedures, rules and such other measures are not inconsistent with the provisions of this by-law or any other by-law or policy of the municipality.
  - (b) ensure that contact numbers in respect of the service are made available to the public and other institutions or organisations;
  - (c) inform the municipal manager of operational requirements for the structuring of the service as contemplated in section 5.
- (2) Notwithstanding anything to the contrary contained in any other law, the chief fire officer has the authority to investigate the cause, origin and circumstances of any fire or other threatening danger.
- (3) Whenever the chief fire officer is for any reason unable to perform his duties of office, the municipal manager must appoint a suitably qualified member of the service as acting chief fire officer to perform the duties and functions of the chief fire officer.

**10. Instructions by members of service**

- (1) In addition to any powers as contemplated in section 8 of the Act, a member may give any instruction to any person in order to secure compliance with this by-law or to ensure the safety of any person or property.
- (2) An instruction may be given orally or in writing and if the instruction is given orally, the member must confirm it in writing and give it to the person concerned at the earliest opportunity.
- (3) An instruction contemplated in subsection (1) may include, but is not limited to an instruction—
  - (a) for the immediate evacuation of any premises;
  - (b) to close or barricade any premises, or part thereof, until such time as any contravention of this by-law has been rectified;
  - (c) to cease any activity;
  - (d) to remove any immediate threat to the safety of any person or property;
  - (e) to take specified steps to comply with this by-law, either immediately or within a specified period; and
  - (f) if it is not reasonable for steps referred to in paragraph (e) to be taken immediately for the owner or person in charge of the premises concerned, to provide the chief fire officer with a written description of the steps to be taken and a time-table for the taking of these steps in order to ensure compliance with this by-law.
- (4) Any person who contravenes subsection (3) commits an offence.

**11. Pretending to be member of service prohibited**

- (1) No person may pretend to be a member.
- (2) No person who is not a member may wear any official clothing, uniform, badge or insignia of the service.
- (3) Any person who contravenes subsections (1) and (2) commits an offence.

**12. Certificates to identify members of service**

- (1) The chief fire officer must provide each member with an identification document identifying that person as a member.
- (2) A member, while performing any function or exercising any power as contemplated in this by-law must—
  - (a) keep the identification document provided in terms of subsection (1), on his person; and
  - (b) produce it for inspection on request by any person.

**13. Wearing of uniform and insignia**

- (1) The chief fire officer and every member of the service must wear the uniform, rank markings and insignia of the service as prescribed.
- (2) Uniform, rank markings and insignia as contemplated in subsection (1) must be issued to the chief fire officer and members of the service in accordance with the conditions of employment of the municipality or as agreed collectively.



**14. Driving service vehicles**

- (1) A member may, with the written authority of the Chief Fire Officer and as directed in the exercise of his or her duties, drive a service vehicle if he or she is in possession of a valid driving licence for the code of vehicle in question.
- (2) A member, who is duly authorised to do so, as contemplated in subsection (1), must drive a service vehicle in accordance with the provisions of the National Road Traffic Act, 1996, and any regulations made under the Act.
- (3) Any member who fails to comply with the provisions of this section is guilty of an offence.

**15. Duties and orders during emergency situations**

- (1) The Chief Fire Officer or a member in charge of an emergency situation, including one attended in terms of an agreement, must, in respect of every such emergency situation, ensure that—
  - (a) adequate manpower and the appropriate apparatus and equipment are made available, deployed and are used without delay;
  - (b) the emergency situation is immediately assessed upon arrival and additional resources or assistance that he/she may deem necessary, are called for without delay.
  - (c) all pertinent information, including information about places and times and relevant particulars, is recorded during the emergency situation or as soon as possible after the emergency situation, and that the recorded information is preserved in accordance with the provisions of the National Archives of South Africa Act, 1996 (Act 43 of 1996), and any regulations made under the Act.
- (2) Any person or body, including any State department as contemplated in section 17 of the Act, the South African Police Service and the Department of Justice, who wishes to inspect any information referred to in subsection (1)(c) must send a motivated request in writing to the Chief Fire Officer along with the prescribed fees.
- (3) Any press or media release concerning the Service, emergency situations or any matter in relation thereto must be in accordance with the policy guidelines determined by the municipality.

**16. Right of access to buildings and premises and issue of instructions**

- (1) The Chief Fire Officer or a member may, in executing the powers delegated in terms of this by-law or any other legislation, enter any premises at any reasonable time to conduct inspections in order to determine the existence of a fire hazard or compliance with any applicable legislation relating to fire safety on such premises.
- (2) Should any fire hazard or condition of non-compliance contemplated in subsection (1) exist, such member may serve a written instruction on the owner or occupier of such premises and such notice shall incorporate such directives and/ or requirements that are necessary to abate the condition, which instruction must determine a deadline for compliance.
- (3) Whenever any condition that may increase the risk of fire or which may pose a threat to life or property exists on any premises and such condition cannot be immediately rectified, or if costs need to be incurred to rectify such condition, the owner of the premises must, after receiving any written instruction referred to in subsection (2), inform the Chief Fire Officer forthwith, in writing, of the measures which he or she intends taking to remedy the condition and provide a programme and deadline to the Chief Fire Officer for approval.
- (4) The Chief Fire Officer may approve the proposed measures and deadline with or without amendments and may give further instructions for compliance with the proposed or required measures.
- (5) Any person who fails to comply with a written instruction referred to in this section is guilty of an offence.

**17. Interference with the service**

- (1) No person may interfere with, prevent, obstruct or hinder the chief fire officer, municipal manager or any member in the execution of his duties as contemplated in this by-law or the Act.
- (2) Any person who contravenes subsection (1) commits an offence.

**18. Furnishing of false information**

- (1) No person may wilfully give any member of the service any notice, or furnish any information regarding an outbreak of fire, or any other emergency situation requiring the attendance of the service, which is false or inaccurate.
- (2) Any person who contravenes subsection (1) commits an offence.

**19. Denial, suspension or revocation of an approval or a certificate**

- (1) The chief fire officer may refuse, suspend or revoke an approval or a certificate required by this by-law for—
  - (a) failure to meet the provisions of this by-law for the issuance of the approval or certificate; or
  - (b) non-compliance with the provisions of the approval or certificate.

**20. Records required, access to records and release of media statements**

- (1) The safekeeping of all relevant records and documents pertaining to the service in accordance with the provisions of the National Archives and Record Service of South Africa Act is the responsibility of the municipal manager.
- (2) A request for access to a record held for the purpose or with regard to the exercise of a power or the performance of a function in respect of the service must be made in accordance with the provisions of the Promotion of Access to Information Act.
- (3) Media statements regarding the service must be released as prescribed in terms of the communication strategy of the Municipality.



**21. Failure to comply with provisions**

- (1) When the chief fire officer finds that there is non-compliance with the provisions of this by-law, excluding the situation in section 16(2), a written notice must be issued and include the following—
  - (a) confirmation of the findings;
  - (b) provisions of this by-law that are being contravened;
  - (c) the remedial action required; and
  - (d) a time for compliance.
- (2) An order or notice issued under this by-law must be served either by personal delivery or registered mail upon a person who is in the opinion of the chief fire officer, deemed to be the appropriate person.
- (3) For unattended or abandoned premises, a copy of such order or notice must be posted on the premises in a conspicuous place at or near the entrance to such premises and the order or notice must be mailed by registered mail, to the last known address of the owner, the person in charge of the premises or both.
- (4) An owner or the person in charge of premises, whose rights are affected by any decision of the chief fire officer as contemplated in subsection (1), may appeal against such decision in terms of section 62 of the Municipal Systems Act.

**22. Payment for services**

- (1) The municipality may charge the prescribed tariff payable by a person on whose behalf the municipality rendered any service as contemplated in this by-law.
- (2) The municipality may charge a tariff for the provision of an inspection, re-inspection or any other service, including the approval or issuing of permits or certificates as contemplated in this by-law.
- (3) Any cost incurred by the municipality for any action necessary to prevent a fire hazard, accident or other threatening danger shall be considered a tariff payable by a person for services rendered as contemplated in subsection (1).
- (4) Any costs incurred by the municipality in connection with the examination or analysis of any sample taken from any premises for the purposes of this by-law, and a report on such analysis by an institution accredited by the chief fire officer for that purpose may be recovered from the owner or person in charge of the premises if such owner or person in charge is not in compliance with this by-law regarding the substance concerned.

**23. Joint Fire Services Committee**

- (1) A Joint Fire Services Committee representing the fire services in the area of jurisdiction of the West Coast District municipality and all Category B Municipalities in the area of jurisdiction of such municipality may be established.
- (2) The Joint Fire Services Committee as contemplated in subsection (1) must collaborate and liaise for the purposes of making recommendations with regard to—
  - (a) the planning and co-ordination of the services within the district;
  - (b) the co-ordination and standardisation of infrastructure, vehicles, equipment and procedures pertaining to the service;
  - (c) the training of members; and
  - (d) any other operational matters relating to the service.
- (3) The chief fire officer of each municipality within the district may be a member of the Joint Fire Services Committee.
- (4) The Joint Fire Services Committee may determine its rules of meeting procedures, provided that such procedures are not inconsistent with generally accepted municipal administrative practices, this by-law or any other legislation.

**CHAPTER 4****FIRE PROTECTION***Part A:**Fire protection for buildings and premises***24. General provisions**

The chief fire officer must in terms of sections 16(3) and 21(1) of this by-law abate a contravention of the National Building Regulations relating to fire and safety of buildings and premises.

**25. Design and construction of buildings**

- (1) Subject to the provisions of subsection (3), every owner of a building, excluding a dwelling house, must ensure that it is designed and constructed in a manner that—
  - (a) provides for—
    - (i) the effective drainage of any water that may result from fire extinguishing activities; and
    - (ii) the discharge of such water directly into a storm water drain;
  - (b) prevents any water that may result from fire-extinguishing activities from draining—
    - (i) down any stairway or lift shaft;

- (ii) down any electrical shaft or telecommunications service shaft;
  - (iii) down any shaft that is connected to a basement level; or
  - (iv) along any approach to a building or any vehicle access ramp leading to or from a building;
- (c) if any water resulting from fire-extinguishing activities should spill into a basement, such water is discharged directly into a storm water drain; and
- (d) complies with the requirements of SANS 0400 (Parts A, K, M, O, T, V and W) insofar as it relates to fire protection.
- (2) Subject to the provisions of subsection (3), every owner of a building equipped with a transformer room must ensure that—
- (a) the transformer room is situated on the ground level;
  - (b) access to the transformer room is from outside the building; and
  - (c) there is adequate and ready access to the transformer room for fire-fighting and maintenance activities.
- (3) Subsections (1) and (2) do not apply in respect of any building which exists at the commencement of this by-law.
- (4) Any person who contravenes subsections (1) and (2) or Parts A, K, M, O, T, V or W of SANS 10400 in so far as it relates to fire protection, commits an offence.

## **26. Design and construction of dumping sites**

Every person who designs or constructs any dumping site, must ensure that it is designed and constructed in accordance with the instructions of—

- (a) the Department of Environmental Affairs; and
- (b) the municipality.

## **27. Design and construction of other structures and sites**

- (1) Every person who designs, constructs or erects any of the following structures, must ensure that they comply with a rational design as contemplated by the National Building Regulations—
- (a) any grain silo;
  - (b) any atrium;
  - (c) any air traffic control tower;
  - (d) any tower for telecommunications or other uses;
  - (e) any thatched structure which is larger than 20 square metres and situated within 4.5 metres of any boundary line of the property concerned;
  - (f) any tent or other temporary structure for holding a public gathering; and
  - (g) any open-plan commercial or industrial premises with a covering distance that exceeds 45 metres measured from any point in the premises to any escape or exit door.
- (2) Every person who designs or constructs any aircraft hanger or helicopter pad, must ensure that it—
- (a) complies with a rational design as contemplated by the National Building Regulations;
  - (b) provides for the effective drainage of any liquid from the floor of the hanger or helicopter pad or any approach to the aircraft hanger or helicopter pad;
  - (c) provides for the effective channelling of any liquid from the floor of the hanger or helicopter pad to a drainage area connected to a separator well;
  - (d) prevents the spread of any liquid from the floor of the hanger or helicopter pad; and
  - (e) is equipped with effective earthing devices for the discharge of static electricity.
- (2) Any person who contravenes subsections (1) and (2) commits an offence.

## **28. Requirements for sprinkler systems**

- (1) If a sprinkler system is required in any building in accordance with SANS 0400, SANS 087 (Part III) or SANS 089 (Part I) or if the chief fire officer so requires, the owner or person in charge of the premises must ensure that the building is equipped with a sprinkler system.
- (2) Every person who designs, constructs or installs a sprinkler system must ensure that it is designed, constructed and installed—
- (a) in accordance with SANS 0287; and
  - (b) in compliance with the requirements of SANS 0400 (Parts A, K, M, O, T, V and W) insofar as it relates to fire protection.
- (3) Any person who contravenes subsections (1) and (2) commits an offence.

## **29. Requirements for extractor fan systems**

- (1) Every person who designs, constructs or installs an extractor fan system, any related ducts or any similar chimney system and every owner or person in charge of the building in which such a system is installed must ensure that—
- (a) it is designed, constructed and installed in a manner that provides for clearly demarcated, adequate and easy access for inspection, maintenance and repairs; and

- (b) the conduit and outlet of any such system is installed in a manner that does not result in a fire hazard to any person or property.
- (2) Every owner or person in charge of a building in which an extractor fan system, any related ducts or any similar chimney system has been installed, must ensure that every filter, damper, screen or conduit forming an integral part of the system is regularly inspected, cleaned and maintained to ensure that fatty residues or any other combustible residues do not accumulate.
- (3) Any person who contravenes subsections (1) and (2) commits an offence.

### **30. Requirements for emergency exits**

- (1) Every owner of a building must ensure that any escape door in that building—
  - (a) is fitted with hinges that open in the direction of escape; and
  - (b) is equipped with a fail-safe locking device or devices that do not require a key in order to exit.
- (2) Every owner of a building must ensure that any door in a feeder route—
  - (a) is a double swing-type door;
  - (b) is not equipped with any locking mechanism.
- (3) Notwithstanding the provisions of subsection (2), if it is necessary that a door in a feeder route be locked for security reasons, the owner or person in charge of the building must provide an alternative means of escape approved by the chief fire officer.
- (4) No person may obstruct or allow the obstruction of any escape route from any premises that may prevent or hinder the escape of any person or animal from the premises in an emergency.
- (5) Where required by the chief fire officer, an escape route must be clearly indicated with signage, which complies with SANS 1186, indicating the direction of travel in the event of fire or any other emergency.
- (6) Any person who contravenes subsections (1), (2), (3), (4) and (5) commits an offence.

### **31. Requirement regarding fire doors and assemblies**

- (1) Subject to the provisions of SANS 1253, a fire door and assembly must be maintained in such a manner that in the event of a fire it retains its integrity, insulation and stability for the time period required for that particular class of door.
- (2) A fire door may be kept open, only when it is equipped with an automatic releasing hold-open device approved by the chief fire officer.
- (3) A fire door and assembly may not be rendered less effective through the following actions—
  - (a) altering the integrity, insulation or stability of a particular class of door;
  - (b) disconnecting the self-closing mechanism;
  - (c) wedging, blocking or obstructing the door so that it cannot close;
  - (d) painting the fusible link actuating mechanism of a door;
  - (e) disconnecting or rendering less effective an electric or electronic release mechanism, or
  - (f) any other action that renders a fire door or assembly less effective.
- (4) Any person who contravenes subsections (1), (2) and (3) commits an offence.

### **32. Design, identification and access for fire-fighting and rescue purposes**

- (1) Subject to the requirements of any applicable zoning scheme regulations or the conditions of establishment of any township, every person who plans, designs or constructs a building, excluding a dwelling house, must ensure that the premises on which the building is situated, are planned, designed and constructed so that—
  - (a) at least one elevation of the building fronts onto a street;
  - (b) if the premises do not front onto a street, an access road is provided with dimensions and carrying capacity approved in writing by the chief fire officer;
  - (c) a motorised or electronically operated gate is equipped in such a manner that access to the premises can be gained without the use of a motor or any other electronic device or any other assistance;
  - (d) there is a climate-proof and weather-proof parking surface for parking and operating fire brigade machines and equipment in an emergency—
    - (i) of dimensions at least 10 metres wide;
    - (ii) that runs the full length of the side elevation of the building that borders the surface; and
    - (iii) with a carrying capacity of at least 70 metric tons; and
    - (iv) any entrance arch to the premises provides an opening with dimensions at least 4 metres wide × 4.2 metres high, unless there is an alternative and easy access route to the premises of at least the same dimensions.
- (2) For purposes of easy identification by any member in an emergency, every owner or person in charge of the premises must ensure that the correct street number of the premises—
  - (a) is displayed clearly on the street boundary of the premises in numbers at least 75 millimetres high;
  - (b) is visible from the street; and

- (c) is maintained in a legible condition at all times.
- (3) Any person who contravenes subsections (1) and (2) commits an offence.

### **33. Accessibility of fire-fighting equipment and fire installations**

- (1) Any fire-fighting equipment or fire protection installations installed on any premises must be accessible to the service at all times.
- (2) Any person, who causes or permits any fire-fighting equipment or fire protection installations to be obstructed or impedes such accessibility or operation, commits an offence.

### **34. Barricading of vacant buildings**

- (1) Every owner or person in charge of a building or portion of a building that is vacant must, to the satisfaction of the chief fire officer—
  - (a) remove all combustible waste and refuse from the building; and
  - (b) block, barricade or otherwise secure all windows, doors and other openings in the building in a manner that will prevent the creation of any fire hazard caused by entering of the building by any unauthorised person.
- (2) Any person who contravenes subsection (1) commits an offence.

*Part B:  
Fire fighting equipment*

### **35. Installation and maintenance of fire-fighting equipment**

- (1) Every owner of a building must ensure that—
  - (a) all fire-fighting equipment and service installations on the premises are installed in a manner and condition ready for use in an emergency;
  - (b) all portable and mobile fire-extinguishers and all hose reels on the premises are serviced and maintained in accordance with SANS 0105 and SANS 1475; and
  - (c) all fire-fighting equipment and service installations on the premises are—
    - (i) maintained in a good working condition by a competent person;
    - (ii) inspected and serviced in accordance with manufacturer specifications; and
    - (iii) are inspected by an appropriately registered and competent person at least once every 12 months; and
  - (d) a comprehensive service record of all fire-fighting equipment and service installations on the premises is maintained and furnished to the chief fire officer every 12 months or as otherwise directed.
- (2) Every person who inspects, services or repairs any fire-fighting equipment or service installation must—
  - (a) on completing the inspection, service or repairs, as the case may be—
    - (i) certify in writing that the equipment or installation concerned is fully functional; and
    - (ii) furnish that certificate to the owner of the premises; or
  - (b) if the equipment or installation cannot readily be repaired to a functional state, notify the chief fire officer of this fact in writing without delay.
- (3) Except for purposes of inspection, service, repair or fire-fighting, no person may remove or interfere with any fire-fighting equipment or service installation at any premises.
- (4) No person may alter, damage, misuse or render ineffective any fire-fighting equipment or service installation at any premises.
- (5) Any person who contravenes subsections (1), (2), (3) and (4) commits an offence.

### **36. Fire alarms and fire hydrants**

- (1) Without compensation to the owner of the premises concerned, the chief fire officer may cause:—
  - (a) a fire alarm;
  - (b) a transmission instrument for calls of fire or other emergency, or
  - (c) a transmission instrument for warning residents of a fire or other emergency,to be affixed to any building, wall, fence, pole or tree.
- (2) Without compensation to the owner of the premises concerned, the chief fire officer may cause the position of a fire hydrant and fire alarm or any other fire protection information to be marked on any building, wall, fence, pole, tree, road, pavement or hydrant cover with a board, metal plate or painted marker or by any other means, as prescribed.
- (3) The chief fire officer may at any time cause a fire alarm, other transmission instrument mentioned in subsection (1), board, metal plate or painted marker to be removed without compensating an owner of the premises concerned.
- (4) An unauthorised person is prohibited from removing, defacing, altering, tampering or damaging a fire alarm, other transmission instrument mentioned in subsection (1), board, metal plate or painted marker.
- (5) No person may render less effective, inoperative, inaccessible, obstruct or tamper and interfere with a fire hydrant.
- (6) Any person who contravenes subsections (1), (2), (3), (4) and (5) commits an offence.

*Part C:  
Emergency evacuation plans*

**37. Chief Fire Officer may designate premises for emergency evacuation plans**

- (1) The chief fire officer may by written notice designate any premises as premises requiring an emergency evacuation plan.
- (2) The notice contemplated in subsection (1), must be served on the premises concerned and addressed to the owner or person in charge of the premises.

**38. Duties of owner or occupier of designated premises**

- (1) The owner, or with the approval of the chief fire officer, the occupier, of any premises designated in terms of section 37 must—
  - (a) prepare a comprehensive emergency evacuation plan for the premises in accordance with the guideline contained in Schedule 1 and submit it to the chief fire officer in triplicate within 30 days of service of the designation notice;
  - (b) establish a fire protection committee comprised of occupiers of the premises to assist the owner or person in charge of the premises to organise a fire protection programme and regular and scheduled fire evacuation drills;
  - (c) ensure that the emergency evacuation plan is reviewed—
    - (i) at least every 12 months;
    - (ii) whenever the floor layout of the premises is changed; and
    - (iii) whenever the Chief Fire Officer requires revision of the plan;
  - (d) ensure that an up-to-date emergency evacuation plan, any fire protection programmes, evacuation drills and any related documents are kept, maintained and all times available in a control room on the premises for inspection by any member;
  - (e) display the emergency evacuation plan at conspicuous positions inside the premises; and
  - (f) identify a place of safety off the designated premises, but in the immediate vicinity of the premises, where persons who reside or work on the premises may gather during an emergency for the purpose of compiling a list of survivors.
- (2) The chief fire officer may in respect of premises designated in terms of section 37—
  - (a) require the review of any emergency evacuation plan by the owner or person in charge of the premises and may provide directions in this regard;
  - (b) instruct the owner or person in charge of the premises to implement a fire protection program that the chief fire officer believes is necessary to ensure the safety of persons and property on the premises; and
  - (c) require the owner or person in charge of the premises to provide the chief fire officer with a certified copy of the emergency evacuation plan and any associated documents at a specified time and place.

*Part D:  
Public gatherings*

**39. Prohibition of public gatherings in certain circumstances**

- (1) No person may hold a public gathering or allow a public gathering to be held in any building or temporary structure unless a certificate of fitness has been issued by the chief fire officer in respect of that building or temporary structure, unless a certificate of fitness previously issued in terms of this subsection, has not yet expired.
- (2) Subsection (1) does not apply in respect of a building or temporary structure which existed at the commencement of this by-laws, unless after that date—
  - (a) the building or temporary structure is rebuilt, altered, extended or its floor layout is changed; or
  - (b) ownership or control of the building or structure changes.
- (3) Any person who contravenes subsection (1) commits an offence.

**40. Application for certificate of fitness**

- (1) Every owner of a building or temporary structure intended for the holding of a public gathering must complete and submit to the chief fire officer an application form for a certificate of fitness in the form and manner as contemplated in section 42.
- (2) An application contemplated in subsection (1) must be submitted at least 30 days before any intended public gathering.
- (3) Any person who contravenes subsection (1) commits an offence.

**41. Requirements for certificate of fitness**

- (1) The chief fire officer may not issue a certificate of fitness in respect of a building or temporary structure—
  - (a) unless the municipality is in possession of an up-to-date set of building plans for the premises;
  - (b) unless the building or temporary structure complies with the requirements of this by-law; and
  - (c) for a period of validity exceeding 12 months.

**42. Form and content of certificate of fitness**

- (1) A certificate of fitness must be in the form as prescribed and must at least record the following information, where applicable—
  - (a) the trade name and street address of each occupier of the building or temporary structure;
  - (b) a description of the type of activity carried on by each occupier of the building or structure;
  - (c) the full names and addresses of the persons who serve on the governing or similar body of each occupier;
  - (d) the maximum permissible number of people who may be admitted to the useable floor area of the building or structure;
  - (e) the number of emergency exits and their dimensions; and
  - (f) the dates of issue and expiry of the certificate and its serial number.
- (2) Notwithstanding subsection (1), the chief fire officer may request additional information from the applicant.

**43. Duties of holder of certificate of fitness**

- (1) The holder of a certificate of fitness must—
  - (a) comply with the provisions of the certificate of fitness;
  - (b) at all times—
    - (i) display the certificate prominently on the premises; and
    - (ii) maintain the certificate in a legible condition;
  - (c) immediately notify the chief fire officer in writing of any change to the trade name, activity or governing or similar body of any occupier of the building or structure;
  - (d) submit any application for renewal of the certificate of fitness at least 30 days before its expiry in the form and manner prescribed.
- (2) Any person who contravenes subsection (1) commits an offence.

**44. Cancellation of certificate of fitness**

- (1) The chief fire officer may cancel any certificate of fitness in respect of premises or temporary structure if he has reason to believe that—
  - (a) the owner or person in charge of the premises concerned contravenes or fails to comply with any provision of this by-law; or
  - (b) the building or structure does not comply with the requirements of this by-law.
- (2) Subject to subsection (3), before the chief fire officer cancels a certificate of fitness as contemplated in subsection (1), he must—
  - (a) give the owner or person in charge of the premises written notice of the intention to cancel the certificate of fitness and the reasons for such cancellation;
  - (b) give the owner or person in charge of the premises a period of at least 21 days to make written representations regarding the matter to the municipality.
- (3) If the chief fire officer has reason to believe that the failure to cancel a certificate of fitness may endanger any person or property, he may cancel a certificate of fitness without prior notice to the owner or person in charge of the premises as contemplated in subsection (2).
- (4) If the chief fire officer cancels a certificate of fitness in terms of subsection (3), he must—
  - (a) furnish the owner or person in charge of the premises or temporary structure concerned with written notice of the cancellation;
  - (b) give the owner or person in charge of the premises a period of at least 21 days to make written representations regarding the matter to the municipality.

*Part E:  
Water supply for fire fighting purposes*

**45. Township development water supply requirements**

- (1) Every person who develops or redevelops a township must design and develop that township with a sufficient water supply, minimum fire flow and hydrant requirements as contemplated in section 11 of SANS 10090 and must furnish written proof of such compliance to the chief fire officer.
- (2) Every person who develops or redevelops a township must ensure that—
  - (a) the storage capacity and rate of replenishment of the reservoirs supplying water to the township are sufficient for the fire-fighting purposes contemplated in this by-law;
  - (b) the water supply from these reservoirs is reticulated in a manner that ensures that the water supply to any area in the township can be provided from at least two directions; and
  - (c) double supply mains are installed from the water supply source to the distribution reservoirs and double pumps are installed for the delivery of the water supply.
- (3) Subsection (2)(c) is deemed to be satisfied, if—
  - (a) the water is supplied to the township from more than one reservoir;
  - (b) each reservoir receives water from a separate supply main and pump; and
  - (c) the reservoirs are connected to each other.

- (4) Every person who develops or redevelops a township must ensure that—
- the water distribution system is designed and equipped with control valves positioned so that it is not necessary to close off any branch or any portion of the distribution system for more than 150 metres in any high risk area or for more than 300 metres in any moderate or low risk area in the event that the system, excluding any of the branches, is damaged or requires repair; and
  - if the redevelopment of any township alters the fire risk category of any area in the township as contemplated in section 48, the water reticulation system is adapted without delay so as to comply with the requirements of sections 46 and 47.
- (5) The chief fire officer must inspect fire hydrants and conduct flow and pressure tests as contemplated in SANS 10090.
- (6) Any person who contravenes subsections (1), (2), (3) and (4) commits an offence.

#### 46. Township development fire-extinguishing stream requirements

Every person who develops or redevelops a township must ensure that the water supply provides a fire-extinguishing stream that is immediately available to the service in an emergency, of the following volume and duration:

Fire risk category	Minimum volume of extinguishing stream (litres per minute)	Minimum duration of extinguishing stream (hours)
High risk	11 500	6
Moderate risk	5 750	4
Low risk	2 300	2

#### 47. Township development fire hydrant requirements

- (1) Every person who develops or redevelops a township must ensure that fire hydrants are plotted on a plan and installed in accordance with the following minimum delivery volumes and distance frequencies:

Fire risk category	Minimum fire hydrant delivery volume measured at peak consumption (litres per minute)	Minimum distance between fire hydrants (metres)
High risk	1980	120
Moderate risk	1 150	180
Low risk	900	240

- (2) Every person who develops or redevelops a township must ensure that the position of fire hydrants is plotted accurately on a plan that is furnished to the chief fire officer for operational fire-fighting purposes.

#### 48. Fire risk categories

- (1) For purposes of sections 46 and 47, the following areas of a township must be regarded—
- as high risk—
    - any factory area, high density shopping area, warehouse or commercial building;
    - any plantation, timber yard or wooden building;
    - any building higher than 3 storeys;
    - any building in which hazardous substances are used, handled or stored or in which hazardous processes are conducted; and
    - any other area that has a high fire risk or high fire spread risk;
  - as moderate risk—
    - any area in which—
      - factories, commercial buildings or residential buildings are generally detached from each other and do not exceed 3 storeys; and
      - the chief fire officer has not declared the materials processed or stored in these buildings as highly dangerous;
    - any area where the fire risk and spread risk of fire is moderate; and
    - any other area that is not a high or low risk area; and
  - as low risk—
    - any area that is mainly residential or semi-rural;
    - any area that has predominantly detached, duet, cluster or town house developments; and
    - any area where the fire risk or risk of spread of fire is slight or insignificant.

#### 49. Connections to water reticulation system

- (1) No person may obtain a water connection to the water reticulation system of the municipality unless the fire protection plans for the premises to be connected have been approved by the chief fire officer.
- (2) Every person or owner of premises who requires a water connection to the water reticulation system of the municipality must—
- if the premises to be connected are protected by a sprinkler installation, ensure that—



- (i) the connection is calculated and designed for each sprinkler installation in accordance with a rational design as contemplated in the National Building Regulations, and
  - (ii) the size, delivery pressure and flow of the water connection is calculated in advance by the responsible engineer;
  - (b) if the chief fire officer requires a larger water connection for purposes of fire-fighting, provide the larger water connection;
  - (c) ensure that the size, work pressure and delivery flow, except in the case of a water connection to a sprinkler installation, is calculated and designed in accordance with SANS 0400 (Part W); and
  - (d) ensure that the water installation upon completion complies with the provisions of SANS-1:1994.
- (3) Any person who contravenes subsection (1) commits an offence.

*Part F:  
Prevention of fire hazards*

**50. Certain fires prohibited**

- (1) No person may make or allow any other person to make a fire that may endanger any person, animal or property.
- (2) No person may burn or allow any other person to burn any refuse or combustible material—
  - (a) without the prior written permission of the chief fire officer; or
  - (b) unless the refuse or combustible material is burnt in an approved incinerating device.
- (3) Any person, who makes a fire or allows any other person to make a fire, must take reasonable steps to ensure that the fire does not endanger any person, animal or property.
- (4) The prohibition in subsection (2) does not apply to any fire made—
  - (a) in an approved and purpose-made stove, fireplace or hearth that forms an integrated part of a building or structure;
  - (b) for the purpose of preparing food on private premises set aside for that purpose; or
  - (c) in any device for preparing food which—
    - (i) is heated by electricity or liquefied petroleum gas; and
    - (ii) is so positioned that the fire does not endanger any person, animal or property.
- (5) Any person who contravenes subsections (1), (2), (3) and (4) commits an offence.

**51. Storage and accumulation of combustible material prohibited**

- (1) No person may store any combustible material or allow it to be stored, at any place or in any manner that may pose a fire hazard to any person, animal or property.
- (2) No person may allow the accumulation of dust at any place in quantities sufficient to pose a fire hazard to any person, animal or property.
- (3) No person may use or allow to be used any sawdust or similar combustible material to soak up any flammable liquid.
- (4) No person may allow soot or any other combustible material to accumulate in any chimney, flue or duct in such quantities or in any manner that may pose a fire hazard to any person or property.
- (5) No person may allow any vegetation to become overgrown at any place under that person's control that may pose a fire hazard to any person, animal or property.
- (6) If a fire hazard contemplated in subsection (5) arises, the owner or person in charge of the premises must without delay eliminate the hazard or cause the hazard to be eliminated by—
  - (a) cutting any grass, leaves or weeds associated with the fire hazard to a maximum height of 150 millimetres;
  - (b) pruning, chopping down or sawing any shrub or tree; and
  - (c) removing any resulting combustible residue from the property.
- (7) Any person who contravenes subsections (1), (2), (3), (4), (5) and (6) commits an offence.

**52. Electrical fittings, equipment and appliances**

- (1) No person may cause or allow—
  - (a) any electrical supply outlet to be overloaded; or
  - (b) any electrical appliance or extension lead to be used in any manner that may pose a fire hazard to any person or property.
- (2) Any person who contravenes subsection (1) commits an offence.

**53. Flame-emitting devices**

- (1) No person may use or cause or allow the use of any flame-emitting device, including but not limited to any candle, lantern or torch, in any manner that may pose a fire hazard to any person or property.
- (2) Any person who contravenes subsection (1) commits an offence.

**54. Discard of flammable liquid or substance in sewers or drains**

- (1) No person may discard into, or cause, permit or allow a flammable liquid or flammable substance to enter any waste or foul water or storm water sewer or drain whether underground or on the surface.
- (2) A person who becomes aware of any escape, whether accidental or otherwise, of any quantity of flammable liquid or flammable substance which is likely to constitute a fire hazard, from any premises or vehicle into any sewer or drain or any inlet or drain linking with such sewer or drain, must immediately report such escape to the chief fire officer.
- (3) Any person who contravenes subsections (1) and (2) commits an offence.

**55. Flammable gas**

- (1) No person may fill any balloon or other device with flammable gas without the written authority of the chief fire officer, and subject to such conditions as he may require after having regard to the circumstances of the specific case.
- (2) Any person who contravenes subsection (1) commits an offence.

**56. Smoking restrictions and discarding of combustibles**

- (1) If conditions exist where smoking may create a fire hazard on any premises, smoking must be prohibited and "No Smoking" signs complying with SANS 1186: Part 1, must be prominently displayed in positions as directed by the controlling authority.
- (2) A person may not remove or damage a "No Smoking" sign.
- (3) No person may light or smoke a cigarette or any other smoking materials or ignite or otherwise set fire to other material, nor hold or discard any lit or smouldering substance in any place where expressly prohibited.
- (4) The owner or person in charge of any premises may not allow or permit any person to light or smoke a cigarette or any other smoking materials or ignite or otherwise set fire to any other material, nor hold or discard any lit or smouldering substance in any place where expressly prohibited.
- (5) Where smoking is permitted, adequate provision must be made for the safe disposal of any smoking materials and matches.
- (6) No person may discard or otherwise dispose of a burning cigarette or any other burning materials or objects including materials capable of self-ignition or capable of spontaneous combustion, on any road, in any road reserve or in any other public place.
- (7) Where any cigarette, smoking materials or other burning materials, including materials capable of self-ignition or spontaneous combustion are discarded from a vehicle onto a road, or in any road reserve or any other place, it shall be presumed, in the absence of evidence to the contrary, that such action was performed by the driver of such vehicle.
- (8) Any person who contravenes the provisions of this section commits an offence.

**57. Safety fire-breaks required**

- (1) Subject to the provisions of the National Veld and Forest Fire Act, 1998, (Act No. 101 of 1998), every owner or occupier of an agricultural holding or farm must clear and maintain a safety fire-break along every boundary of the agricultural holding or farm.
- (2) If an obstruction occurs within the boundaries of a safety fire-break, the owner or occupier concerned must clear and maintain a 5metre-wide safety fire-break around that obstruction.
- (3) No person may clear or maintain a safety fire-break by burning without the prior written permission of the chief fire officer.
- (4) Any person who intends to clear or maintain a safety fire-break by burning must—
  - (a) apply in writing to the chief fire officer for permission, stipulating the property concerned and the proposed date and time of the burning; and
  - (b) unless the burning is to be performed by a person or body accredited for this purpose by the municipality, request the service to provide assistance at the burning.
- (5) Any person who contravenes subsections (1), (2), (3) and (4) commits an offence.

**58. Safety requirements for informal settlement areas**

In the event of establishment of any informal settlement, inclusive of any temporary settlement area, the following minimum requirements shall apply:

- (a) a safety distance of 3 metres between structures shall be maintained;
- (b) the settlement must be divided into blocks of not more 20 structures per block, with a minimum distance of 6 metres between blocks.

**CHAPTER 5****REGULATION OF FIREWORKS****59. Designation of places and conditions**

- (1) The municipality may designate any public place or street or any part thereof within the municipal area as the only place at which fireworks may be discharged.
- (2) The municipality may, on application of the owner or lawful occupier of any private open space as defined in the applicable zoning scheme regulations in its area of jurisdiction, designate such private open space as a place where fireworks may be discharged.
- (3) The list of places designated in terms of subsections (1) and (2) or any amendment thereof must be published by the municipality in terms

of its communication strategy.

- (4) The municipality may impose conditions as to the dates on which, periods or time and hours when the discharge of fireworks may take place on any designated area and may further impose conditions as to the manner of discharge.
- (5) A person who fails to comply with any condition imposed in terms of subsection (4) commits an offence.

#### **60. Discharge of fireworks**

- (1) No person may discharge any fireworks outside an area designated by the municipality in terms of section 59.
- (2) Any person who wishes to present a fireworks display must apply to the Chief Fire Officer for authorisation by completing and submitting an application in the form and manner determined by the Municipality together with the prescribed tariff and a sketch plan of the proposed venue for the fireworks display, including the demarcated area for the discharge and fallout of the fireworks.
- (3) The application, prescribed fee and accompanying documentation must be submitted to the Chief Fire Officer at least 14 days before the date of the proposed fireworks display.

#### **61. Dealing in fireworks**

- (1) No person may deal in fireworks unless—
  - (a) that person holds the required fireworks licence in terms of the Explosives Act; and
  - (b) has written authority from the Chief Fire Officer.
- (2) Any person who wishes to obtain the written authority of the Chief Fire Officer to deal in fireworks as contemplated in subsection (1) must—
  - (a) complete an application in the form and manner determined by the municipality; and
  - (b) submit it to the Chief Fire Officer together with the prescribed fee at least 30 days before the authority is required by the applicant.
- (3) The Chief Fire Officer may cancel any written authority to deal in fireworks if the holder of the authority contravenes any provision of this by-law.

#### **62. Seizure of fireworks**

A member of the service may take into his possession any fireworks found by him in contravention of section 60(1) and such fireworks must be dealt with in terms of the relevant provisions of the Criminal Procedure Act relating to seizure and disposal.

### **CHAPTER 6**

#### **CERTIFICATE OF REGISTRATION FOR USE, HANDLING AND STORAGE OF FLAMMABLE SUBSTANCES**

#### **63. Use, handling and storage of flammable substances prohibited in certain circumstances**

- (1) Subject to the provisions of subsection (3), no person may use, handle or store any flammable substance or allow such substance to be used, handled or stored on any premises unless that person is the holder of a certificate of registration issued by the chief fire officer in respect of the flammable substance and the premises concerned.
- (2) A certificate of registration contemplated in subsection (1) is not required if the flammable substance concerned is of any class and does not exceed the quantity stipulated in Schedule 2.
- (3) No person may use, handle or store any flammable substance in respect of which no certificate of registration is required or allow such substance to be used, handled or stored on any premises, unless the flammable substance—
  - (a) is used, handled or stored in a manner that ensures that—
    - (i) no flammable substance nor any flammable substance fumes come into contact with any source of ignition that may cause the flammable substance or fumes to ignite;
    - (ii) in the event of a fire or other emergency, the escape of any person or animal is not hindered or obstructed in any way; or
  - (b) is used, handled or stored—
    - (i) in a naturally ventilated room that prevents the accumulation of fumes or gas;
    - (ii) in a suitable place outdoors that ensures the safe disposal of fumes or gas; or
  - (c) the flammable substance is stored in strong, gas-tight and labelled
- (4) Any person who contravenes subsections (1) and (3) commits an offence.

#### **64. Application for certificate of registration for flammable substances**

An application for a certificate of registration contemplated in section 63(1) must be completed and submitted in the form and manner prescribed.

#### **65. Issue of certificate of registration**

- (1) If the chief fire officer issues a certificate of registration to any person, he must endorse on the certificate—
  - (a) the class and quantity of the flammable substance for which the premises have been registered;
  - (b) the number of storage tanks or storage facilities on the premises and their capacities;

- (c) the number of flammable substance storerooms on the premises and their capacities;
  - (d) the number of liquefied petroleum gas installations, types of installations and the combined capacity of all cylinders that may be stored on the premises;
  - (e) the number of storage facilities for any other flammable substance and the volume of each such facility;
  - (f) the period of validity and expiry date of the certificate; and
  - (g) the physical address of the premises and the name and postal address of the occupant.
- (2) A certificate of registration—
- (a) is not transferable between premises;
  - (b) may not be issued by the chief fire officer for a period exceeding 12 months;
  - (c) may be transferred to the new owner of the premises in respect of which it was issued, only if an application for such transfer is approved by the chief fire officer in writing.
- (3) A certificate of registration is valid only for—
- (a) the installation for which it was issued;
  - (b) the state of the premises at the time of issue; and
  - (c) for the quantities of flammable substance stated on the certificate.

#### **66. Availability of certificate of registration at premises**

- (1) The holder of a certificate of registration must ensure that the certificate is available on the premises concerned at all times for inspection by any member.

#### **67. Fire-fighting equipment**

- (1) Any person who holds a certificate of registration or other authorisation contemplated in this by-law must ensure that the premises to which the authorisation applies, are equipped with—
- (a) subject to the provisions of subsection (6), portable fire extinguishers—
    - (i) as specified in SANS 1567 (carbon dioxide-type), SANS 810 (dry chemical-type), SANS 1573 (foam-type) and SANS 1571 (transportable-type);
    - (ii) in such numbers as is appropriate in each section of the premises in accordance with the SANS codes applicable to the flammable substance and risk concerned;
  - (b) if applicable, hose reels as specified in SANS 453 (hose reels), that are connected to a water supply—
    - (i) as contemplated in SANS 0400 (Part W); and
    - (ii) that enables each hose reel to maintain a minimum flow of 0,5 litres per second at a minimum work pressure of 300 kPa;
  - (c) if applicable, fire hydrants—
    - (i) with couplings as specified in SANS 1128 (Part II) (fire-fighting equipment- couplings); and
    - (ii) in a ratio of at 1 to every 1000 square metres or part thereof. And
  - (d) if applicable, in relation to any above-ground facility, a sprinkler system or dilute system that—
    - (i) is approved by the chief fire officer; and
    - (ii) with the exception of temporary storage facilities, is installed in a position indicated in the building plans for the premises.
- (2) Notwithstanding the provisions of subsection (1), if the chief fire officer believes that there is any exceptional hazard or risk in respect of the premises concerned, he may—
- (a) specify the type of fire extinguisher to be installed;
  - (b) require that a greater number of fire extinguishers be installed; and
  - (c) require that a fire detection or warning system be installed.
- (3) The holder of any certificate of registration or other authorisation contemplated in this by-law must ensure that all fire-fighting equipment contemplated in subsection (1)—
- (a) is inspected, maintained and serviced to the satisfaction of the chief fire officer—
    - (i) by a competent, registered and appropriately qualified tradesman in accordance with the provisions of SANS 1015 and SANS 1475;
    - (ii) at least every 12 months;
  - (b) if installed outside the premises, is adequately protected from the weather; and
  - (c) is positioned prominently or where this is not possible, the position of the fire-fighting equipment is clearly indicated by a symbolic safety sign—
    - (i) in accordance with the specifications of SANS 1186; and
    - (ii) to the satisfaction of the chief fire officer.
- (4) Any person who contravenes subsections (1), (2) and (3) commits an offence.

**68. Amendment to certificate of registration**

- (1) The chief fire officer may amend any certificate of registration on application by the holder.

**69. Cancellation of certificate of registration**

- (1) The provisions of section 44, read with the necessary changes, apply to any cancellation by the chief fire officer of a certificate of registration.

**70. Renewal of certificate of registration**

Any application for the renewal of a certificate of registration must be submitted to the chief fire officer at least 30 days prior to the expiry date of the certificate.

**71. No authorisation required for certain motor vehicle fuel tanks**

No certificate of registration contemplated in section 63(1) or any other authorisation contemplated in this by-law is required in respect of flammable liquids in a fuel tank—

- (a) of any motor vehicle; and
- (b) of any stationery engine if the volume of the fuel tank does not exceed 1 000 litres.

**72. Record of certificates of registration**

The chief fire officer must keep updated records of all premises in respect of which a certificate of registration has been issued, amended or renewed.

**CHAPTER 7****GENERAL PROVISIONS REGARDING THE USE, HANDLING AND STORAGE OF FLAMMABLE SUBSTANCES****73. General prohibitions regarding the use, handling and storage of flammable substances**

- (1) No person who uses, handles or stores a flammable substance or allows them to be used, handled or stored on any premises may—
  - (a) do anything or allow anything to be done that may result in or cause a fire or explosion;
  - (b) do anything or allow anything to be done that may obstruct the escape to safety of any person or animal during an emergency.
- (2) No person may—
  - (a) dump or spill or allow the dumping or spilling of any flammable substance into any borehole, sewer, drain system or surface water;
  - (b) discard or allow the discarding of any flammable substance from any premises in any way other than by a competent person who is properly equipped and authorised to do in terms of this by-law;
  - (c) make or bring any fire or device capable of producing an open flame or allow any other person to do so, within 5 metres of any place where a flammable substance is stored;
  - (d) use or allow to be used any device in connection with a flammable substance in any basement level of a building, other than a gas welding or cutting device, used for the sole purpose of maintenance of the building;
  - (e) while any person, except the driver or any other person responsible for a bus contemplated in the National Road Traffic Act, is in or on the bus—
    - (i) fill or allow the filling of its fuel tank; or
    - (ii) transport or allow the transport of any flammable substance on the bus, except in its fuel tank; and
  - (f) deliver or supply or allow to be delivered or supplied, any flammable substance to any premises unless the owner or person in charge of the premises is in possession of a valid certificate of registration.
- (3) Any person who contravenes subsections (1) and (2) commits an offence.

**74. Use, handling and storage of liquefied petroleum gas**

- (1) No person may use, handle or store liquefied petroleum gas in any quantity exceeding that stipulated in Schedule 2 unless—
  - (a) the person is in possession of a certificate of registration contemplated in section 63; and
  - (b) the use, handling and storage of the liquefied petroleum gas complies with the requirements of SANS 087, Parts 1, 3, 7 and 10.
- (2) Liquid petroleum gas may only be used, handled or stored within property boundaries and in compliance with safety distances stipulated in SANS 087, Parts 1, 3, 7 and 10.
- (3) Any storage of liquid petroleum gas cylinders at any service station for retail purposes must comply with SANS 087, Part 7.
- (4) No liquid petroleum gas cylinder may be used, handled or stored at any public exhibition or demonstration without the prior written permission of the chief fire officer.
- (5) An application for permission contemplated in subsection (4) must be made in writing at least 14 days before the event concerned.
- (6) The chief fire officer may impose any reasonable condition on the use, handling and storage of liquid petroleum gas cylinders at a public exhibition or demonstration, including but not limited to, the number of cylinders, the manner of storage, safety distances and other safety requirements.

- (7) Any person using, handling or storing any liquid petroleum gas cylinder at any public exhibition or demonstration must comply with any condition imposed in terms of subsection (6).
- (8) Any person who contravenes subsections (1), (2), (3), (4), (5), (6) and (7) commits an offence.

#### **75. Display of symbolic warning signs required**

- (1) The owner or person in charge of any premises where any flammable or explosive substance is used, handled or stored must, in the affected area of the premises, display symbolic signs—
  - (a) prohibiting smoking and open flames;
  - (b) of a size and number determined by the chief fire officer; and
  - (c) prominently in places where the signs can be clearly observed.
- (2) No person may disregard or allow to be disregarded any prohibition on a symbolic sign displayed in terms of subsection (1).
- (3) Any person who contravenes subsections (1) and (2) commits an offence.

#### **76. Duty to report fires, accidents and dumping**

- (1) If any fire, accident or dumping involving a flammable substance has caused damage to any person, animal, property or the environment on any premises, the owner or occupier of the premises must immediately report it to the chief fire officer.
- (2) Any person who contravenes subsection (1) commits an offence.

### **CHAPTER 8**

#### **DECLARATION OF FIRE CONTROL ZONES AND FIRE BREAK BURNING SEASONS**

#### **77. Fire Control Zones**

- (1) Where the Chief Fire Officer is of opinion that a fire control zone should be declared in an area or that a fire control zone should be disestablished, he or she must cause such intention to be published in terms of the municipality's public participation policy.
- (2) If the municipality is of opinion that any objection or comment should be investigated, it may decide to hold a public enquiry.
- (3) If the municipality decides to hold a public inquiry, it must:
  - (a) appoint a suitably qualified person or panel of persons to hold such enquiry; and
  - (b) determine the procedure for the public inquiry, which may include a public hearing.
- (4) The person or panel of persons appointed to hold such enquiry must conduct the inquiry in accordance with the procedure prescribed and compile a written report to the relevant portfolio committee on the inquiry and give reasons for any administrative action recommended.
- (5) Where practical, the municipality shall as soon as possible after the submission of the report to the relevant portfolio committee, publish a concise summary of such report and the particulars of the places and times at which the report may be inspected and copied; and
- (6) After the municipality has taken into account any comment or objection in respect of such proposed declaration or disestablishment it may declare a fire control zone or disestablish any such fire control zone concerned.
- (7) The municipality must publish such zone or amended zone.

#### **78. Firebreak Burning Seasons**

- (1) The Chief Fire Officer may recommend the declaration of firebreak burning seasons in which case the provisions of section 77(1),(6) and (7) shall apply with the necessary changes.

### **CHAPTER 9**

#### **STORAGE OF FLAMMABLE SUBSTANCES**

#### **79. Storage of flammable substances prohibited in certain circumstances**

- (1) No person may store or allow the storage of any flammable substance in any storeroom unless—
  - (a) that person has a certificate of registration contemplated in section 63(1); and
  - (b) the storeroom complies with the requirements of this by-law and any other applicable law.
- (2) Any person who contravenes subsection (1) commits an offence.

#### **80. Taking of samples in respect of flammable substances**

- (1) Whenever a member inspects any premises and suspects that a flammable substance is used, handled or stored on such premises without a certificate of registration or other authority as contemplated in this by-law, such member must take a sample of such substance for the purposes of analysis or examination.
- (2) Any sample as contemplated in subsection (1) must taken in the presence of the owner or person in charge of the premises and must—
  - (a) be divided into two equal parts;
  - (b) be sealed in similar containers; and

- (c) such containers must be marked with the following information—
  - (i) the address of the premises;
  - (ii) the trade name of the premises or concern;
  - (iii) the name and signature of the person in whose presence the sample was taken;
  - (iv) the date and time the sample was taken; and
  - (v) a description of the location on the premises where the sample was taken.
- (3) The chief fire officer must within reasonable time submit any sample taken as contemplated in subsection (1) to an accredited institution for an analysis or examination and written report on the findings.

#### **81. Symbolic safety signs must be displayed**

- (1) The holder of a certificate of registration for a storeroom to be used for any flammable substance must ensure that—
  - (a) symbolic safety signs prohibiting open flames and smoking are displayed in the storeroom—
    - (i) of a number determined by the chief fire officer;
    - (ii) of dimensions at least 290 millimetres by 200 millimetres; and
    - (iii) manufactured in accordance with SANS 1186;
  - (b) the groups of flammable substances and their corresponding quantities which may be stored in the storeroom are indicated on the outside of every door to the storeroom in red letters at least 75 millimetres high, against a white background.
- (2) Any person who contravenes subsection (1) commits an offence.

#### **82. Construction of flammable substance storerooms**

- (1) Every storeroom must be designed and constructed according to the following criteria—
  - (a) the storeroom floor must consist of concrete;
  - (b) the storeroom walls must consist of material that has a fire resistance of at least 120 minutes;
  - (c) the storeroom roof must consist of—
    - (i) reinforced concrete with a fire resistance of at least 120 minutes; or
    - (ii) any other non-combustible material, if the storeroom—
      - (aa) is not situated within 5 metres of the boundary of the premises; or
      - (bb) adjoins a higher wall with no opening within 10 metres above and 5 metres on either side of the storeroom.
- (2) Any person who contravenes subsection (1) commits an offence

#### **83. Requirements for storeroom doors**

- (1) Every storeroom must be equipped with a fire rated fire door that—
  - (a) is manufactured and installed in accordance with SANS 1253;
  - (b) opens to the outside;
  - (c) is equipped with a lock or locks approved by the chief fire officer; and
  - (d) is at all times capable of being opened from the inside of the storeroom without the use of a key.
- (2) A storeroom must be equipped with two or more fire doors if the distance to be covered from any part in that storeroom to a door is 4 metres or more, in which case, the fire doors must be installed as far from each other as is practicable in the circumstances.
- (3) Fire doors contemplated in subsections (1) and (2) must if installed on—
  - (a) external walls, be “B” class fire doors; and
  - (b) internal walls in communication within a building, be “D” class fire doors.
- (4) Any person who contravenes subsections (1), (2) and (3) commits an offence

#### **84. Requirements for storeroom windows**

- (1) Every storeroom window frame must—
  - (a) consist of steel;
  - (b) have window panels of dimensions not exceeding 450 millimetres × 450 millimetres; and
  - (c) be fitted with wire glass of a thickness not less than 8 millimetres.
- (2) No storeroom window must be capable of being opened.
- (3) Every storeroom window must be fitted to the external wall of a building.
- (4) Any person who contravenes subsections (1), (2) and (3) commits an offence.



**85. Requirements for storeroom catch pits**

- (1) Every storeroom must be designed and constructed so that its floor is recessed below the level of the door sill to form a catch pit—
  - (a) with a holding capacity at least equal to the total volume of hazardous substances capable of being stored in the storeroom, plus 10 percent; and
  - (b) if required by the chief fire officer—
    - (i) covered at door sill level by a strong, stable, non-combustible and oxidation free floor grill; and
    - (ii) equipped, at its lowest level, with a non-corrosive drainage valve for cleaning purposes and product recovery.
- (2) The floor grill contemplated in subsection (1) must contain a suitably positioned access hatch for cleaning purposes.
- (3) Any person who contravenes subsections (1) and (2) commits an offence.

**86. Ventilation of storerooms**

- (1) Every storeroom must be designed and constructed to ensure—
  - (a) the effective ventilation of flammable substance fumes;
  - (b) that fumes released from the storeroom into the open air will not come into contact with any source of ignition.
- (2) If the storeroom is designed and constructed for natural ventilation, the owner or person in charge of the storeroom must ventilate the storeroom at a minimum cycle of 30 air changes per hour by installing non-combustible airbricks—
  - (a) that are not less than 140 millimetres by 250 millimetres in extent, with non-corrosive gauze wire with a minimum opening diameter of 0.5 millimetres;
  - (b) that are provided in at least 3 external walls of the storeroom; and
  - (c) that are positioned 100 millimetres above the level of the sill and 100 millimetres below the level of the roof and not more than 450 millimetres apart.
- (3) If the storeroom is designed and constructed for mechanical ventilation, the owner or person in charge of the storeroom must equip it with a mechanical ventilation system—
  - (a) designed and installed for this purpose;
  - (b) with a flow rate of 0,5 meters/second across the store;
  - (c) with vanes that consist of a static-free material;
  - (d) that discharges through a vertical metal duct into the open air—
    - (i) not situated within 5 metres of any opening of a building or erf boundary; and
    - (ii) terminating at least 1 metre above roof height or at least 3,6 meters above ground level, whichever is the greater;
  - (e) equipped with ventilators that are firmly attached to the inside of the walls of the storeroom and, in the case of bottom ventilators, as close as possible to the level of the sill;
  - (f) with all ventilation or air duct openings in the external wall opposite the mechanical ventilator installed 100 millimetres above the level of the sill to ensure effective cross-ventilation; and
  - (g) equipped with ducting material that—
    - (i) is as short as possible in the circumstances and does not have sharp bends; and
    - (ii) is fitted with a fire damper of at least 120 minutes fire resistance at any point where the ducting exits the storeroom, if ducting material is installed external to the storeroom in communication with the remainder of the building
- (4) Any person who contravenes subsections (1), (2) and (3) commits an offence.

**87. Electrical equipment in storerooms**

- (1) The owner or person in charge of any storeroom must ensure that—
  - (a) all electrical apparatus, fittings or switch gear used or installed in the storeroom are used or installed as contemplated in SANS 0108;
  - (b) no switch gear, distribution box, fuse or other electrical equipment, except electrical equipment as contemplated in SANS 0108, is situated—
    - (i) inside the storeroom; or
    - (ii) in any position where it may come into contact with any flammable substance fumes leaving the storeroom;
  - (c) any metal part, electrical fittings and device used in or in connection with the storeroom are earthed effectively to each other and to the ground;
  - (d) any mechanical ventilation system switch is situated outside the storeroom;
  - (e) any mechanical ventilation system is on at all times, except when the system is being repaired or replaced, in which case the system must be repaired or replaced without delay; and
  - (f) all electrical apparatus and fittings, except the mechanical ventilation system, are switched off when the storeroom is unattended.
- (2) Any electrical installation in a storeroom may be installed and certified only by an electrician who is qualified and competent by virtue of his or her training and experience.

- (3) The owner or person in charge of a storeroom must submit the certificate contemplated in subsection (2) to the chief fire officer for record purposes immediately after installation contemplated in such subsection.
- (4) Any person who contravenes subsections (1), (2) and (3) commits an offence.

#### **88. Foam inlets required for certain storerooms**

- (1) The owner or person in charge of a storeroom that is used or intended to be used for storing more than 5000 litres of flammable substance must ensure—
  - (a) that the storeroom is provided with a foam inlet consisting of a 65mm male instantaneous coupling and mild steel pipe work leading to the inside thereof; and
  - (b) that the foam inlet is identified by a sign in block letters at least 100 millimetres high, displaying the words “foam inlet”.
- (2) Any person who contravenes subsection (1) commits an offence.

#### **89. Shelving in storerooms**

- (1) The owner or person in charge of a flammable storeroom must ensure that any racking of shelving erected or installed in the storeroom is of non-combustible material.
- (2) Any person who contravenes subsection (1) commits an offence.

#### **90. Unauthorised use and entry of storerooms prohibited**

- (1) No person may—
  - (a) without the authority of the owner or person in charge, enter or allow any other person to enter any flammable storeroom;
  - (b) use any storeroom or allow it to be used for any purpose other than for the use, handling or storage of flammable substances;
  - (c) allow any person to work in a storeroom unless all the doors of the storeroom are wide open or the mechanical ventilation system is switched on; or
  - (d) place or allow to be placed any obstruction or hindrance in a passage of any storeroom or in front of any storeroom door.
- (2) Any person who contravenes subsection (1) commits an offence.

#### **91. Mixing and decanting rooms**

- (1) The owner or person in charge of any premises where quantities of flammable liquids exceeding those stipulated in Schedule 3 are decanted or mixed, must ensure that any room where decanting or mixing takes place complies with all requirements of this by-law applicable to storerooms.
- (2) Any person who contravenes subsection (1) commits an offence.

#### **92. Temporary above ground storage of flammable substances**

- (1) Any person, who wishes to store any flammable substance on premises on a temporary basis, must apply to the chief fire officer for a temporary certificate of registration.
- (2) A temporary certificate of registration may be issued by the chief fire officer—
  - (a) for a period not exceeding 12 months;
  - (b) if the flammable substance concerned is required—
    - (i) in respect of excavation work, construction work or road construction if the volume of the flammable substance does not exceed 9 000 litres;
    - (ii) in respect of small fleet maintenance or research purposes, if the volume of the flammable substance does not exceed 4 400 litres; and
    - (iii) the application complies with the requirements of SANS 0131 and this Chapter.
- (3) Every holder of a temporary certificate of registration contemplated in subsection (1) must ensure that—
  - (a) a storage tank for the flammable substance is not erected within 3.5 metres of any erf boundary, building, excavation, road, driveway or any other flammable substances or combustible material;
  - (b) adequate provision is made for rainwater run-off from retaining walls or embankments;
  - (c) no source of ignition or potential source of ignition exists within 5 metres of a storage tank;
  - (d) a symbolic sign of dimensions at least 300 millimetres by 300 millimetres prohibiting smoking and open flames is displayed on every side of a temporary storage tank; and
  - (e) at least two 9-kilogram dry chemical fire extinguishers are installed and kept in good working condition, within 10 metres of a temporary storage tank.
- (4) Any person who contravenes subsections (1), (2) and (3) commits an offence.

**93. Hand tools must be intrinsically safe**

- (1) The owner or person in charge of any flammable substance storeroom must ensure that any hand tool used in the storeroom is intrinsically safe.
- (2) Any person who contravenes subsection (1) commits an offence.

**94. Permanent above ground storage tanks for flammable liquids**

- (1) In addition to any other requirement of this Chapter, the owner or person in charge of an above ground storage tank for flammable liquids must ensure—
  - (a) that the tank is erected or installed—
    - (i) in accordance with SANS 0131 and SANS 089, Part I;
    - (ii) at least 3.5 metres from any erf boundary, building, excavation, road, driveway or any other flammable substance, combustible substance or combustible material;
  - (b) that the flammable liquid stored in the tank must be clearly identified by means of Hazchem placards contemplated in SANS 0232, Part 1.
- (2) Any electrical installation associated with the storage tank must comply with SANS 0108 and SANS 089, Part 2.
- (3) Any person who contravenes subsections (1) and (2) commits an offence.

**95. Underground storage tanks for flammable liquids**

- (1) The owner or person in charge of any premises used or intended to be used for the underground storage of any flammable liquid must ensure that any underground storage tank, pump, dispenser and pipe work is erected or installed in accordance with SANS 0400, SANS 089, Part 3 and SANS 0131.
- (2) Any person who contravenes subsection (1) commits an offence.

**96. Installing, erecting, removing and demolishing prohibited without prior notice**

- (1) No person may, in respect of registered premises, erect, install, remove, demolish, extend or change any delivery pump, storage tank, storeroom, spraying room, gas installation, storage facility, fire protection arrangement or floor layout unless that person has given the chief fire officer at least 3 working days prior written notice of the intention to do so, in the form and manner as prescribed.
- (2) The notice in term of subsection (1) must include the intended commencement date and estimated completion date of the proposed work.
- (3) The provisions of subsection (1) do not apply to—
  - (a) the temporary removal of equipment for purposes of carrying out necessary repairs;
  - (b) the necessary replacement of equipment or their parts; and
  - (c) the replacement of any storage tank with a tank of the same capacity.
- (4) Any person who contravenes subsection (1) and (2) commits an offence.

**97. Repair and maintenance of access to storage tanks**

- (1) No person may enter or allow any other person to enter any storage tank that has at any time contained a flammable substance—
  - (a) until such tank has been de-aerated and made free of gas and fumes as contemplated in SANS 089 (Part I); or
  - (b) unless that person—
    - (i) is wearing an effective self-supporting breathing apparatus; and
    - (ii) is attached to a rescue rope under the control of a competent and responsible person.
- (2) Any person who contravenes subsection (1) commits an offence.

**98. Termination of storage and use of flammable substances**

- (1) If an aboveground or underground tank installation, liquid petroleum gas installation or associated pipe work is no longer required for the storage or use of a flammable substance, the owner or person in charge of the premises on which the installation is located, must—
  - (a) notify the chief fire officer in writing within seven days of such storage or use ceasing;
  - (b) ensure that the flammable substance is removed from the installation and the premises are rendered safe within 30 days of the cessation;
  - (c) unless the chief fire officer directs otherwise, remove the installation including any associated pipe work from the premises within 180 days of the cessation; and
  - (d) to the satisfaction of the chief fire officer, restore any public foot path or roadway that has been disturbed by the removal of the installation within a period of 7 days of completing such removal.
- (2) Notwithstanding the provisions of subsection (1) if the removal of any underground tank installation for the storage of a flammable substance will detrimentally affect the stability of the premises concerned, the owner or person in charge of the installation may, with the prior written permission of the chief fire officer, fill the underground tank with liquid cement slurry.
- (3) Any person who contravenes subsection (1) commits an offence.

**99. Container handling and storage**

- (1) Every flammable substance container must—
  - (a) be kept closed when not in use;
  - (b) be declared gas- or vapour-free by a competent person before any modification or repairs are undertaken;
  - (c) be manufactured and maintained in such condition as to be reasonably safe from damage and to prevent leakage of any flammable substance or vapour from the container.
- (2) Every flammable liquid container must be labelled and marked with words and details indicating the flammable liquid contained in the container as well as any hazard associated with the flammable liquid.
- (3) No person may extract flammable liquid from a container of a capacity exceeding 200 litres, unless the container is fitted with an adequately sealed pump or tap.
- (4) Any empty flammable liquid container must be stored in a storeroom.
- (5) Notwithstanding the provisions of subsection (4) the chief fire officer may permit the storage of any empty flammable liquid container in the open air if no storeroom is available and if he is satisfied that—
  - (a) the storage area is in a position and of sufficient size that a fire hazard or other threatening danger will not be caused;
  - (b) the storage area is well ventilated and enclosed by a wire mesh fence;
  - (c) the fence supports are of steel or reinforced concrete;
  - (d) the storage area has an outward opening gate that is kept locked when not in use;
  - (e) when the floor area exceeds 10m<sup>2</sup> an additional escape gate is installed and fitted with a sliding bolt or other similar locking device that can be opened from the inside without the use of a key; and
  - (f) the storage area is free of vegetation and has a non-combustible, firm and level base.
- (6) When the quantity of flammable and combustible liquids to be stored is more than 100 litres of class I and/ or more than 210 litres of class II and class III A combined, such flammable and combustible liquids must be stored in a store room.
- (7) Any person who contravenes subsections (1), (2), (3), (4) and (6) commits an offence.

**CHAPTER 10****TRANSPORT, SUPPLY AND DELIVERY OF DANGEROUS GOODS****100. Transport of dangerous goods prohibited without transport service permits**

- (1) The owner of any vehicle used for transporting dangerous goods, must—
  - (a) be in possession of a valid transport permit issued in accordance with the relevant sections of this bylaw; and
  - (b) ensure that the transport service permit is available in the vehicle for inspection at all times.
- (2) Any person who contravenes subsection (1) commits an offence.

**101. Application for transport service permits**

- (1) An application for a transport permit must be completed and submitted to the chief fire officer in the form and manner prescribed.
- (2) The application form must be accompanied by proof of payment as prescribed in the municipal tariff policy.

**102. Requirements of transport service permits**

- (1) A transport permit—
  - (a) may not be issued by the chief fire officer for a period longer than 12 months; and
  - (b) must—
    - (i) indicate the date of issue and expiry;
    - (ii) identify the issuing officer and bear that officer's signature;
    - (iii) contain a serial number;
    - (iv) indicate the group and quantity of dangerous goods that may be transported under the permit; and
    - (v) contain a description of the vehicle concerned, including its registration number.

**103. Cancellation of transport service permit**

The provisions of section 44, read with the necessary changes, apply to any cancellation of a transport permit by the chief fire officer.

**104. Exemption from transport service permits**

A transport service permit contemplated in section 100 is not required for the transportation of dangerous goods of the type and not exceeding the quantities stipulated in Schedule 3.

**105. Design, construction, maintenance and repair of road tankers**

- (1) Every person who designs, constructs, maintains or repairs any road tanker for the transportation of dangerous goods must—
  - (a) comply with the provisions of SANS 0189, SANS 1398, SANS 0233, SANS 087, Part 6 SANS 089, Part 1, SANS 0230 and SANS 1518, as the case may be; and
  - (b) ensure that the road tanker is labelled in a manner that complies with the provisions of SANS 0232 and any applicable law.
- (2) Any person who contravenes subsection (1) commits an offence.

**106. Design, construction, maintenance and repair of other vehicles**

- (1) Every person who designs, constructs, maintains or repairs any vehicle for the transportation of dangerous goods, except a road tanker, must ensure that the vehicle—
  - (a) is designed and constructed—
    - (i) to safely transport the quantity and type of dangerous goods for which the vehicle is intended to be used; and
    - (ii) with at least two independent axle systems, each with its own suspension system, excluding any trailer forming part of an articulated vehicle;
  - (b) is equipped with—
    - (i) a safety edge or safety railing—
      - (aa) at least 1 metre high when measured from the surface of the body of the vehicle; and
      - (bb) capable of securing dangerous goods containers;
    - (ii) strong and durable straps—
      - (aa) capable of fastening dangerous goods containers securely to the body of the vehicle;
      - (bb) that are anchored firmly to the bodywork of the vehicle; and
      - (cc) that are fitted with a reversible cog winch mechanism that can be locked;
    - (iii) electrical wiring that complies with SANS 314;
    - (iv) at least 2 static-free wheel blocks;
    - (v) a power insulating switch, excluding the ignition switch, situated in close proximity to the vehicle battery and in a position readily accessible in any emergency; and
    - (vi) a spark-proof and static-free tank that is designed, constructed and equipped to protect any dangerous goods consignment from shock or ignition while in transit.
- (2) Any person who contravenes subsection (1) commits an offence.

**107. General prohibitions regarding transport of dangerous goods**

- (1) No person may use or allow to be used, any vehicle to transport dangerous goods, unless—
  - (a) the vehicle has a valid roadworthy certificate;
  - (b) if not exempt in terms of section 104, the vehicle is equipped with at least two 9 kilogram dry chemical fire extinguishers—
    - (i) designed and manufactured in accordance with SANS 810 and maintained in accordance with SANS 0105 and SANS 1475; and
    - (ii) positioned and installed so that there is at least one fire extinguisher on each side of the vehicle that can be reached quickly and easily in the event of a fire.
- (2) No person may use or allow to be used any vehicle to transport dangerous goods unless the vehicle cabin, body, cargo space, cargo tank, fuel tank, chassis and engine are effectively and permanently earthed with each other.
- (3) No person may cause any vehicle transporting dangerous goods to travel or overnight in any area where such travel or overnighting is specifically prohibited.
- (4) Any person who contravenes subsections (1) and (2) and (3) commits an offence.

**108. Supply of dangerous goods prohibited in certain circumstances**

- (1) No person may deliver or supply or allow to be delivered or supplied any dangerous goods of a type and in a quantity exceeding that specified in Schedule 2 to any premises that are not registered as contemplated in section 63(1).
- (2) No person may deliver or supply or allow to be delivered or supplied any dangerous goods to any premises in contravention of any conditions of the certificate of registration applicable to those premises.
- (3) No person may handle or allow to be handled any container containing dangerous goods in a manner that may damage that container.
- (4) Every person who delivers dangerous goods must ensure that—
  - (a) a 9 kilogram dry chemical fire-extinguisher is available at all times during the delivery;
  - (b) during any transfer of the dangerous goods, the delivery vehicle is physically earthed to the storage facility to which the dangerous goods are being transferred;
  - (c) while delivering—

- (i) the delivery vehicle is placed in such a position that it can be moved easily and quickly in the event of an emergency;
  - (ii) the delivery vehicle is not parked on or across a pavement or a road;
  - (iii) no delivery hose lies on or across a pavement, road or other premises;
  - (d) no dangerous goods are transferred to a storage facility that does not comply with the requirements of Chapter 9 of this by-law and the provisions of SANS 0263;
  - (e) any device connected with, or used for, the delivery of the dangerous goods—
    - (i) is designed for its purpose; and
    - (ii) is maintained in safe and good working condition; and
  - (f) no dangerous goods are spilled during delivery.
- (5) No person may transfer or allow to be transferred any dangerous goods to any motor vehicle, aircraft, vessel, ship or boat while its power source is in operation.
- (6) No person may transfer any dangerous goods to any aircraft unless the aircraft is earthed to the transferral device by means of an earth cable.
- (7) Any person who contravenes subsections (1), (2), (3), (4), (5) and (6) commits an offence.

#### **109. Records of transport permits**

The chief fire officer must keep updated records of all vehicles in respect of which a transport permit has been issued, amended or renewed.

### **CHAPTER 11**

#### **SPRAY PAINTING AND SPRAYING ROOMS**

#### **110. Spray rooms and booths**

Aspray room, booth or area designated for the application of a flammable liquid must be constructed and equipped according to the requirements in Schedule 4 of this by-law and must be operated in such a manner as to comply with the General Safety Regulations promulgated in terms of the Occupational Health and Safety Act.

#### **111. Spraying prohibited without spraying permit**

- (1) No person may spray, coat, plate or epoxy-coat any vehicle, article, object or building or part thereof or allow them to be sprayed, coated, plated or epoxy-coated with any flammable substance unless—
- (a) that person is in possession of a spraying permit contemplated in section 112;
  - (b) the spraying, coating, plating or epoxy-coating as the case may be is conducted in a spraying room approved by the chief fire officer on premises registered for that purpose.
- (2) Any person who contravenes subsection (1) commits an offence.

#### **112. Application for spraying permit**

Any person who wishes to obtain a spraying permit must complete and submit to the chief fire officer an application form for such permit in the form and manner as prescribed.

#### **113. Cancellation of spraying permit**

The provisions of section 44, read with the necessary changes, apply to the cancellation by the chief fire officer of any spraying permit.

### **CHAPTER 12**

#### **MISCELLANEOUS**

#### **114. Handling of animals during emergencies**

- (1) The owner, occupier or person in charge of any zoological garden, feedlot, stable, research institution, veterinary practice or any place of veterinary science study, must ensure the professional handling of any animal on the premises concerned during an emergency.
- (2) Notwithstanding the provisions of subsection (1), the chief fire officer may, in respect of any premises, authorise a suitably qualified person to handle or put down any animal during an emergency.
- (3) The municipality may recover any costs incurred in relation to the professional handling or putting down of any animal during an emergency from the owner or person in charge of the premises concerned.

#### **115. Exemption from provisions of this by-law**

- (1) Any person may make application to the municipality in writing, for an exemption from any provision of this by-law, specifying the reasons for exemption in such application.

- (2) The municipality may grant an exemption—
  - (a) in general or in particular;
  - (b) for any period; and
  - (c) subject to any condition that will provide the same overall fire prevention and protection that would result from the full application of this by-law.
- (3) If an exemption is granted in terms of subsection (2), the municipality must issue a certificate of exemption to the person concerned, specifying the scope and period of the exemption and any condition imposed.
- (4) The municipality may amend or withdraw a certificate of exemption at any time.
- (5) The holder of a certificate of exemption must ensure that the certificate is available on the premises concerned at all times for inspection by any member.

#### **116. Approval, authorisation or permission under this by-law**

Any person who requires any approval, authorisation or permission contemplated in this by-law in respect of which no application procedure is provided, must apply for that approval, authorisation or permission—

- (a) by completing and submitting an application in the form and manner determined by the municipality; and
- (b) by paying the prescribed tariff.

#### **117. Cancellation of approval, authorisation or permission**

The provisions of section 44, read with the necessary changes, apply to any approval, authorisation or permission contemplated in section 116.

#### **118. By-law binds State**

This by-law binds the State and any person in the service of the State.

#### **119. Conflict with other legislation**

In the event of any conflict between any provision of this by-law and National and Provincial legislation, standards, policies or guidelines, the National and Provincial legislation, standards, policies or guidelines shall prevail.

#### **120. Offences and penalties**

A person who contravenes any provision or fails to comply with any provision of this by-law commits an offence and shall on conviction be liable to—

- (a) a fine or imprisonment, or either such fine or imprisonment or to both such fine and such imprisonment and,
- (b) in the case of a continuing offence, to an additional fine or an additional period of imprisonment or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued and,
- (c) a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as result of such contravention or failure.

#### **121. Repeal of by-laws**

The provisions of any by-laws previously promulgated by the municipality or by any of the disestablished municipalities now incorporated in the municipality, are hereby repealed as far as they relate to matters provided for in this by-law, and insofar as it has been made applicable to the municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Local Government: Municipal Structures Act, Act 117 of 1998.

#### **122. Short title and commencement**

This by-law shall be known as the Fire Safety By-law and comes into operation on the date of publication in the Provincial Gazette.

### **SCHEDULE 1**

#### **GUIDELINE FOR EMERGENCY EVACUATION PLANS**

##### **Content of emergency evacuation plans**

Every emergency evacuation plan contemplated in section 37 must contain at least the information under the headings below.

##### **(1) Emergency telephone numbers**

A list of all relevant emergency telephone numbers.

##### **(2) General information**

- (a) the physical address of the premises;
- (b) a description of the activities on the premises;
- (c) the number of persons present on the premises at any time;



- (d) an indication of any control room on the premises;
  - (e) an indication of any alarm system on the premises; and
  - (f) the particulars and contact details of every responsible person in the event of an emergency.
- (3) Area study

An area study addressing the following:

- (a) a history of emergency incidents on the premises;
  - (b) any important and relevant features or landmarks regarding the premises; and
  - (c) any information regarding adjacent premises that may be relevant to evacuation in an emergency.
- (4) Socio-economic or other threats

Any socio-economic or other threats and their potential impact on the premises.

- (5) Details of available equipment

Particulars and details regarding the position of the following equipment:

- (a) Equipment in the control room;
  - (b) fire fighting and first aid equipment on the premises; and
  - (c) any other equipment which may be relevant in an emergency.
- (6) The emergency team

Particulars and details regarding the identity of members of the emergency team, including—

- (a) its management;
  - (b) the continuity officers;
  - (c) the fire teams; and
  - (d) the first aid teams.
- (7) Duties of emergency team members

The duties and responsibilities of members of the emergency team.

- (8) Action plans and emergency procedures

Details of the specific action plans and emergency procedures applicable to the premises.

- (9) Building plans and maps

The building plans of the premises and any relevant topographical map must be included in the evacuation plan.

- (10) Emergency plan register

The plan must include—

- (a) an updated register of the emergency evacuation plan;
- (b) an updated drill register for the emergency evacuation plan; and
- (c) a bomb threat questionnaire.

#### **Review of emergency evacuation plans**

2. (1) An emergency evacuation plan must be reviewed and updated by the owner or occupier of the premises concerned at least once each year and whenever a member of the management of the emergency team ceases to work at the premises.
- (2) Whenever an emergency evacuation plan is reviewed and updated, the owner or occupier of the premises concerned must ensure that all old plans on the premises or in the possession of the management of the emergency team are collected and destroyed in order to eliminate any confusion regarding the validity and accuracy of the evacuation plan.

#### **Emergency evacuation drills**

3. (1) An emergency evacuation plan should be drilled at least twice each year and involve the participation of all persons who work or reside in the building concerned.
- (2) The owner or person in charge of a building should give all persons who are to be involved in an emergency evacuation drill at least 21 days' notice of the drill.

#### **Emergency evacuation awareness**

4. Every person who works or resides on premises should be aware of the emergency evacuation plan for that premises.

**Training of persons**

5. Every person who resides or works on premises with an emergency evacuation plan should be suitably trained in—
- first aid or fire fighting;
  - emergency aid;
  - emergency evacuation procedures; and
  - emergency management techniques.

**SCHEDULE 2****EXEMPTION FROM CERTIFICATE OF REGISTRATION**

A certificate of registration is in terms of section 67(2) not required if the flammable substances concerned are of a type and do not exceed the quantity stipulated below.

GASES:		
Class O	Liquefied petroleum gas	Flat: Total cylinder capacity may not exceed 9 kg per flat. Houses or commercial premises: Total maximum of 19 kg inside and total maximum of 100 kg on premises. Industrial premises: Maximum of 19 kg per 600m <sup>3</sup> of building space with a total maximum of 100 kg.
FLAMMABLE LIQUIDS AND COMBUSTIBLE LIQUIDS:		
Class I	Liquids that have a closed-cap flash point of below 38° C	Total maximum of 40 litres
Class II	Liquids that have a closed-cap flash point of 38° C or above, but below 60,5° C	Total quantity of Class II and Class IIIA together may not exceed the maximum quantity of 210 litres
Class IIIA	Liquids that have a close-cap flash point of 60,5° C or above but below 93° C	

**SCHEDULE 3****EXEMPTION FROM TRANSPORT PERMIT**

A transport permit is in terms of section 100 not required for the transport of dangerous goods of the type and not exceeding the quantity stipulated below.

GROUP	DESCRIPTION	QUANTITY
II	GASES	
	Flammable gases	Total cylinder capacity may not exceed 50 kilograms
	Non-flammable gases	Total cylinder capacity may not exceed 333 kilograms
III	FLAMMABLE LIQUIDS	
	With flash points > 18° C	Total quantity may not exceed 100 litres
	With flash points > 18° C but ≤ 23° C	Total quantity may not exceed 420 litres
	With flash points > 23° C but ≤ 61° C	Total quantity may not exceed 1100 litres
	With flash points > 61° C but ≤ 100° C	Total quantity may not exceed 1 100 litres
IV	FLAMMABLE SOLIDS	
	Flammable solids	Total quantity may not exceed 250 kg
V	OXIDISING AGENTS AND ORGANIC PEROXIDES	
	Oxidising agents	Total quantity may not exceed 200 kilograms
	Group II organic peroxides in packets	Total quantity may not exceed 200 kilograms
VI	TOXIC/INFECTIVE SUBSTANCES	
	Group I toxic substances in packets	Total quantity may not exceed 5 kilograms
	Group II toxic substances in packets	Total quantity may not exceed 50 kilograms

	Group III toxic substances in packets	Total quantity may not exceed 500 kilograms
VIII	CORROSIVE/CAUSTIC SUBSTANCES	
	Group I acids in packets	Total quantity may not exceed 50 kilograms
	Group II acids in packets	Total quantity may not exceed 200 kilograms
	Group III acids in packets	Total quantity may not exceed 1000 kilograms
	Group I alkaline substances in packets	Total quantity may not exceed 50 kilograms
	Group II alkaline substances in packets	Total quantity may not exceed 200 kilograms
	Group III alkaline substances in packets	Total quantity may not exceed 1000 kilograms
IX	MISCELLANEOUS SUBSTANCES	
	Liquids	Total quantity may not exceed 210 litres
	Solids	Total quantity may not exceed 210 kilograms

#### SCHEDULE 4

#### SPRAY BOOTH CONSTRUCTION

WALLS	225 mm Brickwork.
ROOF	Reinforced concrete.
FLOOR	Concrete or other impervious material.
DOORS (A)	Constructed of 50mm hardwood completely covered, including the edges, with 24 s.w.g. metal secured to the door with bolts at 30mm centres along the edges. The doors to open outwards and to be hung on Tee hinges bolted to the door.
(B)	Close fitting metal doors not less than 3mm in thickness, carried on an angle iron frame and having an all round overlap or not less than 50mm.
<b>NOTE:</b>	Where the floor area exceeds 18 sq. metres 2 doors must be provided.
WINDOWS	Metal frames with no opening sections glazed with wire-woven glass not exceeding 460mm x 460mm. Putty approved by the SANS Code No. 680/59 only to be used and the occupier to furnish proof of this to the Director: Fire and Emergency Services.
<b>NOTE:</b>	The Factory Inspector requires natural light to the extend of 20% of the floor area.
VENTILATION	30 Lineal metres/minute velocity across the room must be provided by means of mechanical ventilation, with the centre line of the inlets 460mm above the floor level and to discharge through vertical metal ducting terminating one (1) metre above the apex of the roof. No right angle bends to be used in the ducting system. Exhaust fans to be installed at four (4) metre centres or horizontal metal ducting extending the entire length of the wall with suitable inlets, must be provided.
<b>NOTE:</b>	If the ducting is external to the Spray Booth and in communication with the Workshop etc., it must be protected by either 110mm brick or 50mm asbestos cement lagging.
VENTILATION INLETS	The wall opposite the exhaust fans to be honeycombed with airbricks installed from 100mm above floor level to a height of not less than two (2) metres.
MINIMUM NO. OF AIRBRICKS	SIZE OF ROOM
40	Up to but not exceeding 140 cubic metres.
65	Up to but not exceeding 280 cubic metres.
90	Up to but not exceeding 470 cubic metres.
150	Up to but not exceeding 650 cubic metres.
<b>NOTE:</b>	Metal filters with metal swarf elements may only be used in an all metal installation, in lieu of Airbricks.
ELECTRICAL WORK	All electrical work must be of flame-proof construction.
DANGER NOTICE	"DANGER — NO SMOKING" notices in 150mm high white letters on a red background to be provided above the doors outside the Spray Booth.

**BERGRIVIER MUNICIPALITY**  
**IMPOUNDMENT OF ANIMALS BY-LAW**

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, the Bergrivier Municipality, enacts as follows:—

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1. Definitions
2. Purpose of by-law
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4. Pound to which animals are to be sent
5. Receiving of animals by pound master
6. Receipt for impounded animals
7. Number of enclosures
8. Destruction of dangerous or contagious animals
9. Notice of impounded animals
10. Keeping of pound register
11. Inspection of and extracts from pound register
12. Submission of pound register entries after pound sales
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16. Notice of sale
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25. Revocation of by-laws
26. Short title and commencement

**1. Definitions**

In this by-law, unless the context otherwise indicates—

“**animal**” means any equine, bovine, sheep, goat, pig, fowl, ostrich, dog, cat or other domestic animal or bird, or any wild animal, wild bird or reptile which is in captivity or under the control of any person;

“**cattle**” means bulls, cows, oxen, heifers, steers and calves;

“**goat**” means an adult male or female goat, a wether and a kid;

“**horse**” means a stallion, mare, gelding, colt, filly, donkey and mule;

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

“**occupier**” means any person in actual occupation of land or entitled as owner to occupy land;

“**owner**”, in relation to an animal, includes any person having possession, charge, custody or control of such animal;

“**pound**” means a facility consisting of one or more buildings, enclosures or camps which may be established by the municipality and placed under the control of a pound master, or a service provider in terms of a service delivery agreement with the municipality, for the housing and care of animals which are astray, lost or at large;

“**pound master**” means a person who may be—

- (a) a part-time or full-time employee of a municipality, or
- (b) appointed under a service delivery agreement to keep and operate a pound;

“**proprietor**” means any owner, lessee, or occupier of land;

“**sheep**” means a ram, an ewe, a wether and a lamb;

“**stallion**” means a male horse, donkey or mule not castrated or partially castrated;

“**veterinary surgeon**” means a person who is qualified as such in accordance with the provisions of the Veterinary and Para-Veterinary Professions Act, 1982 (Act 19 of 1982).

## **2. Purpose of by-law**

The purpose of this by-law is to provide facilities for the housing and care of animals which are astray, lost or at large and for procedures, methods and practices to manage the impoundment of such animals.

## **3. Impoundment**

Any person may impound an animal found abandoned upon his property or any street, road, road reserve or other public place.

## **4. Pound to which animals are to be sent**

Any person upon whose land an abandoned, lost or stray animal is found, may deliver such animal to the nearest pound or such other pound designated by the municipality.

## **5. Receiving of animals by pound master**

- (1) It is the duty of every pound master to receive into his or her charge, for impoundment, all animals brought to his or her pound, during such hours as the municipality may determine.
- (2) Any pound master who unreasonably refuses or fails to receive animals brought to his or her pound as aforesaid commits an offence and is, in addition, liable for any damage caused to the owner of the said animals, or to any other person, by reason of such refusal or failure.

## **6. Receipt for impounded animals**

A pound master must give the person delivering an animal into his or her charge a written receipt, indicating the number and description of animals so delivered.

## **7. Number of enclosures**

The municipality must maintain in good repair and, as far as possible, free from all infection, separate enclosures for—

- (a) ostriches and horses;
- (b) cattle;
- (c) sheep, goats and pigs;
- (d) dogs; and
- (e) cats,

provided that the municipality may in regard to any pound in its area give permission to the pound master to maintain a smaller number of enclosures thereon.

## **8. Destruction of dangerous or contagious animals**

- (1) A pound master may cause to be destroyed any impounded animal suffering from a contagious disease, or which may prove dangerous to human life or other animals impounded, provided that no such animal may be destroyed unless a veterinary surgeon has examined it and has agreed with the pound master as to the necessity for its destruction.
- (2) If any animal suffering from a contagious disease is brought to the pound, or becomes infected while impounded, such animal must be kept separate from other impounded animals.

## **9. Notice of impounded animals**

- (1) A pound master who knows the name of the owner of an animal impounded in his or her pound must forthwith give written notice to such owner that the said animal has been impounded.
- (2) If any animal, bearing an identification mark as contemplated in the Animal Identification Act, 6 of 2002, is impounded, the pound master must follow the procedures set out in section 14 of the Animal Identification Regulations promulgated under GN R1683 dated 21 November 2003.
- (3) Where the owner of an impounded animal is not known to the pound master, or he or she must upon receipt of such animal report the impoundment to the nearest South African Police Services office.

## **10. Keeping of pound register**

- (1) A pound master must keep a pound register with the following particulars:
  - (a) the date when, and the cause for which, all animals received by him are impounded;
  - (b) the number and description of such animals;
  - (c) the name and residence of the person impounding such animals, and the name and residence of the owner or supposed owner;

- (d) the date and particulars of the release or sale of the animals, as the case may be; and
  - (e) any other matters which he may be directed by the municipality to ascertain and record.
- (2) The entries under subsection (1)(a), (b) and (c) must be made at the time the animals are impounded and the entries under subsection (1)(d) and (e) must be made as soon as the pound master obtains the necessary information, provided that no entry may be made after the particulars in (a) to (e) has been placed in dispute by any person.
- (3) In case of the death or injury of any impounded animal, the pound master shall enter in his pound register a description of such animal and the cause of its death or injury.

#### **11. Inspection of and extracts from pound register**

A pound register must be kept at the pound or any other approved place and must at all reasonable times be open for inspection, free of charge, to any authorised officer of the municipality, veterinary surgeon, any member of the police service or the public.

#### **12. Submission of pound register entries after pound sales**

A pound master must, within 14 days after the date of each pound sale, submit to the municipality a copy of all entries in his or her pound register made since the date of the preceding submission, and the municipality must preserve all such copies for inspection by any person desirous of seeing them.

#### **13. Inspection of pound register at place of sale**

Whenever a sale of impounded animals is to take place, the pound master or a person authorised to conduct the sale, must keep the pound register at the place of sale, and such register must be open for inspection, free of charge, to all persons desirous of inspecting it.

#### **14. Impoundment tariff**

- (1) The municipality may impose tariffs for the keeping of animals in a pound and may distinguish between different kinds of animals.
- (2) Every pound master is entitled to claim the tariff determined by the municipality in terms of subsection (1) for every animal impounded by him or her in terms of this by-law.

#### **15. Payment**

- (1) The tariffs determined in terms of section 14 must be paid to the pound master by the owner of the animals impounded.
- (2) The impounded animals may be detained by the pound master in security of payment of the tariff and any costs which the pound master may have incurred, provided that if the value of the animals impounded is in excess of the total amount due thereon, and if the owner is unable to pay the said amount, the pound master may detain only so many of the said animals as may be sufficient to secure the total amount due for all the animals, and must deliver the remainder of the animals to the said owner.
- (3) A pound master who retains any greater number of such animals than is reasonably necessary to secure such amount is liable to the owner for any damages sustained by him or her on account of such retention.
- (4) If the pound master is an official of the municipality, he must pay the tariffs received by him or her in terms of this by-law into the revenue of the municipality, the frequency of which will be determined by the department responsible for finance.
- (5) No pound master may release any impounded animal until the prescribed tariffs have been paid to him or her.

#### **16. Notice of sale**

- (1) Every pound master must—
  - (a) whenever any impounded animal has not been released within six days from the date of its impoundment, notify the municipality that such animal will be sold by public auction and the date, time and place of such auction;
  - (b) provide the municipality with detail regarding the species, colour, marks and distinguishing features of such animal;
  - (c) post a copy of the notice at a noticable place at the pound, there to remain until the day of the sale; and
  - (d) cause to be published in a newspaper circulating in the area of jurisdiction of the municipality where the pound is situated, a notice of the sale.
- (2) The cost of a notice in terms of subsection (1)(a) is recoverable from the owner of the impounded animal and is deemed to be part of the amount to be deducted from the proceeds of the sale of an animal.
- (3) If the said proceeds are less than the amount due, and the owner of the animal sold is unknown, the municipality shall make good the deficiency.

#### **17. Auctioneer**

- (1) Every sale of impounded stock must—
  - (a) be conducted by the pound master or some other person duly authorised thereto by the municipality; and
  - (b) commence at the time and date mentioned in the notice in terms of section 16(a).
- (2) No person conducting a pound sale may have any direct or indirect interest in any purchase at any sale so held by him or her.

**18. Sale of animals**

At every such sale—

- (a) no animal may be put up for sale unless impounded for at least two weeks;
- (b) all animals, except sheep and goats must be sold individually;
- (c) sheep and goats must be sold in lots of not more than ten, and sheep and goats, or sheep or goats with different marks or brands may not be sold together in the same lot;
- (d) animals must be sold for cash, and the proceeds, less the amount of the pound fees and other costs incurred must be handed by the pound master to the municipality, to be paid to the owners of the animals sold; provided that—
  - (i) if in any particular case the sale does not realise sufficient to cover the tariffs due, the proceeds must be first utilised for payment of the compensation due to the pound master, and if the said proceeds are insufficient to cover such compensation, the balance of compensation must be paid to the pound master by the municipality;
  - (ii) any money, being the proceeds of the sale of any impounded animal, not being claimed by the owner of such animal within twelve months from the date of sale, accrues to the municipality;
- (e) the municipality may fix a reserve price for any animal offered for sale; and
- (f) the auctioneer may withdraw any animal from the sale if the highest bid received is not satisfactory, irrespective of whether a reserve price has been fixed by the municipality.

**19. Illegal impounding and penalties**

Any person who illegally impounds any animal commits an offence.

**20. Recovery of loss in respect of impoundment of animals from area of another municipality**

Any loss suffered by the municipality as a result of the impounding in a pound under its management and control of animals found trespassing within the area of jurisdiction of another municipality, may be recovered from such other municipality.

**21. Use, detention and ill-treatment of animals**

No person may furiously drive or ill-treat any animal found trespassing.

**22. Appeal**

A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefor in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision.

**23. Offences and penalties**

A person who contravenes any provision or fails to comply with any provision of this by-law commits an offence and shall on conviction be liable to—

- (a) a fine or imprisonment, or either such fine or imprisonment or to both such fine and such imprisonment and,
- (b) in the case of a continuing offence, to an additional fine or an additional period of imprisonment or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued and,
- (c) a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as result of such contravention or failure.

**24. Conflict with other legislation**

In the event of any conflict between any provision of this by-law and National and Provincial legislation, standards, policies or guidelines, the National and Provincial legislation, standards, policies or guidelines shall prevail.

**25. Revocation of by-laws**

The provisions of any by-laws previously promulgated by the municipality or by any of the disestablished municipalities now incorporated in the municipality, are hereby repealed as far as they relate to matters provided for in this by-law, and insofar as it has been made applicable to the municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Local Government: Municipal Structures Act, Act 117 of 1998.

**26. Short title and commencement**

This by-law shall be known as the Impoundment of Animals By-law and shall come into operation on the date of publication thereof in the Provincial Gazette.



**BERGRIVIER MUNICIPALITY  
INFORMAL TRADING BY-LAW**

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, the Bergrivier Municipality, enacts as follows:—

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2. Purpose of By-Law
3. General Conduct
4. Rent
5. General restrictions
6. Cleanliness and protection of public health
7. Trading in parks and gardens
8. Objects used for display of goods
9. Removal and impoundment
10. Appeal
11. Offences and Penalties
12. Liaison forums in community
13. Conflict with other legislation
14. Repeal of by-laws
15. Short title and commencement

**1. Definitions**

In this by-law, unless the context indicates otherwise, a word or an expression to which a meaning has been assigned in the Businesses Act, 1991 (Act 71 of 1991), shall have that meaning, and unless the context indicates otherwise—

“**goods**” means any commodities, articles, receptacles, vehicles or structures used or intended to be used for informal trading;

“**informal trader**” means any person who carries on the business of street vendor, pedlar or hawker and includes any employee of such a person and, for the purposes of this by-law, also includes any person who trades in a public space;

“**informal trading**” means the selling of any goods or the supply or offer to supply any service for reward as an informal trader in a public road or public space, excluding the sale of newspapers only;

“**informal trading centre**” means an area, place or infrastructure provided by the municipality itself, or in conjunction with any other organisation or body for the purposes of informal trading;

“**litter**” means any refuse, container or other object or matter discarded or abandoned by an informal trader or his customers;

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

“**nuisance**” means any conduct which brings about or may bring about a state of affairs or condition which constitutes a source of danger to a person or the property of others or which materially interferes with their ordinary comfort, business convenience, peace or quiet;

“**officer**” means—

- (a) a traffic officer appointed under section 3(1)(a) of the Road Traffic Act, 1989 (Act 29 of 1989);
- (b) a member of the South African Police Service as defined in section 1(1) of the South African Police Service Act, 1995 (Act 68 of 1995);
- (c) a peace officer contemplated in section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977); or

“**property**” in relation to an informal trader, means any money, goods, receptacle, vehicle or movable structure used or intended to be used in connection with the carrying on of his or her business as such;

“**public road**” means a public road as defined in section 1 of the National Road Traffic Act, 1996 (Act 93 of 1996);

“**public space**” means any square, park, recreation ground, sports ground, sanitary lane or open space which has—

- (a) in connection with any subdivision or layout of land into erven, lots or plots been provided, reserved or set apart for use by the public or the owners or occupiers of such erven, lots or plots, whether or not it is shown on a general plan, plan of subdivision or diagram;
- (b) at any time been dedicated to the public;
- (c) been used without interruption by the public for a period of at least thirty years since the thirty-first day of December 1959; or
- (d) at any time been declared or rendered a public space by the municipality or another competent authority;

“**sidewalk**” means a sidewalk as defined in section 1 of the National Road Traffic Act, 1996 (Act 93 of 1996);

“**the Act**” means the Businesses Act, 1991 (Act 71 of 1991) read with its Schedules;

“**unit**” means the space from which an informal trader may conduct his or her business and which is not greater than 3 metres in length and 2 metres in width, and

“verge” means that portion of a road, street or thoroughfare which is not the roadway.

## 2. Purpose of By-Law

The Municipality, acting in terms of section 6A(1)(a)(i) of the Businesses Act, 1991 (Act 71 of 1991), and—

- (a) having regard to the principles set out in the Act and in the Constitution;
- (b) taking into consideration the need of the residents to actively participate in economic activities; and
- (c) taking into consideration the need to maintain a clean, healthy and safe environment, in this by-law provides mechanisms, procedures and rules to manage informal trading.

## 3. General conduct

(1) A person carrying on the business of informal trader—

- (a) may not place his or her property on a public road or public space except for the purpose of conducting trade;
- (b) must ensure that his or her property does not cover an area of a public road or public space which is greater than 3 metres × 2 metres;
- (c) may not obstruct access to a fire hydrant or any other designated facility or area demarcated solely for the use of emergency vehicles and services;
- (d) may not carry on the business of informal trader on a verge contiguous to—
  - (i) a church, mosque or other place of worship; or
  - (ii) a building declared to be a national monument in terms of the National Heritage Resources Act, 1999 (Act 25 of 1999);except to the extent that the carrying on of such business is permitted in terms of this by-law;
- (e) may not carry on the business of informal trader on that half of a public road contiguous to a building used for residential purposes, if the owner or person in control or any occupier of the building objects to it;
- (f) may not carry on the business of informal trader at a place where it substantially obstructs pedestrians in their use of a sidewalk;
- (g) may not carry on the business of informal trader at a place where it causes an obstruction to vehicular traffic;
- (h) may not carry on the business of informal trader at a place where it causes an obstruction in front of—
  - (i) an entrance to or exit from a building; or
  - (ii) a fire hydrant;
- (i) may not carry on the business of informal trader without being in possession of written proof that he or she hired, or was otherwise allocated that stand or area by the municipality in an area set aside by the municipality; and
- (j) may not carry on the business of informal trader in contravention of—
  - (i) the terms and conditions of the lease or allocation to him or her of a unit in terms of section 6A(3) of the Act; or
  - (ii) any policy that the municipality may determine for the operation of an informal trading centre.
- (k) may not carry on the business of informal trader in an area which has been declared a restricted or prohibited area in terms of section 6A(2)(a) of the Businesses Act, 1991.

## 4. Rent

The municipality shall fix the rent payable to it for the letting of stands or units in demarcated areas or informal trading centres under its control from where the carrying on of the business of street vendor, pedlar or hawker is permissible.

## 5. General restrictions

(1) A person carrying on the business of informal trader may not—

- (a) if such business is carried on in a public road or public space—
  - (i) overnight at the place of such business; or
  - (ii) erect a structure (other than a device which operates in the same manner as, and is shaped like an umbrella) for the purpose of providing shelter;
- (b) carry on such business in a manner as to—
  - (i) damage or deface the surface of any public road or any public space or any public or private property;
  - (ii) create a traffic hazard; or
  - (iii) create a nuisance;
- (c) accumulate, dump, store or deposit or cause or permit to be accumulated, dumped, stored or deposited any litter on any land or premises or in any public road or public space other than in a refuse receptacle approved or provided by the municipality;
- (d) obstruct access to a municipality service or service works;
- (e) obstruct access to a pedestrian arcade or mall;
- (f) obstruct access to pedestrian crossings, parking or loading bays or other facilities for vehicular or pedestrian traffic;

- (g) obstruct access to street furniture or the use of street furniture such as bus passenger benches or shelters, refuse disposal bins, and other facilities designed for the use of the general public;
- (h) obscure any road traffic sign displayed in terms of the National Road Traffic Act, 1996 (Act 93 of 1996), and the regulations made there under or any marking, notice or sign displayed or made in terms of this by-law;
- (i) attach any object by any means to any building, structure, pavement, tree, parking meter, lamp-pole, electricity pole, telephone booth, post box, traffic sign, bench or any other street furniture in a public road or public space;
- (j) make a fire in a public road or public space under circumstances where it could harm any person or damage a building or vehicle or any street furniture referred to in this by-law;
- (k) fail or refuse to move or remove any goods after having been requested to do so by the supplier of an telecommunication service who requires access to such service, or by an authorized employee or agent of the municipality or an officer acting in terms of this by-law, and
- (l) obstruct the visibility of a display window of a business premises, if the person carrying on business in such business premises objects thereto.

## **6. Cleanliness and protection of public health**

- (1) Every informal trader must—
  - (a) carry on his or her business in a manner as not to be a danger or threat to public health or public safety;
  - (b) at the request by an employee of the municipality move his or her property in order to permit the cleaning of the surface of the unit where he or she is trading;
  - (c) keep the unit occupied by him or her for the purpose of his or her business as well as his or her property in a clean and sanitary condition and free of litter; and
  - (d) if his or her activities involve the cooking or preparation of food, take steps to ensure that no fat, oil or other substance drops or overflows onto the surface of any public road or public space or splashes against a building or structure.
- (2) The municipality must—
  - (a) ensure that the units on which the informal traders trade are cleaned and sanitized on a regular basis;
  - (b) provide receptacles in the area near the units in order to facilitate the disposal of litter by informal traders, and
  - (c) ensure that the receptacles are emptied on a regular basis in order to facilitate the cleaning of trading units.

## **7. Trading in parks and gardens**

No informal trader shall carry on business in a garden or park to which the public has the right of access, except with the prior written approval of the municipality, which approval shall not be unreasonably withheld and may be granted subject to certain conditions.

## **8. Objects used for display of goods**

- (1) An informal trader shall ensure that any structure, container, surface or other object used by him or her for the preparation, display, storage or transportation of goods—
  - (a) is maintained in a good state of repair and kept in a clean and sanitary condition, and
  - (b) is not so placed or stacked as to constitute a danger to any person or to be likely to injure any person.

## **9. Removal and impoundment**

- (1) If a person carrying on the business of informal trader fails or refuses to comply with a written request, the content of which has been explained to him or her, to move or remove his or her property, or leaves such property unsupervised for a period of more than 8 hours, an officer may remove and impound such property—
  - (a) which he or she reasonably suspects is being used or is intended to be used or has been used in or in connection with the carrying on of the business of informal trader; or
  - (b) which he or she finds in a place where the carrying on of such business is restricted or prohibited in terms of a provision of this by-law.
- (2) Any officer acting in terms of these provisions shall—
  - (a) except in the case of goods which have been left or abandoned, issue forthwith to the person carrying on the business of an informal trader a detailed receipt for any property so removed and impounded, which receipt shall contain adequate information as to where the property will be impounded and the procedure for reclaiming such property, and
  - (b) forthwith deliver any such property to the municipality.
- (3) Any property removed and impounded as contemplated by section 6A of the Act—
  - (a) may, in the case of perishable property, be sold or destroyed by the municipality within a reasonable time after its impoundment, provided that such property shall, subject to the provisions of subsection (4), at any time prior to the disposal thereof, be returned to the owner at his or her request and upon providing proof of ownership by such owner to the municipality, and
  - (b) shall, subject to the provisions of subsection (4), in the case of property other than perishable property, be returned to the owner thereof at his or her request and on providing proof of ownership by such owner to the authority within a period of one month of the date of impoundment.
- (4) The municipality shall be entitled to keep the property until all reasonable expenses have been paid to the municipality, failing which the property may be sold, or in the case of perishable property, either be sold or destroyed by such municipality.

- (5) In the case of a sale of impounded property by a municipality, the proceeds of such sale less the reasonable expenses incurred by the municipality in connection with the removal, impoundment or disposal of the said property, shall be paid to the owner of the property. If such owner fails to claim the proceeds within three months of the date on which the property was sold, the proceeds shall be forfeited to the municipality and shall be paid into a special fund created by the municipality dedicated to the development of the informal sector and matters ancillary thereto.
- (6) If the proceeds of any sale of property contemplated in subsection (5), are not sufficient to defray the reasonable expenses incurred by the municipality in connection with such property, the owner of such property shall be liable for all reasonable expenses incurred by the municipality concerned in connection with such removal, impoundment or disposal.

#### **10. Appeal**

A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefor in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision.

#### **11. Offences and Penalties**

A person who contravenes any provision or fails to comply with any provision of this by-law commits an offence and shall on conviction be liable to—

- (a) a fine or imprisonment, or either such fine or imprisonment or to both such fine and such imprisonment and,
- (b) in the case of a continuing offence, to an additional fine or an additional period of imprisonment or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued and,
- (c) a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as result of such contravention or failure.

#### **12. Liaison forums in community**

- (1) The municipality may establish one or more liaison forums in a community for the purposes of obtaining community participation with regard to the matters dealt with in this by-law.
- (2) A liaison forum may consist of—
  - (a) a member of members of an interest group, or an affected person;
  - (b) a designated official or officials of the municipality; and
  - (c) a councillor.
- (3)
  - (a) The municipality may, when considering an application for consent, permit or exemption in terms of this by-law, request the input of a liaison forum.
  - (b) A liaison forum or any person may on own initiative submit an input to the municipality for consideration.

#### **13. Conflict with other legislation**

In the event of any conflict between any provision of this by-law and National and Provincial legislation, standards, policies or guidelines, the National and Provincial legislation, standards, policies or guidelines shall prevail.

#### **14. Repeal of by-laws**

The provisions of any by-laws previously promulgated by the municipality or by any of the disestablished municipalities now incorporated in the municipality, are hereby repealed as far as they relate to matters provided for in this by-law, and insofar as it has been made applicable to the municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Local Government: Municipal Structures Act, Act 117 of 1998.

#### **15. Short title and commencement**

This by-law shall be known as the Informal Trading By-law and shall come into operation on the date of publication thereof in the Provincial Gazette.

**BERGRIVIER MUNICIPALITY****BY-LAW RELATING TO PREVENTION OF PUBLIC NUISANCES AND PUBLIC NUISANCES ARISING FROM THE KEEPING OF ANIMALS**

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996 the Bergrivier Municipality enacts as follows:—

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## 1. Definitions

In this by-law, unless the context otherwise indicates—

“**agent**”, in relation to the owner of a property, means a person appointed by the owner of the property—

- (a) to receive rental or other payments in respect of the property on behalf of the owner; or
- (b) to make payments in respect of the property on behalf of the owner;

“**animal**” means any equine, bovine, sheep, goat, poultry, camel, dog, cat, or other domestic animal or bird, or any wild animal or reptile which is in captivity or under the control of a person, or insects such as, but not limited to, bees which is kept or under control of a person, but excluding any pet;

“**bird**” means a pigeon, peafowl, pheasant, partridge, canary, budgerigar, parrot, ostrich and any other domesticated bird or wild bird which is in captivity or under control of a person;

“**cattery**” means any establishment where cats are bred or boarded;

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

“**drunk**” means a person who, by reason of the alcohol which he or she has consumed, has lost control of his or her mental or physical faculties, or both, to such an extent as to render him or her incapable of comporting him- or herself, or of performing any act in which he or she is engaged, with safety to him- or herself or with that regard to the rights of others which the law demands;

“**kennel**” means any establishment that has as its business the breeding, training or boarding of dogs and includes pounds whether operated by the State or otherwise;

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

“**municipal manager**” is the person appointed by the municipality in terms of Section 82 of the Municipal Structures Act, Act 117 of 1998, and includes a person—

- (a) acting in such position; and
- (b) to whom the municipal manager has delegated any power, function or responsibility;

“**owner**”—

- (a) in relation to an animal, includes the person having the possession, charge, custody or control of such animal;
- (b) in relation to public nuisances contemplated in Part 1 of this by-law—
  - (i) a person in whom the legal title to a premises is vested;
  - (ii) in the case of property being subject to a lease agreement, the tenant of such property;
  - (iii) in cases where the person in whose name property is registered is insolvent or deceased, or insane or whose estate has been designated for profit of his creditors, the person in whom the administration of the property is vested as trustee, executor, curator or proxy or administrator;
  - (iv) in cases where the owner as described above is absent, the agent or person who receives the rental of the relevant property; and
  - (v) in any case where the property is inhabited in terms of a servitude or similar right, the inhabitant of such property.

“**pet**” means a tame animal which is kept in a household;

“**pet parlour**” means an establishment where pets are groomed;

“**pet shop**” means an establishment where pets are kept for trading purposes;

“**poultry**” means any fowl, goose, ostrich, duck, pigeon, dove, turkey, muscovy, guinea-fowl, peacock or peahen or bird whether domesticated or wild;

“**premises**” means—

- (a) land or a portion of land, including a public place, whether or not a building or structure has been constructed or erected on such land or portion thereof; or
- (b) a building, structure, tent or caravan and the land on which it is situated and includes any vehicle, carriage, ship or boat;

“**public nuisance**” means any act or omission or condition on any premises or public place, including any building, structure or growth thereon, which is offensive or dangerous, or which materially interferes with the ordinary comfort, convenience, peace or quiet of other people or which adversely affects the safety of people, and “nuisance” has the same meaning;

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

- (a) is vested in the municipality;

- (b) the public has the right to use; or
- (c) is shown on a general plan of a township filed in a deeds registry or a Surveyor-General's office and has been provided for or reserved for the use of the public or the owners of erven in such township;

**“responsible authority”** means the Bergrivier Municipality or any national or provincial department that may in terms of its powers and functions impose conditions or restrictions in respect of the keeping of animals;

**“street”** means any street, road, cycle path, thoroughfare or any other place, including—

- (a) the verge of any such road, street or thoroughfare
- (b) any footpath, sidewalk or similar pedestrian portion of a road reserve;
- (c) any bridge, ferry or drift traversed by any such road, street or thoroughfare;
- (d) any other object belonging to such road, street or thoroughfare, which has at any time been—
  - (i) dedicated to the public;
  - (ii) used without interruption by the public for a period of at least thirty years;
  - (iii) declared or rendered such by the municipality or other competent authority, or
  - (iv) constructed by a local authority, and
  - (v) any land, with or without buildings or structures thereon, which is shown as a street on—
    - (aa) any plan of subdivision or diagram approved by the municipality or other competent authority and acted upon, or
    - (bb) any general plan as defined in the Land Survey Act, 1927, registered or filed in a deeds registry or Surveyor General's office;
 unless such land is on such plan or diagram described as a private street;

**“structure”** means any container, stable, shed, pigsty, kraal, aviary, paddock, poultry house, enclosure, loft or building used for human shelter, business purposes or the keeping or enclosing of animals.

## 2. Objectives and application of by-law

- (1) The municipality, aware of the constitutional right of every person to an environment that is not harmful to his or her health or well-being, adopts this by-law with the aim of protecting and promoting the health and well-being of all people in the Bergrivier area by fostering an environment in which the public in general may enjoy peaceful and harmonious living conditions.
- (2) Sections 4(1), 14(1), 15(1), 21(1) and 26 do not apply to—
  - (a) premises which are legally used for bona fide agricultural purposes; or
  - (b) premises identified by the municipality where the keeping of animals or the operation of pet parlours, pet shops or catteries and kennels is permitted and indicated as such in an approved spatial development framework and zoning scheme.
- (3) A person who keeps animals on premises contemplated in subsection (2) is not exempt from the provisions relating to the inception or bringing about of a public nuisance.

## CHAPTER 1

### GENERAL PROVISIONS RELATING TO PUBLIC NUISANCES

## 3. Behaviour and conduct

- (1) Despite the provisions of any other by-law, no person may—
  - (a) do work on or use any premises in such a manner that it interferes with the convenience or comfort of other people or that it becomes a source of danger to any person;
  - (b) subject to any approval in terms of the relevant Town Planning Scheme Regulations, carry on any trade, business, profession or hobby which causes discomfort or annoyance to other people;
  - (c) deposit, leave, spill, drop or place any fruit or vegetable peels, broken bottles, glass, refuse, building rubble, garden refuse or thing which is offensive or likely to cause annoyance, danger or injury to persons;
  - (d) allow the fencing of any premises to fall into a state of disrepair or to become unsightly or dilapidated;
  - (e) allow any building or structure or any portion thereof to fall into a dilapidated, neglected or unsightly state;
  - (f) use any stoep or veranda of any shop or business premises or vacant land adjoining such shop or business premises for the purpose of storing, stacking, dumping, disposing, displaying or keeping articles or merchandise;
  - (g) enclose any stoep or veranda of any shop or business premises by any means otherwise than by such means as approved by the municipality;
  - (h) disturb the comfort, convenience, peace or quiet of other people by the use of electrical appliances or machinery whether malfunctioning or not;
  - (i) defoul, misuse or damage public toilets;
  - (j) carry or convey in any street or public place, any objectionable material- or thing, which is or may become offensive or dangerous, unless such material or thing is suitably covered;
  - (k) allow any erf to be overgrown to such an extent that it may be used as a shelter by vagrants, wild animals or vermin or may threaten the safety of any member of the community;



- (l) erect, or allow to be erected or use on any premises any structure in a manner that causes a nuisance to people; or
  - (m) by an action allow that a nuisance be created or continued;
  - (n) bathe or wash him- or herself or any animal, article or clothing in a public stream, pool, water trough, hydrant, fountain or at any place which has not been set aside by the municipality for such purpose;
  - (o) at any time disturb the public peace by making unseemly noises in any manner whatsoever;
  - (p) cause a nuisance by—
    - (i) loitering in any street or public place;
    - (ii) being drunk or under the influence of drugs;
    - (iii) soliciting or importuning any person for the purposes of prostitution or any other immoral act;
    - (iv) continuing to beg from a person or closely follow a person after such person has given a negative response to such begging;
    - (v) playing loud music or the use of music instruments on any premises;
  - (q) advertise wares or services by means of any megaphone, loudspeaker, or similar device or by insistent shouting, striking of gongs, blowing of horns or ringing of bells;
  - (r) in any street or public place use any abusive or threatening language;
  - (s) cleanse or wash any vehicle or part in any street or public place;
  - (t) discharge any fire-arm, airgun or air pistol on any premises except premises or land zoned for agricultural purposes and which does not form part of a general plan for a township.
- (2) (a) In the event of a contravention of section 3(1)(a) to (m), the municipality may issue a notice on the owner, occupier or alleged offender to terminate the action or to abate the nuisance created. In the event of non-compliance with such order and without prejudice to the municipality's right to prosecute, the municipality may take the necessary steps to remove the cause or source of the nuisance and any costs incurred in connection therewith may be recovered from the person responsible for the nuisance or the owner or occupier of the premises whether or not such owner or occupier is responsible therefor.
- (b) Where any vacant or developed premises or land in the vicinity of a street is used by unauthorised persons or where any of the materials or things mentioned in subsection (1)(c) are dumped or deposited on such premises, the municipality may serve a written notice on the owner or occupier requiring him or her to enclose or fence it in to its satisfaction by a date specified in the notice. Every such enclosure or fence must be so constructed that it will effectively prevent the entry of unauthorised persons and the dumping of materials and things.
- (3) For the application of this by-law, any action or condition on any premises that endangers the safety of any person or property or which is untidy, annoying, troublesome, offensive or disturbing to the peace of other people, shall be considered a public nuisance.
- (4) Any person who contravenes or fails to comply with any provisions of this section or fails to comply with any notice lawfully given there under is guilty of an offence.

## CHAPTER 2

### GENERAL PROVISIONS RELATING TO KEEPING OF ANIMALS

#### 4. Permission to keep animals

- (1) No person may keep or permit to be kept on any premises any animals, excluding pets, without the written permission of the municipality.
- (2) Any person who applies for a permit to keep a wild animal must, when submitting an application contemplated in subsection (1), furnish the municipality with a captivity permit issued by the Department of Economic Affairs, Environment and Tourism.
- (3) The municipality may determine the number of bee hives, as well as the kind, number and gender of animals that may be kept and the areas within which the keeping of such animals will be prohibited.
- (4) In order to consider an application in terms of subsection (1), the municipality may obtain the input or comments of the owners or occupants of surrounding premises.
- (5) A person who contravenes subsection (1) or who fails to comply with a determination in subsection (3) commits an offence.

#### 5. Plans for structures and management

The municipality may require from applicants who apply to keep animals that they must submit an application form and a detailed site plan according to specifications set by the municipality.

#### 6. Consideration of application and imposition of conditions

- (1) The municipality may, after consideration of—
  - (a) the input or comments obtained in terms of section 4(3);
  - (b) the location, geographical features or size of the premises in respect of which the application is submitted;
  - (c) the documents and site plans submitted in terms of section 5; or
  - (d) any other information relating tot the application including, but not limited to, grazing, fencing, availability of water, etc. refuse to grant consent or grant consent.
- (2) Where consent is refused, the municipality must furnish the applicant with the reasons for such refusal and at the same time advise him or her of the right of appeal in terms of section 27.

- (3) Where consent is granted, the municipality may impose conditions.

#### **7. Visibility of structures on premises**

- (1) All structures in which animals are kept must be suitably screened from any street.  
(2) A person who fails to comply with subsection (1) commits an offence.

#### **8. Wavering of requirements and withdrawal of authorisations**

The municipality may after considering conditions particular to the property and provided that no objection is received from the owners or occupants of surrounding premises, waive any or all of the requirements of this part and impose other conditions and may withdraw any consent granted in terms of section 6(3) if any of the conditions imposed are not adhered to.

#### **9. Validity of authorisations**

All authorisations to keep animals granted in terms of any by-law or regulation repealed are deemed to have been granted in terms of this by-law.

#### **10. Duties of owner or keeper of animal**

- (1) The owner or keeper of an animal—  
(a) may not cause or allow an animal to interfere with the comfort, convenience, peace or quiet of other people;  
(b) must provide such animal with shelter, veterinary care, water and proper food ;  
(c) must maintain the premises on which an animal is kept in good repair and in a neat condition in order to prevent the occurrence of a public nuisance; and  
(d) must exercise control over his or her animals in order to prevent damage to property or gardens;  
(e) may not leave or allow any animal to be on any section of a public road or leave such animal in a place from where it may stray onto such section of a public road.
- (2) A person who contravenes a provision of subsection (1) commits an offence.

#### **11. Animals kept in unsatisfactory manner**

- (1) Whenever animals kept on any premises are a public nuisance, or where animals are kept in contravention of any of the provisions of section 10, the municipality may by written notice require the owner or occupier of such premises to remove the cause of and to abate such nuisance or to comply with any condition or instruction imposed in terms of subsection (2).  
(2) The municipality may prescribe the steps that need to be taken or the work that must be done to comply with the notice contemplated in terms of subsection (1).  
(3) Any activities undertaken by the owner in terms of a notice contemplated in subsection (1) will be for such owner's own account.  
(4) If a person fails to comply with a notice issued in terms of subsection (1) the municipality may take the steps required, including the seizure and impoundment of such animals, and recover the cost thereof from such owner.  
(5) A person who fails to comply with a notice contemplated in subsection (1) commits an offence.

#### **12. Destruction of animals**

- (1) The municipality may order the euthanization or destruction of an animal which is—  
(a) dangerous or ferocious; or  
(b) injured or diseased to such an extent that it would be humane to do so.
- (2) An animal to be destroyed in terms of subsection (1) must be euthanized by a registered veterinary surgeon or destroyed with such instruments or appliances and in such a manner as to inflict as little suffering as possible.  
(3) A person who fails to comply with an order contemplated in subsection (1) or who contravenes subsection (2) commits an offence.

#### **13. Hawking of animals**

- (1) No person may hawk an animal in a street or public place or from a movable structure or vehicle.  
(2) A person who contravenes subsection (1) commits an offence.

**CHAPTER 3**  
**PROVISIONS RELATING TO KEEPING OF DOGS AND CATS**

*Part 1:*  
*General Provisions relating to dogs and cats*

**14. Number of dogs and cats**

- (1) Subject to the provisions of section 15, no person may, without the permission of the municipality, keep on any premises—
  - (a) more than two dogs; and
  - (b) more than two cats.
- (2) An application for permission in terms of subsection (1) must be submitted on an application form obtainable from the municipality and must contain an exposition of the breed, gender and number of dogs or cats applied for.
- (3) A restriction imposed under section 17 on the number of animals that may be kept on premises does not apply for a period of 10 weeks after the birth of a litter from an animal kept in terms of a permit.
- (4) A person who contravenes subsection (1) commits an offence.

**15. Breeders of dogs and cats**

- (1) A breeder of dogs or cats who wishes to keep more than two dogs or cats must obtain permission from the municipality.
- (2) The municipality may require the submission of plans and specifications of structures in which it is proposed to keep the dogs or cats as well as a site plan indicating all existing or proposed structures and fences on the premises.
- (3) A person who fails to obtain the permission of the municipality as required in subsection (1) commits an offence.

**16. Breeders of pets**

- (1) A person who breeds pets must obtain the approval of the municipality.
- (2) The provisions of section 15(2) are with the necessary adjustment applicable to an application in terms subsection (1).
- (3) A person who contravenes subsection (1) commits an offence.

**17. Conditions and restrictions**

The municipality's consent in terms of sections 4, 14(1), 15(1) and 16(1) may be subject to any conditions that the municipality, in consultation with another responsible authority, may deem fit to impose.

**18. Withdrawal of permission**

- (1) Where a person contravenes or fails to adhere to a condition or restriction set in terms of section 17, the municipality may, after hearing that person, withdraw its consent and may order the removal of animals from the premises for care and safekeeping by an animal welfare organisation or pound.
- (2) Any costs incurred by the municipality for the removal and safekeeping of animals in terms of subsection (1), will be recovered from the owner or keeper of such animals.

**19. Dogs or cats in streets or public places**

- (1) Subject to the provisions of the Public Amenities by-law, the owner or keeper of a dog or cat may not bring or allow it in a street or public place unless the dog is on a leash or the cat is under physical control.
- (2) Except in the event of a blind person being lead by a guide dog, a person in charge of a dog in a street or public place, must remove any faeces left by the dog by wrapping it in paper or plastic and disposing of it in a receptacle provided for litter or refuse.
- (3) A person who contravenes any of the provisions of subsection (1) or (2) commits an offence.

*Part 2:*  
*Specific provisions relating to dogs*

**20. Control of dogs**

- (1) No person may—
  - (a) permit a bitch on heat to be in a street or public place without supervision;
  - (b) urge a dog to attack, worry or frighten any person or animal unless in self-defence;
  - (c) keep a dog if the premises is not adequately fenced to keep such dog inside when it is not on a leash; or
  - (d) permit a dog—
    - (i) to trespass on private property;
    - (ii) to constitute a hazard to traffic using any public road;

- (iii) to constitute source of danger or injury to a person outside the premises on which such dog is kept; or
  - (iv) to be a source of danger to employees of the municipality entering such premises for the purpose of carrying out their duties. A notice to the effect that a dog is kept must be displayed in a conspicuous place.
- (e) keep any dog which interferes materially with the comfort, convenience, peace or quiet of neighbours by—
- (i) barking, yelping, howling or whining;
  - (ii) charging any vehicles, animals, poultry, pigeons or persons outside any premises where it is kept; or
  - (iii) by behaving in any other manner.
- (2) The municipality may seize and impound a dog which is found in a street or public place in contravention with the provisions of this by-law.
- (3) A dog impounded in terms of subsection (2) may be released to the owner upon payment of a fee determined by the municipality.
- (4) A person who contravenes a provision of subsection (1) commits an offence.

#### CHAPTER 4

#### DOG KENNELS, CATTERIES, PET SHOPS AND PET PARLOURS

##### 21. Permission to operate

- (1) No kennel, cattery, pet shop or pet parlour may be operated without the permission of and subject to conditions imposed by the municipality.
- (2) The person operating a kennel, cattery, pet shop or pet parlour may not conduct the business in such a manner so as to cause any nuisance or annoyance to other people.
- (3) A person who contravenes subsection (1) or (2) commits an offence.

#### CHAPTER 5

#### CO-OPERATION BETWEEN MUNICIPALITIES

##### 22. Service delivery agreements

In order to achieve optimal service delivery in terms of this by-law, the municipality may enter into agreements with the district municipality with which legislative and executive powers is shared.

##### 23. Powers of municipality in case of omission by District Municipality

If the service delivery referred to in section 22 is impeded by the refusal or omission by the district municipality to execute any of the arrangements envisaged in an agreement in terms of section 22 the municipality may, subject to the principles of cooperative government as set out in section 41 of the Constitution of the Republic of South Africa, 1996, proceed to give effect to such arrangement and any expenses incurred by the municipality in giving effect to such an arrangement may be recovered from the district municipality.

#### CHAPTER 6

#### GENERAL PROVISIONS

##### 24. Right of entry and inspection

- (1) Any duly authorised employee of the municipality is authorised to inspect any premises within the municipal area at a reasonable time in order to determine whether there is compliance with the provisions of this by-law; provided that a private dwelling may not be entered for routine inspection purposes.
- (2) When entering premises in terms of subsection (1), the employee must on request by any person, identify him- or herself by producing written proof of authorisation.
- (3) The authorised employee may be accompanied by a person reasonably required to assist in conducting the inspection.
- (4) Any person who fails to give or refuses access to any authorised official, or obstructs or hinders him or her in the execution of his or her duties under this by-law, or who fails or refuses to give information that he or she may lawfully be required to give to such official, or who gives false or misleading information knowing it to be false or misleading, commits an offence.

##### 25. Service of documents and process

- (1) Whenever a notice, order, demand or other document is authorised or required to be served on a person in terms of this by-law, it shall be deemed to have been effectively and sufficiently served on such person—
  - (a) when it has been delivered to him personally;
  - (b) when it has been left at his place of residence or business in the Republic with a person apparently over the age or sixteen years;
  - (c) when it has been posted by registered or certified mail to his last known residential or businesses address in the Republic and an acknowledgment of the posting thereof is produced;
  - (d) if his address in the Republic is unknown, when it has been served on his agent or representative in the Republic in the manner provided by paragraph (a), (b) or (c); or
  - (e) if his address and agent in the Republic are unknown, when it has been posted in a conspicuous place on the immovable property (if any) to which it relates.
- (2) When any notice, order, demand or other document is authorised or required to be served on a person, it is not necessary to name him or her

but it will be sufficient if he or she is described as the owner, occupier or holder of a right.

## **26. Transitional provisions**

- (1) A person who, at the commencement of this by-law, owns a larger number of animals than the number contemplated in section 14(1) may not replace animals that die or are disposed of and must gradually reduce the number of animals that may be kept.

## **27. Appeal**

A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefor in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision.

## **28. Offences and Penalties**

A person who contravenes any provision or fails to comply with any provision of this by-law commits an offence and shall on conviction be liable to—

- (a) a fine or imprisonment, or either such fine or imprisonment or to both such fine and such imprisonment and,
- (b) in the case of a continuing offence, to an additional fine or an additional period of imprisonment or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued and,
- (c) a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as result of such contravention or failure.

## **29. Exemptions**

Notwithstanding the provisions of this by-law, the municipality may exempt any person and class of persons from any or all of these requirements and may impose any other requirements it deems appropriate.

## **30. Liaison forums in community**

- (1) The municipality may establish one or more liaison forums in a community for the purposes of—
  - (a) creating conditions for a local community to participate in the affairs of the municipality; and
  - (b) promoting a safe and healthy environment;
- (2) A liaison forum may consist of—
  - (a) a member of members of an interest group, or an affected person;
  - (b) a designated official or officials of the municipality; and
  - (c) a councillor.
- (3)
  - (a) the municipality may, when considering an application for an approval, or exemption certificate in terms of this by-law, request the input of a liaison forum.
  - (b) a liaison forum or any person or persons contemplated in subsection (2) may, on own initiative submit an input to the municipality for consideration.

## **31. Conflict with other legislation**

In the event of any conflict between any provision of this by-law and National and

Provincial legislation, standards, policies or guidelines, the National and Provincial legislation, standards, policies or guidelines shall prevail.

## **32. Repeal of by-laws**

The provisions of any by-laws previously promulgated by the municipality or by any of the disestablished municipalities now incorporated in the municipality, are hereby repealed as far as they relate to matters provided for in this by-law, and insofar as it has been made applicable to the municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Local Government: Municipal Structures Act, Act 117 of 1998.

## **33. Short title and commencement**

This by-law shall be known as the By-law relating to Public Nuisances and Public Nuisances arising from the Keeping of Animals and shall come into operation on the date of publication thereof in the Provincial Gazette.

**BERGRIVIER MUNICIPALITY  
PUBLIC AMENITIES BY-LAW**

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, the Bergrivier Municipality enacts as follows:—

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**1. Definitions**

In this by-law, unless the context otherwise indicates—

**“animal”** means any equine, bovine, sheep, goat, pig, fowl, camel, dog, cat, or other domestic animal or bird, or any wild animal or reptile which is in captivity or under the control of a person;

**“camp”** or **“camping”** means to occupy land by picnicking thereon or by standing thereon with a caravan or vehicle or erecting thereon a tent or temporary structure and using such caravan, vehicle, tent or temporary structure for the purpose of habitation or sleeping or as a shelter or protection against the weather;

**“camping area”** means land vesting in and set aside by the municipality as a public picnic, camping or caravan park site or a similar facility approved by the municipality on private land;

**“camping permit”** means a document printed and issued by the municipality for the purposes contemplated in this by-law or the municipality’s officials receipt issued against payment of the prescribed camping charges;

**“camping site”** means any part of a camping area, demarcated or assigned for the purpose of camping thereon;

**“caravan”** means any vehicle permanently fitted out for use by persons for living and sleeping purposes, whether or not such a vehicle is a trailer;

**“drunk”** means a person who, reason of the alcohol which he or she has consumed, has lost control of his or her mental or physical faculties, or both, to such an extent as to render him or her incapable of comporting him- or herself, or of performing any act in which he or she is engaged, with safety to him- or herself or with that regard to the rights of others which the law demands;

**“erect”** in relation to a notice board means construct, post, affix or place;

“**garden**” means any piece of land under the control of the municipality and maintained by it as a garden for the use of by the public;

“**mobile home**” means a factory assembled structure approved by the municipality with the necessary service connections made so as to be movable on site and designed to be used as a permanent dwelling;

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

“**Municipal Manager**” means a person appointed in terms of section 82 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

“**notice board**” includes a sign, poster or other device on which the municipality displays information;

“**official**” means any person appointed by the municipality to perform the functions of an authorised officer under this by-law;

“**person**” includes an association or organisation;

“**public amenity**” means—

- (a) any land, commonage, square, camping area, caravan park, beach, swimming pool, bathing area, sports grounds, public open space, public resort, recreation site, river, dam, nature reserve, zoo-logical, botanical or other garden, or hiking trail, including any portion thereof and any facility or apparatus therein or thereon, which is the property of, or is possessed, controlled or leased by the municipality and to which the general public has access, whether on payment of admission fees or not, but excluding a public road or street;
- (b) a building, structure, hall room or office, including any part thereof or any facility or apparatus therein, which is the property of, or is possessed, controlled or leased by the municipality and to which the general public has access, whether on payment of admission of fees or not; and
- (c) a public amenity contemplated in paragraphs (a) and (b) if it is lawfully controlled or managed in terms of an agreement between a person and the municipality;

“**public gathering or procession**” means a procession or gathering of more than 10 people;

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

- (a) is vested in the municipality;
- (b) the public has the right to use; or
- (c) is shown on a general plan of a township filed in a deeds registry or a Surveyor-General’s office and has been provided for or reserved for the use of the public or the owners of erven in such township;

“**vehicle**” means any device driven by mechanical, animal, natural or human power, and includes any craft or aircraft, but does not include a wheeled chair or a device drawn or propelled by hand and used solely for the conveyance of a child or invalid.

## 2. Principles and objectives

The municipality adopts this By-law with the aim of controlling access to and use of all public amenities owned by or under the control of the municipality.

### CHAPTER I

#### GENERAL PROVISIONS RELATING TO PUBLIC AMENITIES

### 3. Number of visitors

The municipality may determine—

- (a) the maximum number of persons or vehicles that may be in or at a public amenity at any time; and
- (b) different classes of vehicles that may be in or at a public amenity at any time and it may differentiate between public amenities.

### 4. Admission to public amenity

- (1) The municipality may determine the times, dates and conditions under which a public amenity is open to the public and having due regard to section 6(1)(a).
- (2) The municipality may determine the activities that may or may not be undertaken in a public amenity and these include, but are not limited to—
  - (a) the driving of a motor vehicle and different classes of motor vehicles in a public amenity;
  - (b) kite flying, wind surfing, kite surfing and water sport activities or the use of boats or other jet propelled craft on any dam, river or beach under the control of the municipality;
- (3) The municipality may grant to any person or persons, during such hours and for such period as he or she may deem fit, the exclusive use of a public amenity for games, a public meeting, fete, show or other function or entertainment.
- (4) The municipality may for reasons of maintenance, development, security, safety or public health, temporarily or permanently—
  - (a) close a public amenity or a portion thereof; or
  - (b) suspend all or any activities thereon.
- (5) Where a person in a public amenity has committed an offence in terms of this by-law, an official may order such person to leave the public amenity, and a person ordered to leave must leave the amenity by the shortest route available to the public;



- (6) Where an official on reasonable grounds suspects that a person wishing to enter a public amenity intends to commit an offence in or at the public amenity, he or she may refuse entry to such person.

#### **5. Entrance fees**

- (1) The municipality may levy different entrance fees and issue entrance tickets in respect of persons of different ages, groups of persons, or different classes of vehicles and grant concessions in respect of entrance fees payable.
- (2) Entrance fees are payable at the entrance to a public amenity, except where another fee is indicated on a notice board in terms of section 6(1).
- (3) An entrance ticket contemplated in subsection (1) is valid for the period contemplated in subsection (4).
- (4) An entrance fee is payable in respect of each day or portion thereof during which a person, group or vehicle is in a public amenity, provided that no fee is payable for the day on which such public amenity is left, if the amenity is left before 10:00 on such day and if the day is not the day of arrival.
- (5) No fee contemplated in subsection (1) is repayable where any portion of the period in respect of which such fee has been paid has not been or cannot be utilised, provided that the fee which has been paid in respect of each full day which has not been utilised may, with the approval of the municipality, be repaid upon application, and for the purposes of this subsection "full day" means a period of 24 hours commencing at 10:00 of any day.
- (6) An official may require any person in a public amenity to produce the entrance ticket issued in terms of subsection (1), and a person who fails to produce such ticket, or a person who enters a public amenity without having paid the entrance fee commits an offence.

#### **6. Notice boards**

- (1) The municipality may erect a notice board at the entrance to or in the immediate vicinity of a public amenity, on which any of the following are displayed:
- (a) The times, dates and conditions of entry and activities that may be undertaken;
  - (b) the fees payable; and
  - (c) a notice of closure referred to in section 4(4).
- (2) No person other than an official or other person authorised to do so in this by-law may move or alter the contents of, and no person may deface or otherwise tamper with a notice board erected by the municipality.
- (3) A notice posted by municipality in terms of subsection (1) may contain a graphic representation to convey meaning.
- (4) A person who contravenes any of the provisions of this section commits an offence.

#### **7. Consent required for certain activities**

- (1) No person may, without the prior written consent of the municipality at, in or upon a public amenity—
- (a) arrange, hold, present or attend—
    - (i) a public entertainment;
    - (ii) a meeting;
    - (iii) a public gathering or procession, exhibition or performance; or
    - (iv) an auction;
  - (b) collect money or any other goods;
  - (c) display or distribute a pamphlet, placards, painting, book, handbill or a printed, written or painted work;
  - (d) engage in any form of trade.
- (2) No person may at or in a public amenity undertake or perform any activity in contravention of a notice board erected in terms of section 6(1).
- (3) No person may without the prior written consent of the municipality erect or establish any fence, structure, dam, shelter or anything else and a person who has obtained such consent may only erect such fence, structure, dam, shelter or anything else at a designated area set aside for this purpose.
- (4) No person may, without the prior written consent of the municipality bring into, or have in his or her possession in a public amenity a firearm, and the municipality may grant consent in the following instances only:
- (a) for the firing of blank cartridges during organised competitions or sports meetings;
  - (b) in connection with the collection of specimens of marine life or birds or animals for scientific purposes;
  - (c) for the lawful culling of animals; or
  - (d) to signal distress in the instance where a proposed activity may require a distress signal to be given by means of a firearm.
- (5) A person who wishes to obtain the consent of the municipality as contemplated in subsection (1) must complete and submit the prescribed form, and the municipality may refuse or grant consent subject to any conditions it deems necessary and subject to the prescribed fee having been paid, and a person who wishes to sell food must also comply with any laws relating to the selling of food.
- (6) A person who has been granted consent in terms of subsection (5) must at all times keep the consent form in his or her possession, and must produce the form on request of an official.
- (7) A person who contravenes a provision of this section commits an offence.

## 8. Use of public amenities

The municipality may enter into an agreement with any person in terms of which a public amenity or any part thereof may be used for the purposes and subject to the conditions set out in the agreement.

## 9. Permit

- (1) Notwithstanding the provisions of section 4, 5(1), 5(3), and 6(1), the municipality may, on application and subject to any conditions it may impose, issue, free of charge or otherwise, a permit—
  - (a) to a group of people, such as, but not limited to, a group of bona fide students; or
  - (b) to a person who is undertaking scientific, educational or similar research.
- (2) The holder of a permit issued in terms of subsection (1) may, subject to any other conditions imposed in terms of the said subsection—
  - (a) if he or she is the holder of a valid hunting licence, hunt, catch, kill or remove, fauna under the supervision, control and in accordance with the instructions of an official;
  - (b) pick, collect or remove fauna;
  - (c) take or remove anything of historical or scientific importance;
  - (d) have in his or her possession diving equipment, a weapon, trap, poison or a gardening tool, living or dead fauna or flora;
  - (e) remove any flora or carcase which has been plucked or hunted only if the official has—
    - (i) inspected such flora or carcase;
    - (ii) considered it necessary or desirable, measured the dimensions or mass, or taken a sample of such flora or carcase; and
    - (iii) in writing authorised the permit holder to remove such flora or carcase; or
  - (f) excavate soil, sand or stone or remove organic or inorganic objects.
- (3) The holder of a permit must, on arrival at the public amenity, display such permit to the official in control, and a person who fails to do so, commits an offence.
- (4) The holder of a permit who undertakes an activity in contravention of a condition imposed commits an offence.

## 10. Prescribed fees

The municipality may determine fees payable in terms of this By-law.

## 11. Animals

- (1) No person may in contravention of any prohibitions displayed on a notice board bring any animal into the public amenity.
- (2) A person who is permitted to bring an animal upon a public amenity must have direct and physical control over the animal by means of a leash or other device, and may not bath, wash or allow such animal to enter or remain in any pond, fountain or ornamental water.
- (3) Any animal not under the control or apparently not under the control of a person, may, if found in or on a public amenity be impounded by the municipality and removed to a pound where it may be dealt with in terms of the by-law relating to the impoundment of animals.
- (4) A person who contravenes a provision of subsection (1) or (2) commits an offence.

## 12. Prohibited behaviour

- (1) No person—
  - (a) who is drunk or under the influence of any drug may enter or remain in a public amenity, and such person will not be admitted to a public amenity;
  - (b) may in or at a public amenity—
    - (i) break, damage, destroy, tamper with, remove, misuse, disfigure or use anything or fail to observe an instruction by the municipality;
    - (ii) throw or roll a rock, stone or object;
    - (iii) except if authorised to do so under section 9(2)(b), pull out, pick, cut or damage any flora growing in the amenity, or have such flora in his or her possession;
    - (iv) walk, stand, sit or lie on a flowerbed;
    - (v) walk, stand, sit or lie on grass in contradiction with a notice;
    - (vi) write, paint, draw graffiti or a symbol, emblem or the like on a structure or path;
    - (vii) excavate soil, sand or stone or remove organic or inorganic objects; except if authorised to do so in terms of section 9;
    - (viii) interfere with water flow, obstruct water, divert a stream or drain a wetland;
    - (ix) deface or disfigure anything provided by the municipality by pasting or affixing in any way any bills, papers, placards, notices or anything else;
    - (x) wash, polish or repair a vehicle, except emergency repairs;
    - (xi) burn refuse;

- (xii) litter or dump any refuse, garden refuse or building materials;
  - (xiii) wash crockery or laundry or hang out clothes, except at places indicated by notice for that purpose;
  - (xiv) use or try to use anything provided by the municipality in an amenity for a purpose other than that for which it is designed or determined by notice;
  - (xv) dispose of any burning or smouldering object or throw it out of a motor vehicle;
  - (xvi) behave or conduct himself or herself in an improper, indecent or unbecoming manner;
  - (xvii) defecate, urinate or undress, except in such building or on premises intended for that purpose;
  - (xviii) lie on a bench or seating place provided by the municipality or use it in such a manner that other users or potential users find it impossible to make use thereof;
  - (xix) play or sit on play-park equipment, except if the person concerned is a child under the age of 13 years;
  - (xx) swim, walk or play in a fish-pond, fountain, dam, river, artificial feature or pond in contravention with a notice prohibiting such action;
  - (xxi) having an open wound on his or her body, enter any swimming pool or other water facility provided by the municipality;
  - (xxii) perform any act that may detrimentally affect the health of another person;
  - (xxiii) enter or use a toilet facility indicated by notice for use by members of the opposite sex;
  - (xxiv) stay or sleep over night other than in terms of section 14;
  - (xxv) hunt, injure, disturb, feed, kill, hurt, follow, disturb, ill-treat or catch an animal, or displace, disturb, destroy or remove a bird, nest or egg, or skin or gut an animal, except if authorised to do so under section 9(2)(a);
  - (xxvi) discharge a firearm, airgun or pistol, except if consent has been granted in terms of section 7(4);
  - (xxvii) discharge a bow or use a slingshot or catapult;
  - (xxviii) in any way whatsoever prejudice the safety, convenience or rights of other persons;
  - (xxix) play or conduct a game in a manner that causes annoyance or endangers public safety; or
  - (xxx) expose his or her body or clothe indecently;
- (c) may enter—
- (i) or leave a public amenity other than by way of the official entry and exit point;
  - (ii) a public amenity without having paid the entrance fees as contemplated in section 5(1);
- (d) may release or introduce any wild animal, fish, bird or flora into a public amenity;
- (e) may, in inland waters—
- (i) swim, catch fish or otherwise or angle if not authorised to do so in terms of a notice board erected in terms of section 6(1);
  - (ii) catch fish with a net;
  - (iii) feed any fish without approval of the municipality;
  - (iv) wash himself or herself or clean anything;
- (2) A person who contravenes a provision of subsection (1) commits an offence.

### 13. Vehicles

- (1) No person may bring into a public amenity any truck, bus, motor vehicle, motor cycle, quad bike, bicycle or any other vehicle except in accordance with the directions of the municipality.
- (2) Where a person is permitted to drive a vehicle in a public amenity he or she may not—
  - (a) travel with the vehicle elsewhere than on a road constructed by the municipality;
  - (b) drive the vehicle at a speed in excess of the speed indicated on a notice board erected by the municipality.
- (3) The provisions of subsection (1) do not apply to an emergency vehicle while lawfully in use as such, or a vehicle used in an emergency, or a vehicle used by an official in the discharge of his or her duties while acting in an emergency.
- (4) A person who contravenes a provision of subsections (1) and (2) commits an offence.

### 14. Camping

- (1) No person may camp on any land belonging to or which is under the control of the municipality except on a camping site within the boundaries of a camping area.
- (2) No person may camp in a camping area whether continuous or otherwise for a period exceeding three months in any period of twelve months without the written consent of the municipality.
- (3) The municipality may grant or refuse such an application subject to such conditions and for such period as it may deem fit but not for any period in excess of a further three months.
- (4) The occupier of a camping site must be the person whose name appears on the camping permit and he or she may not sublet, cede, dispose of or in any manner alienate his or her rights there under.

- (5) Reservation of camping sites will only be considered upon receipt of a written application.
- (6) The municipality may determine conditions additional to those contained in this by-law for the use of camping sites that fall under the control of the municipality.
- (7) The municipality may determine conditions for the establishment of private camping facilities.
- (8) A person who contravenes a provision of subsections (1), (2) and (4) or any condition imposed by the municipality in terms of subsections (6) and (7) commits an offence.

#### **15. Caravan parks**

- (1) Notwithstanding the provisions of section 14(2) the municipality may allocate ten percent (10%), or such greater percentage of the sites in a caravan park to be permanently occupied by caravans or mobile homes.
- (2) The municipality may determine conditions for the establishment of private caravan parks.
- (3) The municipality may determine conditions additional to those contained in this by-law for the use of caravan parks that fall under the control of the municipality.
- (4) Any person who contravenes or fails to comply with any condition imposed in terms of sub sections (2) and (3) commits an offence.

### **CHAPTER II GENERAL PROVISIONS**

#### **16. Powers of official and offences**

The official appointed by the municipality to monitor and enforce this by-law may investigate any act or omission which on reasonable suspicion may constitute an offence, and a person commits an offence if he or she—

- (a) threatens, resists, hinders or obstructs, or uses foul, abusive or insulting language towards or at an official in the exercise of his or her powers or execution of his or her duties; or
- (b) falsely holds himself or herself out to be an official;
- (c) furnishes false or misleading information when complying with a request of an official; or
- (d) fails to comply with a request of an official.

#### **17. Appeal**

A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefor in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision.

#### **18. Offences and Penalties**

A person who contravenes any provision or fails to comply with any provision of this by-law commits an offence and shall on conviction be liable to—

- (a) a fine or imprisonment, or either such fine or imprisonment or to both such fine and such imprisonment and,
- (b) in the case of a continuing offence, to an additional fine or an additional period of imprisonment or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued and,
- (c) a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as result of such contravention or failure.

#### **19. Limitation of liability**

The municipality is not liable for any damage or loss caused by—

- (a) the exercise of any power or the performance of any duty in good faith under this by-law; or
- (b) the failure to exercise any power, or perform any function or duty in good faith under this by-law.

#### **20. Authentication and service of notices and other documents**

- (1) A notice issued by the municipality in terms of this By-law is deemed to be duly issued if it is signed by an officer authorised by the municipality.
- (2) Any notice or other document that is served on a person is regarded as duly served—
  - (a) when it has been delivered to that person personally;
  - (b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of 16 years;
  - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic, and an acknowledgment of the posting thereof from the postal service is obtained;
  - (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 by paragraphs (a), (b) or (c);

- (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 land or business premises to which it relates;
  - (f) in the event of a body corporate, when it has been delivered at the registered office of the business premises of such body corporate; or
  - (g) when it has been delivered, at the request of that person, to his or her e-mail address.
- (3) Service of a copy is deemed to be service of the original.
- (4) When any notice or other document is served on the owner, occupier, or holder of any property, or right in any property, it is sufficient if that person is described in the notice or other document as the owner, occupier, or holder of the property or right in question, and it is not necessary to name that person.

## **21. Presumption**

In any prosecution under this by-law it shall be presumed, unless the contrary is proved, that an animal found in a public amenity was brought into the amenity by the owner thereof or a person under the control of the owner, or that the owner or the person allowed the animal to enter the amenity.

## **22. Entering into agreements**

The municipality may enter into a written agreement with any person, organ of State, local community or organisation to provide for—

- (a) the co-operative development of any public amenity; or
- (b) the co-operative management of any public amenity; and
- (c) the regulation of human activities within a public amenity.

## **23. Liaison forums in community**

- (1) The municipality may establish one or more liaison forums in a community for the purposes of—
- (a) creating conditions for a local community to participate in the affairs of the municipality;
  - (b) encouraging a local community to participate in the affairs of the municipality; and
  - (c) promoting the effective and safe use of public amenities.
- (2) A liaison forum may consist of—
- (a) a member or members of an interest group, or an affected person;
  - (b) a member or members of a community in whose immediate area a public amenity exists;
  - (c) a designated official or officials of the municipality; and
  - (d) the councillor responsible for public amenities.
- (3) (a) The municipality may, when considering an application or registration in terms of this By-law request the input of a liaison forum.
- (b) A liaison forum or any person or persons contemplated in subsection (2) may, on own initiative submit an input to the municipality for consideration.

## **24. Conflict with other legislation**

In the event of any conflict between any provision of this by-law and National and Provincial legislation, standards, policies or guidelines, the National and Provincial legislation, standards, policies or guidelines shall prevail.

## **25. Repeal of by-laws**

The provisions of any by-laws previously promulgated by the municipality or by any of the disestablished municipalities now incorporated in the municipality, are hereby repealed as far as they relate to matters provided for in this by-law, and insofar as it has been made applicable to the municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Local Government: Municipal Structures Act, Act 117 of 1998.

## **26. Short title and commencement**

This By-law shall be known as the Public Amenities By-law, and commences on the date of publication thereof in the Provincial Gazette.

**BERGRIVIER MUNICIPALITY**  
**BY-LAW RELATING TO PUBLIC BUSES AND TAXIS**

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, the Bergrivier Municipality, enacts as follows:—

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8. Offences and Penalties
9. Liaison forums in community
10. Exemptions
11. Conflict with other legislation
12. Repeal
13. Short title and commencement

**1. Definitions**

In this by-law, unless the context otherwise indicates—

“**bus stop**” means any place designated or area demarcated by a road traffic sign as a bus stop or for the exclusive stopping of buses;

“**Chief Traffic Officer**” means the person appointed as such by the Council, or any other person legally acting in that capacity, and any officer appointed a traffic officer and authorized by the Chief Traffic Officer to implement the provisions of this by-law;

“**driver**” in relation to a taxi, means any person who is in control of or who operates a taxi and who is in the employment of the proprietor of such taxi;

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

“**ply for hire**” means to use a motor vehicle for conveying passengers for hire or reward or to make a motor vehicle available at any place for the purpose of conveying passengers;

“**proprietor**” in relation to any taxi, means the owner of a taxi which is registered as such in an area and who conducts business by conveying passengers for reward;

“**taxi rank**” means a place designated by a road traffic sign or an area approved by the Council and demarcated as a taxi rank; and

“**taxi**” means a public motor vehicle (other than a public bus) used for the conveyance of passengers, or of passengers and such passengers’ goods, for reward.

**2. Purpose of by-law**

- (1) The purpose of this by-law is to promote the safety of passengers making use of public transport and to provide procedures, methods and practices for the management thereof.
- (2) Subject to any law and the provisions of section 10, it is the intention of the municipality to make public transport facilities available to all forms of public transport.

**3. Stopping of public buses**

No person, other than a traffic officer or any other authorized officer, shall, except in the case of an emergency, stop a public bus for the purpose of permitting passengers to board or alight from such bus at any place other than a bus stop.

**4. Boarding and alighting from public buses**

No person, other than a traffic officer or any other authorized officer, shall, except in the case of an emergency, board or alight from a public bus at any place other than a bus stop unless directed to do so by the driver or conductor thereof.

**5. Use of taxi ranks**

- (1) The driver of a taxi shall, when plying for hire at a taxi rank, place his taxi in the first vacant place available on such taxi rank.
- (2) No person shall park or stop a taxi which is not in good working order in a taxi rank or cause or permit such taxi to remain in a taxi rank.

## 6. General provisions relating to taxis and taxi drivers

- (1) No person shall ply for hire with a taxi which is not in a good state of repair, clean and of a neat and presentable appearance.
- (2) No driver of a taxi shall—
  - (a) stand or wait with his taxi in a public street or public place when not hired or plying for hire except in the taxi rank; and
  - (b) prevent or attempt to prevent the driver of any other taxi from lawfully obtaining or conveying passengers; and
  - (c) ply for hire with a taxi in an area which is exclusively reserved for buses.

## 7. Presumption

If in any prosecution under this by-law it is proved that a person has conveyed passengers in a motor vehicle on a public road, it shall be presumed, until the contrary is proved, that he so conveyed such passengers for reward.

## 8. Offences and Penalties

A person who contravenes any provision or fails to comply with any provision of this by-law commits an offence and shall on conviction be liable to—

- (a) a fine or imprisonment, or either such fine or imprisonment or to both such fine and such imprisonment and,
- (b) in the case of a continuing offence, to an additional fine or an additional period of imprisonment or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued and,
- (c) a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as result of such contravention or failure.

## 9. Liaison forums in community

- (1) The municipality may establish liaison forums in a community for the purposes of encouraging a local community to participate in the implementation, development and enforcement of this by-law; and
- (2) The forums contemplated in sub-section (1) may consist of—
  - (a) a member or members of an interest group or an affected person or community;
  - (b) a designated official or officials of the municipality; and
  - (c) a councillor from the relevant council committee.
- (3) The municipality may, in the implementation and enforcement of this by-law—
  - (a) request the input of a forum;
  - (b) employ any skills or capacity that may exist in such a forum.
- (4) A forum, or a person or persons contemplated in subsection (2), may, on own initiative, submit an input to the municipality for consideration.

## 10. Exemptions

Notwithstanding the provisions of this by-law, the municipality may, on written application, exempt any person or class of persons from any or all of the requirements of this by-law and in considering such exemption it may impose any conditions or requirements it deems appropriate.

## 11. Conflict with other legislation

In the event of any conflict between any provision of this by-law and National and Provincial legislation, standards, policies or guidelines, the National and Provincial legislation, standards, policies or guidelines shall prevail.

## 12. Repeal

The provisions of any by-laws previously promulgated by the municipality or by any of the disestablished municipalities now incorporated in the municipality, are hereby repealed as far as they relate to matters provided for in this by-law.

## 13. Short title and commencement

This by-law shall be known as the By-law relating to Public Buses and Taxi's and shall come into operation on the date of publication thereof in the Provincial Gazette.



**BERGRIVIER MUNICIPALITY**  
**BY-LAW RELATING TO ROADS AND STREETS**

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, the Bergrivier Municipality, enacts as follows:—

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**CHAPTER 1  
DEFINITIONS, PURPOSE AND OBJECTIVES**

**1. Definitions**

In this by-law, words used in the masculine gender include the feminine, the singular includes the plural and vice versa, the English text shall prevail in the event of an inconsistency between the different texts, and unless the context otherwise indicates:—

**“animals”** mean any horses, mules, donkeys, cattle, pigs, sheep, goats, ostriches, indigenous mammals and other wild animals;

**“drunk”** means a person who, reason of the alcohol which he or she has consumed, has lost control of his or her mental or physical faculties, or both, to such an extent as to render him or her incapable of comporting him- or herself, or of performing any act in which he or she is engaged, with safety to him- or herself or with that regard to the rights of others which the law demands;

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

**“municipal area”** means the area of jurisdiction of Bergrivier Municipality as determined in terms of the Municipal Demarcation Act, 1998;

**“municipal manager”** means a person appointed in terms of section 82 of the Municipal Structures Act, 1998;

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

- (a) a trailer, and
- (b) a vehicle having pedals and an engine or an electric motor as an integral part thereof or attached thereto and which is designed or adapted to be propelled by means of such pedals, engine or motor, or both such pedals and engine or motor, but does not include—
  - (i) any vehicle propelled by electrical power derived from storage batteries and which is controlled by a pedestrian; or
  - (ii) any vehicle with a mass not exceeding 230 kilograms and specially designed and constructed, and not merely adapted, for the use of any person suffering from some physical defect or disability and used solely by such person;

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

- (a) is vested in the municipality;
- (b) the public has the right to use; or
- (c) is shown on a general plan of a township filed in a deeds registry or a Surveyor-General’s office and has been provided for or reserved for the use of the public or the owners of erven in such township;

“**sidewalk**” means that portion of a street between the outer boundary of the roadway of a road and the boundary lines of adjacent properties or buildings which is intended for the use of pedestrians;

“**street**” means any street, road, cycle path, thoroughfare or any other place, including—

- (a) the verge of any such road, street or thoroughfare
  - (b) any footpath, sidewalk or similar pedestrian portion of a road reserve;
  - (c) any bridge, ferry or drift traversed by any such road, street or thoroughfare;
  - (d) any other object belonging to such road, street or thoroughfare, which has at any time been—
    - (i) dedicated to the public;
    - (ii) used without interruption by the public for a period of at least thirty years;
    - (iii) declared or rendered such by the municipality or other competent authority, or
    - (iv) constructed by a local authority, and
    - (v) any land, with or without buildings or structures thereon, which is shown as a street on—
      - (aa) any plan of subdivision or diagram approved by the municipality or other competent authority and acted upon, or
      - (bb) any general plan as defined in the Land Survey Act, 1927, registered or filed in a deeds registry or Surveyor General’s office;
- unless such land is on such plan or diagram described as a private street;

“**vehicle**” means a device designed or adapted mainly to travel on wheels, tyres or crawler tracks and includes such a device which is connected with a draw-bar to a breakdown vehicle and is used as part of the towing equipment of a breakdown vehicle to support any axle or all the axles of a motor vehicle which is being salvaged other than such a device which moves solely on rails;

“**work**” means work of any nature whatsoever undertaken on any land under the jurisdiction of Bergrivier Municipality and, without in any way limiting the ordinary meaning of the word, includes the erection of new building or alterations or additions to any existing building, tents or structures for recreational-, church- or any other type of gathering, excavations, the building of bridges and crossings over sidewalks, the laying of cables and pipes, the dumping of building or other material anywhere in a street or delivery to or removal from any site of any soil or material of any nature whatsoever.

## 2. Purpose and objectives

The Bergrivier Municipality, acting under the Constitution and relevant legislation, and being aware of its duty to control the use of roads, streets and sidewalks and to manage any work undertaken in such roads, streets and sidewalks so as to provide a safe environment for all people within the municipal area, adopts this by-law to provide mechanisms and guidelines for such control and management.

## CHAPTER 2

### GENERAL PROVISIONS RELATING TO ROADS AND STREETS

## 3. Streets and sidewalks

No person may—

- (a) make, construct, reconstruct, or alter a street or sidewalk—
  - (i) except with the written permission of the municipality, or
  - (ii) otherwise than in accordance with the requirements prescribed by the municipality,
- (b) construct a veranda, stoep, steps or other projection or erect a post in a street or public place except with the written permission of the municipality, or
- (c) without the permission of the municipality undertake any beautification or improvement, including the planting of lawn, ornamental plants or trees in a manner that interferes with the use thereof by pedestrians or create an obstruction of whatever kind which may have a negative impact on road safety.

## 4. Advertisements visible from streets

- (1) No person may display any advertisement, placard, poster or bill in a street or public place:
  - (a) except with the written permission of the municipality, and
  - (b) subject to such conditions as may be determined by the municipality.
- (2) This section shall not be applicable to signs which have been exempted under the provisions of the municipality’s applicable by-law relating to Advertising Signs.

## 5. Animals or objects causing an obstruction

No person may—

- (a) deposit or leave any goods or articles in a street, or in an area designated therefor, other than for a reasonable period during the course of the loading, off-loading or removal thereof, or
- (b) in any way obstruct the pedestrian traffic on a sidewalk by bringing or allowing to be brought thereon any animal, object or vehicle (other than a pram or wheelchair which is being used for the conveyance of children or the disabled), or

- (c) cause or allow any blind, awning, cord or other object to project or to be stretched over or onto a street—
  - (i) except with the written permission of the municipality, and
  - (ii) subject to such conditions as may be determined by the municipality.

## **6. Trees in streets**

- (1) The management and protection of trees in roads, streets or public places will be undertaken in terms of the municipality's tree policy and any person who wishes to plant, remove, prune or cut down any tree or shrub in a road, street or public place must obtain the permission of the municipality to do so.
- (2) A person who contravenes the provisions of section (1) commits an offence.

## **7. Trees or growth causing an interference or obstruction**

- (1) Whenever there is upon any property any tree or other growth which interferes with overhead wires or is a source of annoyance, damage, danger or inconvenience to persons using a street, the municipality may by notice in writing order the owner or occupier of such property to prune or remove such tree or growth to the extent and within the period specified in such notice.
- (2) Any person failing to comply with a notice issued in terms of subsection (1) commits an offence.
- (3) If any person fails to comply with a notice in terms of this section, the municipality may itself prune or remove the tree or growth at the expense of the person on whom the notice was served.

## **8. Refuse, motor vehicle wrecks, waste material, etc.**

No person may—

- (a) dump, leave or accumulate any garden refuse, motor vehicle wrecks, spare parts of vehicles, building or waste materials, rubbish or any other waste products in any street or public place, or
- (b) permit any such objects or substances to be dumped or placed in a street or public place from premises owned or occupied by him, except with the written permission of the municipality and subject to such conditions as may be determined by the municipality.

## **9. Parking of heavy vehicles and caravans**

- (1) No person may, for an uninterrupted period exceeding two hours, except on places reserved for parking of such vehicles, park on a street or public place—
  - (a) a motor vehicle with a tare exceeding 3500 kg;
  - (b) a trailer;
  - (c) a semi-trailer, or
  - (d) a caravan,
- (2) Whenever a vehicle is parked in contravention of subsection (1), it is deemed that such vehicle has been parked by the owner thereof unless the contrary is proved.

## **10. Parking attendants**

- (1) No person may, in exchange for money or some other thing of value or in anticipation thereof:
  - (a) direct the driver or occupant of a motor vehicle to a public parking space; or
  - (b) provide any other parking or related services in a street or public place.
- (2) Notwithstanding subsection (1), the municipality may, subject to such requirements and conditions as determined by it on application by a person or organisation, permit such person or organisation to direct the operator or occupant of a vehicle to a public parking space or to provide any other parking or related service

## **11. Encroachments**

- (1) Subject to section 3 and to such further conditions as it deems necessary, the municipality may by agreement permit encroachment on municipal property or the erection or maintenance of a veranda, balcony, sign, projecting sign or similar structure which projects in or over any street or public place;
- (2) When any immovable property owned by a municipality or under the control or management of the municipality is encroached upon without permission, the municipality may take the steps necessary to remove or regularise such encroachment.
- (3) The municipality may reduce the extent of a public place or street which is encroached upon by the extent of the encroachment or by such greater extent as may be desirable.
- (4) A permit issued under subsection (1) is, for the purposes of subsection (2), deemed to be a regularisation of the encroachment referred to in such permit.
- (5) A person who wishes to obtain the permission of the municipality as contemplated in subsection (1) must complete and submit to the municipality the prescribed form, and the municipality may issue a permit subject to the prescribed fee having been paid.
- (6) A person who contravenes a provision of subsection (5) commits an offence, and a person who fails to comply with any condition imposed under subsection (1) commits an offence and the municipality may, in addition to any other penalty which may be imposed—

- (a) demolish, remove or fill in the projection or projecting structure concerned; or
- (b) cause such projection or projecting structure to be demolished, removed or filled in, at the cost of the owner thereof or the person responsible for such encroachment..

### CHAPTER 3

#### PROHIBITION OF CERTAIN ACTIVITIES IN ROADS AND STREETS

##### 12. Vehicle repairs in streets

No person may, in a street or public place—

- (a) effect any repairs or service to a vehicle, except where necessary for the purpose of removing such vehicle from the place where it was involved in an accident, or
- (b) clean or wash a vehicle.

##### 13. Games and other acts in streets

No person may—

- (a) roll a hoop, fly a kite, shoot with a bow and arrow or catapult, discharge fireworks or throw a stone, stick or other projectile in, onto or across a street or public place, or
- (b) do anything in a street or public place which may endanger the life or safety of any person, animal or thing or may be a nuisance, obstruction or annoyance to the public unless such street is provided with clear signs and identifiable paving and furniture which distinguishes it as “residential erf” or “street park”.

##### 14. Use of explosives

No person may in or upon a street or public place use explosives or undertake blasting operations—

- (a) except with the written permission of the municipality, and
- (b) subject to such conditions as may be determined by the municipality.

##### 15. Conveyance of animal carcasses or other waste products through streets

No person may carry or convey through a street or public place the carcass of an animal or any garbage, night soil, refuse, litter, rubbish, manure, gravel or sand—

- (a) unless it is properly covered, and
- (b) unless it is conveyed in such type of container as will not allow any offensive liquids or parts of the load to be spilt in the street.

##### 16. Fences on street boundaries

Subject to the provisions of the municipality’s by-law relating to Fencing and Walls no person may erect a barbed-wire-, razor wire-, electrified fence or other dangerous fence on the boundary of a street or public place except with the written permission of the municipality.

##### 17. Building materials in streets

No person may bore or cut stone or bricks, slake or sift lime, or mix building materials, or store or place building materials or any other materials in a street except with the written permission of the municipality, and subject to the requirements prescribed by the municipality.

##### 18. Balconies and verandas

No person may, except with the written permission of the municipality—

- (a) use a balcony or veranda erected beyond the boundary line of a street or public place for purposes of trading or the storage of goods, or for the washing or drying of clothes thereon, or
- (b) enclose or partition a balcony or veranda erected beyond the boundary line of a street or public place or portion thereof as a living or bedroom.

##### 19. Drying of washing on fences on boundaries of streets

No person may dry or spread washing on a fence on the boundary of a street or public place.

##### 20. Damaging of notice-boards

No person may deface, damage or in any way interfere with any notice-board, road traffic sign, street-name board or other similar sign or any hoarding which has been erected in a street or public place.

**21. Street collections and distribution of handbills**

- (1) No person may—
- (a) collect or attempt to collect money in a street or public place or organise or in any way assist in the organisation of such collection, except with the written permission of the municipality and subject to such conditions as may be determined by the municipality; or
  - (b) distribute a handbill or similar advertising material or cause it to be distributed in any street or public place or cause it to be placed on or in any vehicle without prior permission of the municipality.
- (2) An application fee as determined by the municipality from time to time may be levied in respect of any application in terms of subsection (1)(c).

**22. Poison in streets**

No person other than an official of the municipality or an authorised person who administers legally approved weed-killers or poisons, may use, set or cast poison in any street or public place.

**23. Roller-skating and skating on skateboards**

No person may, except with the prior written permission of the municipality, skate on roller-skates or a skateboard or a similar device in or on a street or public place or in or upon an area where skating is prohibited by an applicable road traffic sign.

**24. Persons to be decently clad**

No person may appear in any street without wearing any clothes or not being clothed in such a manner as decency demands; provided that this provision does not apply to a child under the age of seven years.

**25. Amusement shows and devices**

- (1) No person may set up or use in any street or public place any circus, whirligig, roundabout or other side-show or device or tent for the amusement or recreation of the public—
- (a) except with the written permission of the municipality and subject to such conditions as may be determined by the municipality;
  - (b) unless suitable sanitary conveniences for both sexes of the staff have been provided; and
  - (c) if it is in any way dangerous or unsafe for public use.
- (2) An authorised official of the municipality shall, for the purposes of inspection at all reasonable times have free access to such circus, whirligig, roundabout or other side-show or device.

**26. Animals in a street**

No owner or person—

- (a) in charge of any wild or ferocious animal, monkey or horned cattle may allow such animals at any time to be insufficiently attended or at large in any street or may keep any such animal in such a manner as to be a danger or annoyance to the public; or
- (b) may allow, permit or cause any animal to graze or stray in or about any street or public place.

**27. Restriction of access to streets**

No person may, without the approval of the municipality, close or barricade any street or restrict access thereto.

**CHAPTER 4****WORK IN STREETS, PUBLIC ROADS AND SIDEWALKS AND WATER DISCHARGED ONTO ROADS AND STREETS****28. Use of vehicles that may damage street surface**

- (1) No person may—
- (a) use a vehicle or allow it to be used in any street or public place if such vehicle is in such a defective condition that it will or may cause damage to any street or public place;
  - (b) drive, push, roll, pull or propel any object, machine or other material through or along a street or public place in such a way, or while such object, machine or material is in such a condition, as may damage, break or destroy the surface of the street or public place in any way;
- (2) If the municipality identifies a person who, as a result of the actions referred to in subsection (1), has damaged, broken or destroyed the surface of a street, the cost of repairs, as determined by the municipality, may be recovered from the offender.

**29. Obstruction on public roads and restriction of access to streets**

- (1) No person may deposit or cause to be deposited or leave or cause to be left sand, stone, earth, bricks, timber, lime, cement or other building or excavated material of whatever nature on a portion of a public road, sidewalk or footpath, unless it is deposited within an enclosure in respect of which the written consent of the municipality has first been obtained.
- (2) No person may without the permission of the municipality close or barricade any street or restrict access thereto.

**30. Work in public roads or streets**

- (1) No person may undertake work in any public road or on property belonging to the municipality without prior permission being obtained in terms of the operational manual as contemplated in section 31.
- (2) A person who contravenes subsection (1) commits an offence.

**31. Norms, standards and guidelines**

- (1) The municipality may determine and publish norms, standards and guidelines which describe appropriate measures for work in public roads, streets or other property belonging to the municipality, and such norms standards and guidelines must be kept in the form of an operational manual.
- (2) The norms, standards and guidelines contemplated in subsection (1) may differentiate between communities, geographical areas and different kinds of premises.

**32. Discharge of water on public road**

- (1) No person may, without prior written permission of the municipality—
  - (a) lead or discharge water, except storm water on, over or across a public road; or
  - (b) by any means whatever, raise the level of water in a river, dam or watercourse so as to cause interference with or endanger a public road.
- (2) A person who wishes to perform an action as contemplated in subsection (1), must submit to the municipality an application which contains full technical details of the proposed action, and the municipality may refuse or grant permission and—
  - (a) should the municipality refuse permission, it must supply the person with the written reasons for the refusal.
  - (b) should the municipality grant the permission, it may do so subject to such conditions, requirements or specifications which it may determine in each individual case.
- (3) The municipality may, subject to any law which may be applicable and after obtaining permission of the owner and the occupier of the land concerned, if any —
  - (a) deviate a watercourse, stream or river if the deviation is necessary for—
    - (i) the protection of a public road or structure related to a public road; or
    - (ii) the construction of a structure connected with or belonging to a public road; and
  - (b) divert storm water from or under a public road onto private property other than land containing buildings, other structures or improvements.
- (4) The municipality must compensate the owner or occupier of the land for damage caused as a result of acting under subsection (3), with an amount agreed upon between the municipality and the owner or occupier.
- (5) Application for permission must be made on a form provided for this purpose by the municipality.
- (6) A person who contravenes subsection (1) or a condition, requirement or specification imposed or determined by the municipality in terms of subsection (2)(b) commits an offence.

**33. Overflow of water streets**

- (1) No person may cause or allow any water other than rainwater to flow into a street.
- (2) A person who contravenes subsection (1) commits an offence.

**CHAPTER 5****BEHAVIOUR IN STREETS****34. Prohibited conduct**

No person may in a street—

- (a) cause a nuisance to other persons by loitering, standing, sitting or lying or begging;
- (b) sleep, overnight or erect any shelter, except at a place designated by the municipality;
- (c) wash or dry clothes, blankets or any other domestic articles;
- (d) use abusive, insulting, obscene, threatening or blasphemous language;
- (e) fight or act in a riotous manner;
- (f) discharge a firearm, airgun or air-pistol;
- (g) annoy or inconvenience any other person by yelling, shouting or making any noise in any manner whatsoever;
- (h) defecate, urinate or wash himself;
- (i) solicit or importune any person for the purpose of prostitution or immorality;
- (j) engage in gambling;



- (k) be drunk or under the influence of drugs or use intoxicating liquor or drugs; or
- (l) spit.

**CHAPTER 6**  
**DISPLAY OF STREET NUMBERS**

**35. Street numbers**

- (1) The municipality may prescribe by notice in writing to the owner of any premises that a number allocated to such premises in terms of section 39(c) must be displayed and the owner of such premises must, within 30 days of the date of such notice, display the allocated number on the premises.
- (2) A number displayed as contemplated by subsection (1) must—
  - (a) be displayed in a conspicuous position on the premises and must at all times be visible and legible from the adjacent street; and
  - (b) be replaced by the owner of the premises as often as it gets obliterated, defaced or illegible.

**CHAPTER 7**  
**GENERAL POWERS OF THE MUNICIPALITY**

**36. Municipality may act and recover costs**

- (1) Notwithstanding any other provisions of this by-law, the municipality may—
  - (a) where the permission of the municipality is required before a person may perform a certain action or build or erect anything, and such permission has not been obtained; and
  - (b) where any provision of this by-law is contravened under circumstances in which the contravention may be terminated by the removal of any structure, object, material or substance, serve a written notice on the owner of the premises or the offender, as the case may be, to terminate such contravention, or to remove the structure, object, material or substance, or to take such other steps as the municipality may require to rectify such contravention within the period stated in such notice.
- (2) Any person who fails to comply with a notice in terms of subsection (1) shall be guilty of an offence, and the municipality may, without prejudice to its powers to take action against the offender, take the necessary steps to implement such notice at the expense of the owner of the premises or the offender, as the case may be.

**37. Closure of streets or roads**

- (1) The municipality may permanently close or divert any street or part thereof or restrict access to any street. .
- (2) When the municipality decides to act in terms of subsection (1), it must give notice of such intention in terms of its communication policy; in the absence of such policy the municipality must give notice of its intention in a local newspaper in at least two official languages.
- (3) Any objection against the intended action must be delivered in writing to the municipal manager within 30 days from the date of notification in terms of subsection (2) for submission to the municipality.

**38. Temporary closure of streets or roads**

- (1) The municipality may, without complying with the provisions of section 37—temporarily close a street—
  - (a) for the purpose of or pending the construction, reconstruction, maintenance or repair of such street. ;
  - (b) for the purpose of or pending the construction, erection, laying, extension, maintenance, repair or demolition of any building, structure, works or service alongside, on, across, through, over or under such street— ;
    - (i) if such street is, in the opinion of the municipality, dangerous to traffic;
    - (ii) by reason of any emergency or public event which, in the opinion of the municipality, requires special measures for the control of traffic or special provision for the accommodation of crowds, or
    - (iii) for any other reason which, in the opinion of the municipality, renders the temporary closing of such street necessary, and
  - (c) temporarily divert a street which has been closed in terms of subsection (1)(a).
- (2) The municipal manager may in his discretion, for general information, place a notice of temporary closure in a local newspaper.

**39. Construction, maintenance and naming of streets**

The municipality may in its area—

- (a) make, construct, reconstruct, alter and maintain streets;
- (b) name and re-name streets; and
- (c) allocate and re-allocate numbers to properties abutting on streets.

**40. Declaration of streets**

- (1) The municipality may—
  - (a) declare any land or portion of land under its control to be a street ;

- (b) declare any private street or portion thereof to be a public street.
- (2) When the municipality decides to act in terms of subsection (1), it must give notice of such intention in terms of its communication policy; in the absence of such policy, the municipality must give notice of its intention in a local newspaper in at least two official languages.
- (3) Any objection against the intended action must be delivered in writing to the municipal manager within 30 days from the date of notification in terms of subsection (2).

## CHAPTER 8 PROCESSIONS

### 41. Processions

- (1) Subject to the provisions of subsection (6), no person may hold, organise, initiate, control or actively participate in a procession or gathering in a street or dance or sing or play a musical instrument, or do anything which is likely to cause a gathering of persons or the disruption or obstruction of traffic in such street or use any loudspeaker or other device for the reproduction or amplification of sound without the written permission of the municipality in terms of subsections (2) and (3).
- (2) Any person who intends to perform or carry out any one or more of the actions described in subsection (1) must submit a written application for permission, which must reach the municipality at least seven days before the date upon which any such action is intended to be performed or carried out, provided that persons who intend to participate actively in a procession, or gathering need not apply to the municipality for permission and it is not illegal for such persons to participate actively in such procession or gathering if the organiser, promoter or controller has obtained the permission of the municipality. An application made in terms hereof must contain the following:
  - (a) Full details of the name, address and occupation of the applicant;
  - (b) full details of the street or public place where or route along which any one or more of the actions prescribed in subsection (1) is or are intended to be performed or carried out, proposed starting and finishing times and, in the case of processions and gatherings, the number of persons expected to attend; and
  - (c) general details of the purpose of any one or more of the aforesaid actions intended to be performed or carried out.
- (3) Any application submitted in accordance with subsection (2) shall be considered by the municipality, and if any one or more of the actions to be performed or carried out as proposed in such application is or are not likely to be in conflict with the interests of public peace, good order or safety, the municipality may issue a certificate granting permission and imposing conditions.
- (4) The municipality may refuse to approve applications in terms of subsection (2) if an action will be in conflict with the interests of public peace, good order or safety.
- (5) The municipality may withdraw any permission granted in terms of subsection (3), if, as a result of further information, the action will be in conflict with the interests of public peace, good order or safety.
- (6) The provisions of this section do not apply to—
  - (a) wedding or funeral processions; and
  - (b) to a gathering or demonstration as contemplated by the Regulation of Gatherings Act, 1993 (Act 205 of 1993).

## CHAPTER 9 GENERAL MATTERS

### 42. Appeal

A person whose rights are affected by a decision delegated by the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefor in terms of section 62 of the Local Government: Municipal Systems Act (Act 32 of 2000) to the municipal manager within 21 days of the date of the notification of the decision.

### 43. Exemption

- (1) Any person may by means of a written application, in which the reasons are given in full, apply to the municipality for exemption from any provision of this by-law.
- (2) The municipality may—
  - (a) grant an exemption in writing and the conditions in terms of which, if any, and the period for which such exemption is granted must be stipulated therein;
  - (b) alter or cancel any exemption or condition in an exemption; or
  - (c) refuse to grant an exemption.
- (3) In order to consider an application in terms of subsection (1), the municipality may obtain the input or comments of the owners or occupants of surrounding premises.
- (4) An exemption does not take effect before the applicant has undertaken in writing to comply with all conditions imposed by the municipality under subsection (2), however, if an activity is commenced before such undertaking has been submitted to the municipality, the exemption lapses.
- (5) If any condition of an exemption is not complied with, the exemption lapses immediately.

### 44. Offences and penalties

A person who contravenes any provision or fails to comply with any provision of this by-law commits an offence and shall on conviction be liable to—

- (a) a fine or imprisonment, or either such fine or imprisonment or to both such fine and such imprisonment and,
- (b) in the case of a continuing offence, to an additional fine or an additional period of imprisonment or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued and,
- (c) a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as result of such contravention or failure.

#### **45. Conflict with other legislation**

In the event of any conflict between any provision of this by-law and National and

Provincial legislation, standards, policies or guidelines, the National and Provincial legislation, standards, policies or guidelines shall prevail.

#### **46. Repeal of by-laws**

The provisions of any by-laws previously promulgated by the municipality or by any of the disestablished municipalities now incorporated in the municipality, are hereby repealed as far as they relate to matters provided for in this by-law, and insofar as it has been made applicable to the municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Local Government: Municipal Structures Act, Act 117 of 1998.

#### **47. Short title and commencement**

This by-law shall be known as the By-law relating to Roads and Streets and shall come into operation on the date of publication thereof in the Provincial Gazette.

9 November 2009

20657

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### **BERGRIVIER MUNICIPALITY SOLID WASTE DISPOSAL BY-LAW**

Under of section 156 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), the Bergrivier Municipality, enacts as follows:—

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## 1. Definitions

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

“**attendant**”, means an employee of the municipality or agent of the municipality duly authorised to be in charge of the disposal site;

“**disposal site**” means a site used for the accumulation of waste with the purpose of disposing or treatment of such waste and includes a waste transfer and recycling station;

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

“**owner**” also means lessee, occupier, resident or any person who obtains a benefit from the premises or is entitled thereto and also includes any insolvent estate, executor, administrator, trustee, liquidator judicial manager;

“**premises**” means residential-, business-, and industrial premises and includes any land, whether vacant, occupied or with buildings thereon, forming part of a piece of land laid out as a township, irrespective of being proclaimed as a township;

“**removal day**” means the day fixed by the municipality for removal of waste from premises and depending on the case may be multiple removals per week;

“**waste**” includes—

- (a) “business waste” which means any matter or substance arising out of the use of business premises but does not include, hazardous waste, material, domestic waste or garden waste;
- (b) “domestic waste” which means any fruit or vegetable peels, fruit or vegetable waste, general domestic waste as well as garden waste which is of such size that it may be deposited in a refuse bin;
- (c) “garden waste” which means waste originating from a gardening activity such as grass cutting, leaves, plants flowers or similar waste of such size that it can be placed in a refuse bin;
- (d) “hazardous waste” which means any waste, matter or substance which may be hazardous or harmful to the environment and residents or which may pollute the environment including asbestos, motor oils or lubricants, or any other waste, matter or substance which constitutes hazardous waste as envisaged in the Hazardous Substances Act, 1973, Act 15 of 1973;
- (e) “offensive waste” means any waste, matter or substance which may be harmful to the environment and residents and includes, but is not limited to—
  - (i) animal products, animal carcasses and meat as defined in the Meat Safety Act, (Act 40 of 2000) and in the Red Meat Regulations promulgated under GN 1072 of 17 September 2004;
  - (ii) fruit or vegetables or any by-product obtained from such fruit or vegetables;
  - (iii) perishable foodstuffs; and
  - (iv) health care waste as defined in the Western Cape Health Care Waste Management Act, 2007, (Act 7 of 2007).;
- (f) “materials” which means any stone, rock, sand, building materials or building rubble or any other type of composite or artificial materials such as plastic pipes and similar materials as well as materials which are utilised in the erection of buildings or structures or any other materials which constitute materials;

“**waste bin**” means a mobile container with a capacity determined by the municipality, or alternatively plastic bags, which the municipality may make available to each premises;

“**waste management activities**” means the generation, reduction and minimisation of waste, waste handling, which includes the separation, storage, collection, and transfer of waste, and waste treatment, which includes the recovery of waste, recovery being the recycling, reclamation and re-use of waste, and disposal of waste, and any word to which a meaning has been assigned in the Environment Conservation Act, 1989 (Act 73 of 1989) and in the Directions with regard to the Control and Management of General Communal and General Small Waste Disposal Sites issued under the Act and published per GN R91 in Government Gazette No. 23053 dated 1st February 2002, bears that meaning.

“**waste transfer and recycling station**” means a waste handling facility that receives and temporarily stores waste or any recyclable waste, or a combination thereof.

## 2. Purpose of by-laws

This by-law strive to promote the achievement of a safe and healthy environment for the benefit of residents within the area of jurisdiction of the municipality, and to provide for procedures, methods and practices to promote waste management activities such as, but not limited to, the dumping of waste and the management of solid waste disposal sites.

## 3. Applicable legislation

The Directions in terms of section 20(5)(b) of the Environment Conservation Act, 1989 (Act 73 of 1989) with regard to the Control and Management of General Communal and General Small Waste Disposal Sites as published in GN 91 in GG 23053 of 1 February 2002 apply.

## 4. Duties and powers of municipality

- (1) The municipality as the primary service provider in the municipal area has a duty to the local community to progressively ensure efficient, affordable, economical and sustainable access to waste management services in its area or a part of its area.

- (2) This duty is subject to—
  - (a) the duty of members of the local community as users of the municipality's waste management services or any other person making use of the municipality's waste management services to pay for the provision of the services, the prescribed charges, which must be priced in accordance with any nationally prescribed norms and standards for rates and tariffs; and
  - (b) the right of the municipality to differentiate between geographical areas when providing types of waste management services, without compromising on service equity in line with the Constitution.
- (3) The municipality must as far as is reasonably possible and subject to the provisions of this by-law provide, at a cost to users of the services prescribed by the municipality—
  - (a) for the collection of waste on a regular basis, except waste in its area, which is so situated that the cost of collecting it would be unreasonably high; and
  - (b) access to facilities for the recovery and disposal of waste.
- (4) The municipality must notify all users of its waste management services of any decisions taken in terms of this By-law.

#### **5. Compulsory use of service**

- (1) No one except the municipality or a person authorised by the municipality may remove any refuse from any premises or dispose thereof.
- (2) Each owner of premises must make use of the service provided by the municipality for the removal or disposal of refuse, in respect of refuse originating from such premises.
- (3) The tariff as fixed by the municipality shall be payable to the municipality by the owner, irrespective whether the service is being used, or not.
- (4) The provisions of this section do not apply to an owner of residential premises who occasionally wishes to dispose of garden refuse generated on such premises.
- (5) A person who contravenes the provisions of subsections (1) and (2) commits an offence.

#### **6. Establishment and control of disposal site**

The municipality may establish and control a disposal site, or may appoint agents or may contract some other person or body to control, manage and operate a disposal site on behalf of the municipality in accordance with the provisions of this by-law and the provisions of any other legislation that may be applicable.

#### **7. Access to disposal site**

- (1) Only a person wishing to dump waste who has paid the prescribed fees or who is in possession of a written permission issued by the municipality which permits him or her to dump such waste at a disposal site and a person having obtained the written consent of the municipality to recycle any materials or objects on such a site, is entitled to enter the disposal site or to be on the site.
- (2) Notwithstanding anything to the contrary contained in this by-law, any employee of the municipality or anybody acting on behalf of the municipality and duly authorised thereto, may enter a disposal site at any time in exercising his or her duties.
- (3) A person making use of the disposal site or entering the disposal site, do so at his or her own risk and the municipality accepts no responsibility for the safety of such person or any damages or losses sustained by such person.
- (4) A person who enters a disposal site or who is found on such a site in contravention of the provisions of this section commits an offence.

#### **8. Off-loading of waste**

- (1) A person who wishes to dump waste at a disposal site, must off-load such waste at such a place within the borders of the disposal site and in such a manner as the attendant may direct.
- (2) The municipality may—
  - (a) set aside any part of a disposal site where only waste of a particular kind may be dumped or deposited.
  - (b) limit the type or size of vehicle from which waste may be dumped or deposited at any disposal site.
  - (c) limit the quantity of waste in general or the quantity of a particular type of waste which may be dumped or deposited at any disposal site.
  - (d) the days when and hours during which dumping may take place at any disposal site.
- (3) Any requirement imposed in terms of this by-law must be indicated to the public by means of an appropriate notice erected at the entrance of the disposal site concerned and any instruction issued by an official of the municipality or a person acting on behalf of the municipality in charge of access control at the dumping site, shall be strictly complied with.
- (4) Notwithstanding the provisions of subsection (2) the municipality reserves the right not to permit the dumping of hazardous or offensive waste at a disposal site.
- (5) A person who contravenes any of the provisions of this section commits an offence.

#### **9. Ownership of waste**

- (1) Waste dumped at a disposal site, becomes the property of the municipality and no person who is not duly authorised by the municipality to do so may remove or interfere with such waste.
- (2) A person who contravenes subsection (1) commits an offence.

## 10. Categories of waste

The municipality may, for the purposes of this by-law, categorise waste into different categories.

## 11. Separation of waste for recycling purposes

The municipality may require that waste be separated into different kinds and nature of waste for the purposes of recycling or for any other purpose in terms of this by-law.

## 12. Provision of waste bins

- (1) The municipality may—
  - (a) provide waste bins, or alternatively plastic bags, for the disposal of waste generated on premises; and
  - (b) authorise the use of bins and lids constructed of rubber or other material where the design and construction has been approved by the municipality.
- (2) Waste bins other than plastic bags provided in terms of subsection (1) remain the property of the municipality.
- (3) The municipality may prescribe special waste bins for the reception and storage of such types of waste as the municipality may specify and may by written notice on the owner of premises require the owner to provide at his or her own expense such number of special waste bins as are specified in the notice.
- (4) Where any waste bin provided on premises is—
  - (a) of a size likely to hinder the efficient removal of waste there from by employees of the municipality;
  - (b) is insufficient for the reception of all waste which is to be removed from such premises by the municipality;
  - (c) dilapidated; or
  - (d) likely to cause a nuisance,the municipality may by notice, require the owner of the premises to provide, at his or her own expense, an additional number of waste bins or such other means of storing receptacles as may be necessary to comply with the provisions of this by-law.
- (5) A waste bin shall be replaced as and when it is necessary, provided that where such waste bin has to be replaced as a result of theft or damage caused through the negligence of the owner, such owner shall be held liable for the cost of replacing it.
- (6) No person may dispose of any waste by placing it anywhere else than in a waste bin provided or approved by the municipality.
- (7) In respect of a group development the municipality may provide less waste bins per household subject to the following conditions—
  - (a) a central refuse collection point must be provided by the managing body;
  - (b) the managing body must apply in writing for the reduction of waste bins issued to the development;
  - (c) the reduced number of bins must be approved by the municipality; and
  - (d) the managing body shall be held liable for payment of the account for waste removal.
- (8) A person who contravenes a provision of subsection (6) or who fails to comply with a notice issued in terms of subsections (3) and (4) commits an offence.

## 13. Location of waste bins

- (1) The owner of premises must provide adequate space on the premises where a waste bin or other receptacle for the purpose of depositing waste or a specific category of waste are kept, and the space must—
  - (a) comply with requirements imposed by the municipality by notice to the owner;
  - (b) where applicable, be constructed in accordance with the requirements of any applicable building regulations and be so located that the waste bin or receptacle is not visible from a street or public place;
  - (c) where applicable, be so located as to permit convenient access to and egress from such place for a waste collection vehicle; and
  - (d) be in a location convenient for the use by users or occupants of the premises so as to discourage littering or the unhealthy accumulation of waste.
- (2) In the case of multi-storey buildings, the municipality may approve the installation of refuse chutes of an approved design and specification, and subject to the submission and approval of the plans for such installation.
- (3) The owner of premises must place or cause the waste bins to be placed in the space provided and must at all times keep it there.
- (4) A person who contravenes a provision of subsection (1) or (3) commits an offence.

## 14. Maintenance of waste bins

- (1) The occupier of premises must ensure that a waste bin other than plastic bags is—
  - (a) at all times maintained in good order and repair;
  - (b) emptied and cleansed when full, so that its contents do not become a nuisance or provide grounds for complaint;
  - (c) protected against unauthorised disturbance or interference at all times when waste is not being deposited into it or discharged from it.



- (2) No person may remove a waste bin from any premises to which it has been allocated or destroy or damage it, or permit it to be removed, destroyed or damaged.
- (3) A person who contravenes any provision of this section commits an offence.

#### **15. Collection of waste**

- (1) The municipality may indicate a position within or outside the premises where waste bins must be placed for the collection and removal thereof and may require certain kinds of waste, such as garden waste, to be bundled or packaged and be placed in that position at the times and for a period as the municipality may require.
- (2) The municipality shall on removal days collect only waste placed in waste bins or other containers approved by it or which is bundled or packaged in a manner approved by the municipality.
- (3) Where a particular kind of waste as stipulated by the municipality is not collected by the municipality from premises, the owner of the waste must arrange for the collection and transport of the waste as often as may be necessary to prevent undue accumulation or any nuisance arising there from, to a waste disposal or processing site under the control of the municipality, or to such other place as may be approved by the municipality.
- (4) The municipality may decide on separate times on which particular categories of waste are to be collected.
- (5) The municipality may—
  - (a) cause collections to be made at regular periods daily or otherwise, and may alter dates of collection;
  - (b) increase the number of collections as it may deem necessary or desirable; or
  - (c) make additional collections should it be desirable.
- (6) In the event of any additional collection being required by the owner of premises, the additional collection will be subject to the approval of the municipality and each additional collection must be paid for by the owner of premises from which the waste is collected at the tariff prescribed by the municipality.
- (7) The municipality may, upon application by the owner of premises, approve alternative arrangements for removal of waste from such premises.
- (8) A person who contravenes the provisions of section (1) or (3) commits an offence.

#### **16. Access to premises**

Except where otherwise approved by the municipality, the owner of premises must ensure that access from the nearest public road to the waste storage area on a premises is independent and unimpeded, and an owner who fails to do so, commits an offence.

#### **17. Right of entry**

- (1) Any duly authorised employee of the municipality is entitled to enter premises in respect of which the municipality's waste management services are rendered at any reasonable time on any day, or at any other time at which the service is ordinarily rendered for any of the following purposes:
  - (a) for collecting and supervising the collection of waste;
  - (b) for replacing waste bins; or
  - (c) for inspecting the means of access to the premises, or the space where waste bins are kept so as to ensure that they are accessible and convenient for the collectors.
- (2) The owner of the premises may not refuse access to the premises by an employee of the municipality.
- (3) An owner of premises commits an offence if he or she—
  - (a) denies access to the premises to an authorised employee of the municipality in the performance of his or her duties; or
  - (b) obstructs or impedes such employee of the municipality in the performance of his or her duties.

#### **18. Dumping and littering**

- (1) No person may—
  - (a) except by permission of the owner or of the person or authority having control thereof; or
  - (b) unless authorised by law to do so, dump, accumulate, place, deposit or leave any waste whatsoever, whether for gain or otherwise, or cause or allow to be dumped, accumulated, placed, deposited or left such waste on or in—
    - (i) any road, highway, street, lane, public footway or pavement or any road verge;
    - (ii) any commonage land, village green, park, recreation ground or other open space to which the public have access;
    - (iii) any drain, watercourse, flood prone areas, tidal or other water in or abutting on any such road, highway, street, lane, public footway or pavement, roadside or other open space to which the public have access; or
    - (iv) private or municipal land,
- (2) Should a person do any of the acts contemplated in subsection (1), the municipality may by written notice require any of the following persons to dispose of, destroy or remove the waste within the period stated in the notice:
  - (a) the person directly or indirectly responsible for dumping, accumulating, placing, depositing, or leaving the waste;
  - (b) the owner of the waste, whether or not he is responsible for dumping, accumulating, placing, depositing, or leaving the waste; or



- (c) the owner of the premises on which the waste was dumped, accumulated, placed, deposited, or left, whether or not he or she is responsible therefor.
- (3) If a person fails to comply with the requirements of a written notice, the municipality may dispose of, destroy or remove the waste and may recover the cost of doing so from the person or persons to whom the notice was issued.
- (4) If waste has been deposited in or on any land in contravention of subsection (1) and—
  - (a) in order to remove or prevent pollution of land, water or air or harm to human health, it is necessary that the waste be forthwith removed or other steps taken to eliminate or reduce the consequences of the deposit or both; and
  - (b) there is no occupier of the land; or
  - (c) the owner neither made nor knowingly permitted the deposit of the waste, the municipality may remove the waste or take other steps to eliminate or reduce the consequences of the deposit and is entitled to recover the cost incurred by it—
    - (i) from the owner of the land unless he or she proves that he or she neither made nor knowingly caused nor knowingly permitted the deposit of the waste; or
    - (ii) from any person who deposited or knowingly caused or knowingly permitted the deposit of any of the waste.
- (5) Any waste removed by the municipality belongs to the municipality and may be dealt with as the municipality deems fit.
- (6) A person who contravenes a provision of subsection (1) commits an offence.

### 19. Burning of waste

No person may burn waste without the written approval of the municipality.

### 20. Charges

- (1) The municipality may fix the charges payable to it for the removal of waste from premises or the dumping of waste at a disposal site under the control of the municipality.
- (2) A person who fails or refuses to pay the charges contemplated in subsection (1) commits an offence.

### 21. Exemptions

- (1) A person may by means of a written application, in which the reasons are given in full, apply to the municipality for exemption from any provision of this by-law.
- (2) The municipality may—
  - (a) grant an exemption in writing and the conditions in terms of which, if any, and the period for which such exemption is granted must be stipulated therein;
  - (b) alter or cancel any exemption or condition in an exemption; or
  - (c) refuse to grant an exemption.
- (3) An exemption does not take effect before the applicant has undertaken in writing to comply with all conditions imposed by the municipality under subsection (2), however, if an activity is commenced before such undertaking has been submitted to the municipality, the exemption lapses.
- (4) If any condition of an exemption is not complied with, the exemption lapses immediately.

### 22. Liaison forums in community

- (1) The municipality may establish one or more liaison forums in a community for the purposes of—
  - (a) creating conditions for a local community to participate in the affairs of the municipality; and
  - (b) promoting the waste management activities of the municipality.
- (2) A liaison forum may consist of—
  - (a) a member or members of an interest group, or an affected person, in the spirit of section 2(4)(f)–(h) of the National Environmental Management Act, 1998 (Act 107 of 1998);
  - (b) a member or members of a community in whose immediate area a solid waste disposal site exists or may come be established;
  - (c) a designated official or officials of the municipality;
  - (d) a councillor; and
  - (e) such other person or persons the municipality may decide on.
- (3) (a) The municipality may, when considering an application for consent, permit or exemption certificate in terms of this by-law, where applicable, request the input of a liaison forum.
- (b) A liaison forum, person or persons contemplated in subsection (2), or any other person may, on own initiative, having regard to the provisions of section 31 of the National Environmental Management Act, 1998, submit an input to the municipality for consideration.

**23. Authentication and service of order, notice or other document**

- (1) An order, notice or other document requiring authentication by the municipality must be sufficiently signed by the Municipal Manager shall be deemed to be duly issued if it is signed by the Municipal Manager.
- (2) Any notice or other document that is served on a person in terms of this by-law is regarded as having been served—
  - (a) when it has been delivered to that person personally;
  - (b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of sixteen years;
  - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic and an acknowledgment of the posting thereof from the postal service is obtained;
  - (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 by paragraphs (a), (b) or (c);
  - (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 property or premises, if any, to which it relates; or
  - (f) in the event of a body corporate, when it has been delivered at the registered office of the business premises of such body corporate.
- (3) Service of a copy shall be deemed to be service of the original.
- (4) Any legal process is effectively and sufficiently served on the municipality when it is delivered to the municipal manager or a person in attendance at the municipal manager's office.

**24. Appeal**

A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefor in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision.

**25. Penalties**

A person who has committed an offence in terms of this by-law is liable upon conviction to a fine or imprisonment, or either such fine or imprisonment or to both such fine and such imprisonment and, in the case of a continuing offence, to an additional fine or an additional period of imprisonment or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued and, a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as result of such contravention or failure.

**26. Conflict with other legislation**

In the event of any conflict between any provision of this by-law and National and

Provincial legislation, standards, policies or guidelines, the National and Provincial legislation, standards, policies or guidelines shall prevail.

**27. Revocation of by-laws**

The provisions of any by-laws previously promulgated by the municipality or by any of the disestablished municipalities now incorporated in the municipality, are hereby repealed as far as they relate to matters provided for in this by-law, and insofar as it has been made applicable to the municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Local Government: Municipal Structures Act, Act 117 of 1998.

**28. Short title and commencement**

This by-law shall be known as the Solid Waste Disposal By-law, and commences on the date of publication thereof in the Provincial Gazette.

**BERGRIVIER MUNICIPALITY  
SPORTING FACILITIES BY-LAW**

In terms of and under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, the Bergrivier Municipality, enacts as follows:—

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**1. Definitions**

In this by-law, unless the context otherwise indicates—

“**accessories**” means an object or objects on or in a field, sporting area or course necessary for a particular sport to be performed, such as, but not limited to goal posts, a tennis net, or a flag, and any other feature or fixture;

“**appurtenance**” means any fitting, installation, appliance, device, instrument, apparatus, utensil, tool whatsoever on the premises, such as, but not limited to a lock, cock, tap, valve, pipe and includes any other appliance or any machine;

“**equipment**” means gear used by a person in a sporting activity;

“**drunk**” means a person who, reason of the alcohol which he or she has consumed, has lost control of his or her mental or physical faculties, or both, to such an extent as to render him or her incapable of comporting him- or herself, or of performing any act in which he or she is engaged, with safety to him- or herself or with that regard to the rights of others which the law demands;

“**facility**” means a sporting facility and includes any appliance, equipment, apparatus or storage facility in or on a facility;

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

“**organised sporting activity**” means a sporting activity that is organised or controlled by an organisation, and includes a practice or training session;

“**organisation**” means a sport club, educational institution, or association of people, and includes a group or sport club established by the municipality, which sport club or association or group can be joined by a member of the public;

“**sporting facility**” means any land, area, premises, building or structure, or part thereof, which is administered or controlled by the municipality and which is designated, demarcated, or set aside for a sporting activity, and includes facilities surrounding and normally supplementary to a sporting facility.

## 2. Principles and objectives

The municipality recognizes the right of the community, whether associated to an organization or not, to use and enjoy sporting facilities, and accepts the duty to maintain and develop the resources of the municipality to the best interest of the community, and aims, in this by-law, to control and administer sporting facilities.

## 3. Application of By-laws

This by-law applies to all sporting facilities under the control and administration of the Municipality, but do not apply to land, areas, buildings, and structures regulated by the Municipality's Public Amenities By-laws.

### CHAPTER 1

#### ADMINISTRATION, ACCESS, FEES AND PROHIBITED BEHAVIOR

## 4. Administration, control over and maintenance of sporting facilities

- (1) The municipality may establish a body or sport committee with the aim of advising it on matters relating to sporting facilities.
- (2) All sporting facilities must be administered by the municipality in accordance with this By-law.
- (3) The municipality may acquire land or a building with the aim of developing sporting facilities, or dispose of existing sporting facilities or any rights thereto.
- (4) A person or organisation that uses or hires sporting facilities does so subject to the provisions of this by-law and in terms of conditions as may be determined by the municipality.
- (5) Where an organized sporting activity is not organized or controlled by the municipality, a municipal employee may be present.
- (6) Subject to the terms and conditions stipulated in any contract of hire, and subject to any applicable national laws, no person—
  - (a) may bring his or her own supply of alcoholic beverages on or into a sporting facility without written authority from an authorised official; or
  - (b) may sell any alcoholic beverage on the premises of a sporting facility without first obtaining approval for that activity from the municipality;
- (7) If the municipality permits the sale or consumption of alcohol on or in a facility by an organization or body, the sale or consumption is subject to the following conditions:
  - (a) no alcoholic beverage may be served in a glass bottle, glass cup or other container made of glass;
  - (b) beer, cider and alcoholic cordials may be served in cans, kegs, or plastic cups only;
  - (c) the organization or body must maintain good order within the sporting facility.
- (8) The municipality may close a facility when:
  - (a) The facility is substantially unusable due to—
    - (i) destruction;
    - (ii) severe damage; or
    - (iii) the absence of municipal services;
  - (b) the facility constitutes a danger to human life or property; or
  - (c) an emergency has arisen which requires such closure.
- (9) The municipality may temporarily close a facility for purposes of repair or maintenance or for any other reason in the municipality's discretion.
- (10) A person who or organization that contravenes subsection (6) or (7) commits an offence.

## 5. Access to sporting facilities and storage facilities

- (1) The municipality may by notice posted at or near the entrance to a facility indicate the hours during which it may be used by the public.
- (2) The municipality reserves the right of access to a facility and an official may instruct a person who has contravened a provision of this by-law to leave the facility or premises immediately and should the person fail to observe the instruction, the official may remove or cause the person to be removed.
- (3) The municipality has the right to determine the maximum capacity of a sporting facility and an official must, once the maximum capacity has been reached, refuse further access and may take measures necessary to prevent access.

## 6. Tariffs

The municipality may prescribe tariffs to be charged for admission to or the hire or use of a sporting facility or equipment.

## 7. Prohibited behaviour in or on sporting facility or its premises

- (1) No person may—
  - (a) enter any part of a facility otherwise than by an entrance designated for that purpose;
  - (b) enter or remain inside a facility, without permission, or at any time other than during the hours when such facility is open to members of

- the public, or when access to the facility has been denied;
- (c) smoke in a sporting facility, except in an open air facility or in those areas which have been designated for this purpose, as indicated by notices to that effect;
  - (d) wear footwear that may damage the surface of a facility;
  - (e) attend or engage in a sporting activity if dressed indecently or if undressed, except in a facility set aside for use by a person of the same sex;
  - (f) relieve him or herself in any part of the sporting facility other than in the ablution facilities;
  - (g) excluding a child under the age of five years, use change rooms, places of ablution, cubicles, or any other facilities set aside for a particular sex if he or she is not of that particular sex;
  - (h) enter or remain in any area of the sporting facility, which area is reserved for the use of persons of the other sex;
  - (i) use a change room, place of ablution, cubicle or any other facility for longer than is reasonably necessary to undertake an activity intended to be undertaken;
  - (j) use profane or indecent language or behave in any other manner that constitutes a nuisance or unacceptable behaviour towards other persons;
  - (k) destroy, damage or deface any part of a sporting facility, accessories or equipment;
  - (l) discard rubbish other than in a container provided for that purpose;
  - (m) in any manner, interfere with the substance covering the surface of a sporting facility;
  - (n) light any fire;
  - (o) drive, draw, or propel a vehicle, or walk upon or recline on lawn on the premises of a sporting facility if prohibited to do so by a notice on the premises;
  - (p) ride or use in or on a sporting facility a bicycle, roller blades, roller skates, a skateboard, a tricycle or any similar form of transport or amusement, except in a sporting facility which specifically provides for the riding of such appliances;
  - (q) without the prior written consent of the municipality, sell, hawk, advertise, offer for sale or purchase or exhibit any article for sale, lease or hire, distribute a pamphlet, book, handbill or other written or printed matter inside a sporting facility or in the immediate vicinity of the entrance thereto;
  - (r) neither inside nor outside a sporting facility, obstruct, resist or interfere with an official in the execution of his or her duties or the exercise of any authority in terms of this by-law;
  - (s) tamper or interfere with an appurtenance in or on the premises of a sporting facility;
  - (t) bring into or keep on a sporting facility an animal, except a guide dog, without the prior consent of the municipality, unless the sporting activity engaged in involves the use of animals;
  - (u) bring into or keep on a facility a weapon or any other dangerous object.
  - (v) erect or attempt to erect any enclosure, tent or similar construction, stall, booth, stand, screen, fence, or drive into the ground any peg or spike without the permission of the official in charge of the facility;
  - (w) behave or conduct himself or herself in a manner which may prejudice good order;
  - (x) bring into or onto a facility any substance or matter which may endanger the safety of people, or which may be used to disrupt proceedings at or spoil the peaceful enjoyment of the facility;
  - (y) bring into or onto a facility intoxicating liquor or drugs, except with the permission of the municipality; or
  - (z) be drunk or under the influence of drugs having a narcotic effect, or behave or conduct himself or herself in a manner which may disrupt a sporting activity.
- (2) A person who contravenes any of the provisions of this section commits an offence.

## CHAPTER 2

### ORGANISED SPORTING ACTIVITIES

#### 8. Organised sporting activities

- (1) The municipality may allow the use of its facilities by sport organisations, municipal staff, or other persons.
- (2) An organization to which a sporting facility or a portion thereof has been allocated for use at regular times, must ensure that only its members use the facility, and should it be impossible for the organisation to use the facilities at those times, the organization must notify the official in charge of the sporting facility beforehand, and should an organization fail to do so, the municipality may suspend or cancel the organisation's further use of the facility.

#### 9. Reservation and hiring of sporting facilities

- (1) The municipality may set aside or hire out a sporting facility for the purpose of organised sport or for special occasions on such conditions as it may prescribe and the municipality may charge a fee, or may make it available free of charge or grant free admission to selected persons.
- (2) The representative of an organization that wishes to hire a sporting facility must complete and lodge a prescribed application form with the municipality.
- (3) When considering an application the municipality may have, in addition to other relevant factors, due regard to the following:
  - (a) the principles and objectives of this by-law;

- (b) that the sporting facility may be used for lawful purposes only;
  - (c) that the use of the sporting facility will not constitute a nuisance or annoyance to other users of another part of the sporting facility which has not been hired by the organisation, or to the occupiers of neighbouring premises; and
  - (d) that the use of the sporting facility will not constitute a danger to any person or property or negatively affect the environment.
- (4) The municipality may approve the use of a sporting facility subject to any condition it may impose, or it may refuse consent.
- (5) The municipality must, within seven days after the application form has been lodged, in writing notify the organisation if the application has been approved or refused, and—
- (a) if the application is refused, the municipality must supply to the organisation the reasons why the application was refused; or
  - (b) if the application is approved, the municipality must forward a notice of approval which must specify the conditions to which the use of the sporting facility is subject.
- (6) An organisation may not, before the municipality's approval has been received by it, advertise or announce the sporting activity for which it has lodged an application.
- (7) The municipality may, before it approves an application, require of an organization that wishes to make use of a sporting facility to take out, with an insurance company approved by the municipality—
- (a) insurance in an amount approved by the municipality to cover any structural damage which may occur to the sporting facility whilst being used by the organization; and
  - (b) public liability insurance.
- (8) An organization which supplies false information in an application form or with respect to the requirements in subsection (9), or which contravenes subsection (8) commits an offence.

#### **10. Cancellation, postponement or extension of reservation**

- (1) An organisation who has applied for the reservation of a sporting facility, may cancel the application, and where the organisation has paid a fee the municipality will determine the percentage of the paid fee to be refunded to the organisation.
- (2) (a) After approval has been given by the municipality, an organisation may apply for the postponement of the reservation to a later date.  
(b) Approval of the postponement does not result in a penalty or forfeiture of any fees already paid.  
(c) Postponement may be refused if the facility has been reserved.
- (3) An organisation may apply for an extension of the period of use of the sporting facility, and—
- (a) the application must be in writing and lodged at the Municipal Manager's offices; and
  - (b) the facility must be available for such use.
- (4) The municipality may cancel the hire of a facility under the circumstances contemplated in section 4(8), or should the municipality require the facility for municipal purposes at the same time, however, the municipality may refund the fees that have already been paid to it in respect of the reservation; or
- (5) Should the municipality cancel a reservation, the municipality must, within a reasonable time and in writing notify the organisation of its decision, however, where a notice is given in terms of section 4(8), the notice is deemed to be effective from the date on which the destruction or damage took place.
- (6) Subject to the provisions of subsection (4), an organisation has no claim against the municipality for loss of use of the sporting facility or for damage arising from a cancellation in terms of subsection (4).

#### **11. Termination of hire**

- (1) On termination of the hire an organisation and an official of the municipality must inspect the facilities for the purpose of assessing the conditions of the facilities.
- (2) The organisation must—
- (a) return the sporting facility to the municipality in the condition it was when it was hired out to the organisation;
  - (b) repair any damage or breakages;
  - (c) comply with any instructions by the municipality in respect of the cleaning of the sporting facility; and
  - (d) vacate the sporting facility within the period stated in the application;
- and should the organisation fail to comply with—
- (i) subsection (2)(a), (b) or (c), the municipality may replace, repair or make good any breakages or damages, and recover the costs from the organisation; or
  - (ii) the municipality may levy an additional fee for the period during which the organisation occupies the sporting facility after the expiry of the period stipulated in the application.

#### **12. Duties of organisation**

- (1) Before an organisation commences to use the sporting facility, a representative must inspect the facilities, and should he or she find that buildings, structures, accessories or equipment are in a state of disrepair, this fact must be reported to the municipality in writing, and failure to do so is deemed as an acceptance by the organisation that the facilities are in a proper condition.

- (2) The organisation must comply with any conditions determined by the municipality in terms of section 4(4) and take all reasonable measures to ensure that its members and persons attending a sporting activity, as participants, visitors or spectators comply with section 7.

### **CHAPTER 3 GENERAL PROVISIONS**

#### **13. Enforcement**

- (1) An official may search any person, vehicle or container in, entering into or being brought onto a facility.
- (2) An official may confiscate liquor, or any other dangerous object, substance or matter which may endanger the safety of people in the facility, or which may be used to disrupt proceedings at or spoil the enjoyment of the facility, but must return to the person that which was confiscated when he or she leaves the sporting facility.
- (3) If the official finds an unlawful substance as a result of the search contemplated in subsection (1), he or she must immediately alert the South African Police Services, or if he or she is appointed as a peace officer in terms of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), he or she may act in terms of the Act.
- (4) A person who interferes with or obstructs an official of the municipality in the execution of his or her duties, commits an offence.

#### **14. Indemnity**

Any person visiting or using a facility does so at his or her own risk and the municipality will not be liable for any injury, loss or damage that such person may suffer while in or on the facility.

#### **15. Appeal**

A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefor in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision.

#### **16. Offences and penalties**

A person who contravenes any provision or fails to comply with any provision of this by-law commits an offence and shall on conviction be liable to—

- (a) a fine or imprisonment, or either such fine or imprisonment or to both such fine and such imprisonment and,
- (b) in the case of a continuing offence, to an additional fine or an additional period of imprisonment or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued and,
- (c) a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as result of such contravention or failure.

#### **17. Conflict with other legislation**

In the event of any conflict between any provision of this by-law and National and Provincial legislation, standards, policies or guidelines, the National and Provincial legislation, standards, policies or guidelines shall prevail.

#### **18. Revocation of by-laws**

The provisions of any by-laws previously promulgated by the municipality or by any of the disestablished municipalities now incorporated in the municipality, are hereby repealed as far as they relate to matters provided for in this by-law.

#### **19. Short title and commencement**

This by-law shall be known as the Sporting Facilities By-law, and commences on the date of publication thereof in the Provincial Gazette.



**BERGRIVIER MUNICIPALITY****BY-LAW RELATING TO WATER SUPPLY, SANITATION SERVICES AND INDUSTRIAL EFFLUENT**

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996, the Bergrivier Municipality enacts as follows:—

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**CHAPTER I  
GENERAL PROVISIONS**

*Part 1:  
Definitions*

**1. Definitions**

(1) For the purpose of this by-law, any word or expressions to which a meaning has been assigned in the Water Services Act, 1996 (Act No 108 of 1996), the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000) or the National Building Regulations made in terms of the National Building Regulations and Building Standards Act, 1977 (Act No 103 of 1977) shall bear the same meaning in this by-law and unless the context indicates otherwise and a word in any one gender shall be read as referring also, to the other gender, the singular includes the plural and vice versa, the English text prevails in the event of an inconsistency between the different text:—

**“accommodation unit”** in relation to any premises, means a building or section of a building occupied or used or intended for occupation or use for any purpose;

**“account”** means an account rendered for municipal services provided;

**“Act”** means the Water Services Act, 1997 (Act No 108 of 1997), as amended from time to time;

**“agreement”** means the contractual relationship between the municipality and a consumer, whether written or deemed as provided for in the municipality's by-law relating to credit control and debt collection;

**“approved”** means approved by the municipality in writing;

**“area of supply”** means any area within or partly within the area of jurisdiction of the municipality to which a water service is provided;

**“authorised agent”** means—

- (a) any person authorised by the municipality to perform any act, function or duty in terms of, or to exercise any power under, this by-law;
- (b) any person to whom the municipality has delegated the performance of certain rights, duties and obligations in respect of providing water supply services; or
- (c) any person appointed by the municipality in a written contract as a service provider for the provision of water services to consumers on its behalf, to the extent authorised in such contract;

**“average consumption”** means the average consumption of a consumer of a municipal service during a specific period, and is calculated by dividing the total measured consumption of that municipal service by that consumer over the preceding three months by three;

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

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

**“Building Regulations”** means the National Building Regulations made in terms of the National Building Regulations and Building Standards, 1977 (Act No 103 of 1977) as amended;

**“charges”** means the rate, charge, tariff, flat rate or subsidy determined by the municipal council;

**“cleaning eye”** means any access opening to the interior of a discharge pipe or trap provided for the purposes of internal cleaning;

**“communal water services”** means a consumer connection through which water services are supplied to more than one person;

**“combined installation”** means a water installation used for fire-fighting and domestic, commercial or industrial purposes;

**“commercial consumer”** means any consumer other than domestic consumer and indigent consumers, including, without limitation, business, industrial, government and institutional consumers;

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

**“connecting sewer”** means a pipe owned by the municipality and installed by it for the purpose of conveying sewage from a drainage installation on a premises to a sewer beyond the boundary of those premises or within a servitude area or within an area covered by a way-leave or by agreement;

**“connection”** means the point at which a consumer gains access to water services;

**“connection pipe”** means a pipe, the ownership of which is vested in the municipality and installed by it for the purpose of conveying water from a main to a water installation, and includes a “communication pipe” referred to in SANS 0252 Part I;

**“conservancy tank”** means a covered tank used for the reception and temporary retention of sewage and which requires emptying at intervals;

**“consumer”** means—

- (a) any occupier of any premises to which or on which the municipality has agreed to provide water services or is actually providing water services, or if there be no occupier, then any person who has entered into a current agreement with the municipality for the provision of water services to or on such premises, or, if there be no such person, then the owner of the premises; provided that where water services

is provided through a single connection to a number of occupiers, it shall mean the occupier, or person, to whom the municipality has agreed to provide water services; or

(b) a person that obtains access to water services provided through a communal water services work;

**“determined”** means determined by the municipality or by any person who makes a determination in terms of these laws;

**“domestic consumer”** means a consumer using water for domestic purposes;

**“domestic purposes”** in relation to the supply of water means water supplied for drinking, ablution and culinary purposes to premises used predominantly for residential purposes;

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

**“drainage installation”** means a system situated on any premises and vested in the owner thereof and which is used for or intended to be used for or in connection with the reception, storage, treatment or conveyance of sewage on that premises to the connecting point and includes drains, fittings, appliances, septic tanks, conservancy tanks, pit latrines and private pumping installations forming part of or ancillary to such systems;

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

**“duly qualified sampler”** means a person or accredited company who takes samples for analysis from the sewage disposal and storm water disposal systems and from public waters and who has been certified to do so by an authorised agent;

**“dwelling unit”** means an interconnected suite of rooms, including a kitchen or scullery, designed for occupation by a single family, irrespective of whether the dwelling unit is a single building or forms part of a building containing two or more dwelling units;

**“effluent”** means any liquid whether or not containing matter in solution or suspension;

**“engineer”** means the engineer of the municipality, or any other person authorised to act on his behalf;

**“emergency”** means any situation that poses a risk or potential risk to life, health, the environment or property;

**“environmental cost”** means the cost of all measures necessary to restore the environment to its condition prior to an incident resulting in damage;

**“estimated consumption”** means the consumption that a consumer, whose consumption is not measured during a specific period, is deemed to have consumed, that is estimated by taking into account factors that are considered relevant by the municipality and which may include the consumption of water services by the totality of the users of a service within the area where the service is rendered by the municipality, at the appropriate level of service, for a specific time;

**“fire hydrant”** means a potable water installation that conveys water for fire-fighting purposes only;

**“fixed quantity water delivery system”** means a water installation, which delivers a fixed quantity of water to a consumer in any single day;

**“flood level (1 in 50 years)”** means that level reached by flood water resulting from a storm of a frequency of 1 in 50 years;

**“flood plain (1 in 50 years)”** means the area subject to inundation by flood waters from a storm of a frequency of 1 in 50 years;

**“French drain”** means a soil soak pit for the disposal of sewage and effluent from a septic tank;

**“grey water”** means waste water resulting from the use of water for domestic purposes but does not include human excreta;

**“high strength sewage”** means industrial sewage with a strength or quality greater than standard domestic effluent in respect of which a specific charge as calculated in accordance with Schedule C may be charged;

**“household”** means a family unit, as determined by the municipality as constituting a traditional household by taking into account the number of persons comprising a household, the relationship between the members of a household, the age of the persons who are members of it and any other factor that the municipality considers to be relevant;

**“illegal connection”** means a connection to any system, by means of which water services are provided that is not authorised or approved by the municipality;

**“industrial effluent”** means effluent emanating from the use of water for industrial purposes and includes for purposes of this by-law, any effluent other than standard domestic effluent or storm water;

**“industrial purposes”** in relation to the supply of water means water supplied to any premises which constitutes a factory as defined in the General Administrative Regulations, published in terms of the Occupational Health and Safety Act, 1993 (Act No 85 of 1993);

**“installation work”** means any work done in respect of a water installation, including construction, rehabilitation, improvement and maintenance;

**“interest”** means interests as may be prescribed by the Minister of Justice in terms of section 1 of the Prescribed Rate of Interest Act, 1975 (Act No 55 of 1975);

**“manhole”** means any access chamber to the interior of the sewer provided for the purpose of maintenance and internal cleaning;

**“main”** means a pipe, other than a connection pipe, of which the ownership vests in the municipality and which is used by it for the purpose of conveying water to a consumer;

**“measuring device”** means any method, procedure, process, device, apparatus or installation that enables the quantity of water services provided to be quantified and includes any method, procedure or process whereby the quantity is estimated or assumed;

**“meter”** means a water meter as defined by the regulations published in terms of the Trade Metrology Act, 1973 (Act No 77 of 1973) or, in the case of water meters of a size greater than 100mm, a device that measures the quantity of water passing through it, including a pre-paid water meter;

**“municipality”** means—

- (a) the Bergrivier Municipality, a local municipality established in terms of section 12 of the Act of Local Government: Municipal Structures, 1998 (Act No 117 of 1998) and its successors-in-title; or
- (b) subject to the provisions of any other law and only if expressly or impliedly required or permitted by this by-law the municipal manager in respect of the performance of any function, or the exercise of any duty, obligation, or right in terms of this by-law or any other law; or

(c) an authorised agent of the Bergrivier Municipality;

**“municipal council”** means a municipal council as referred to in section 157(1) of the Constitution of the Republic of South Africa, 1996;

**“municipal manager”** means the person appointed by the municipal council as the municipal manager of the municipality in terms of section 82 of the Local Government Municipal Structures Act, 1998 (Act No 117 of 1998) and includes any person to whom the municipal manager has delegated a power, function or duty but only in respect of that delegated power, function or duty;

**“municipal services”** means, for purposes of this by-law, services provided by a municipality, including refuse removal, water supply, sanitation, electricity services and rates or any one of the above;

**“occupier”** means a person who occupies any (or part of any) land, building, structure or premises and includes a person who, for someone else’s reward or remuneration allows another person to use or occupy any (or any part of any) land, building structure or premises;

**“on-site sanitation services”** means any sanitation services other than water borne sewerage disposal through a sewerage disposal system;

**“owner”** means—

- (a) the person in whose name the ownership of the premises is registered from time to time or his agent;
- (b) where the registered owner of the premises is insolvent or dead, or for any reason lacks legal capacity, or is under any form of legal disability, that has the effect of preventing him from being able to perform a legal act on his own behalf, the person in whom the administration and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;
- (c) where the municipality is unable to determine the identity of the owner, a person who has a legal right in, or the benefit of the use of, any premises, building, or any part of a building, situated on them;
- (d) where a lease has been entered into for a period of 30 (thirty) years or longer, or for the natural life of the lessee or any other person mentioned in the lease, or is renewable from time to time at the will of the lessee indefinitely or for a period or periods which, together with the first period of the lease, amounts to 30 years, the lessee or any other person to whom he has ceded his right title and interest under the lease, or any gratuitous successor to the lessee;
- (e) in relation to—
  - (i) a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act No 95 of 1986), the developer or the body corporate in respect of the common property, or
  - (ii) a section as defined in the Sectional Titles Act, 1986 (Act No 95 of 1986), the person in whose name such section is registered under a sectional title deed and includes the lawfully appointed agent of such a person; or
  - (iii) a person occupying land under a register held by a tribal authority or in accordance with a sworn affidavit made by a tribal authority;

**“person”** means any person, whether natural or juristic and includes, but is not limited to, any local government body or like authority, a company or close corporation incorporated under any law, a body of persons whether incorporated or not, a statutory body, public utility body, voluntary association or trust;

**“plumber”** means a person who has passed a qualifying Trade Test in Plumbing or has been issued with a certificate of proficiency in terms of the Manpower Training Act, 1981 (Act No 56 of 1981) or such other qualification as may be required under national legislation;

**“pollution”** means the introduction of any substance into the water supply system, a water installation or a water resource that may make the water harmful to health or environment or impair its quality for the use for which it is normally intended;

**“premises”** means any piece of land, the external surface boundaries of which are delineated on—

- (a) a general plan or diagram registered in terms of the Land Survey Act, 1927 (Act No 9 of 1927), or in terms of the Deeds Registries Act, 1937 (Act No 47 of 1937);
- (b) a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act No 95 of 1986); or
- (c) a register held by a tribal authority or in accordance with a sworn affidavit made by a tribal authority;

**“prescribed tariff or charge”** means a charge prescribed by the municipality;

**“professional engineer”** means a person registered in terms of the Engineering Profession Act, 2000 (Act No 46 of 2000) as a professional engineer;

**“public notice”** means publication in the media including one or more of the following:

- (a) publication of a notice, in the official languages determined by the municipal council:
  - (i) in any local newspaper or newspapers circulating in the area of supply of the municipality;
  - (ii) in the newspaper or newspapers circulating in the area of supply of the municipality determined by the municipal council as a newspaper of record; or
  - (iii) on the official website of the municipality;
  - (iv) by means of radio broadcasts covering the area of supply of the municipality;
- (b) displaying a notice in or at any premises, office, library or pay-point of either the municipality, or of its authorised agent, to which the public has reasonable access; and
- (c) communication with consumers through public meetings and ward committee meetings;

**“public water”** means any river, watercourse, bay, estuary, the sea and any other water to which the public has the right of use or to which the public has the right of access;

**“SANS”** means the South African National Standard;

**“sanitation services”** has the same meaning assigned to it in terms of the Act and includes for purposes of this by-law the disposal of industrial effluent;



“**sanitation system**” means the structures, pipes, valves, pumps, meters or other appurtenances used in the conveyance through the sewer reticulation system and treatment at the sewage treatment plant under the control of the municipality and which may be used by it in connection with the disposal of sewage;

“**septic tank**” means a water tight tank designed to receive sewage and to effect the adequate decomposition of organic matter in sewage by bacterial action;

“**service pipe**” means a pipe which is part of a water installation provided and installed on any premises by the owner or occupier and which is connected or to be connected to a connection pipe to serve the water installation on the premises;

“**shared consumption**” means the consumption by a consumer of a municipal service during a specific period, that is calculated by dividing the total metered consumption of that municipal service in the supply zone where the consumer’s premises are situated for the same period by the number of consumers within the supply zone, during that period;

“**sewage**” means waste water, industrial effluent, standard domestic effluent and other liquid waste, either separately or in combination, but shall not include stormwater;

“**sewage disposal system**” means the structures, pipes, valves, pumps, meters or other appurtenances used in the conveyance through the sewer reticulation system and treatment at the sewage treatment plant under the control of the municipality and which may be used by it in connection with the disposal of sewage;

“**sewer**” means any pipe or conduit which is the property of or is vested in the municipality and which may be used for the conveyance of sewage from the connecting sewer and shall not include a drain as defined;

“**standpipe**” means a connection through which water supply services are supplied to more than one person;

“**standard domestic effluent**” means domestic effluent with prescribed strength characteristics as determined by the municipality in respect of chemical oxygen demand and settleable solids as being appropriate to sewage discharges from domestic premises within the jurisdiction of the municipality, but shall not include industrial effluent;

“**stormwater**” means water resulting from natural precipitation or accumulation and includes rainwater, subsoil water or spring water;

“**terminal water fitting**” means water fitting at an outlet of a water installation that controls the discharge of water from a water installation;

“**trade premises**” means premises upon which industrial effluent is produced;

“**trap**” means a pipe fitting or portion of a sanitary appliance designed to retain water seal which serves as a barrier against the flow of foul air or gas, in position;

“**unauthorised service**” means the receipt, use or consumption of any municipal service which is not in terms of an agreement with, or approved by, the municipality;

“**water fitting**” means a component of a water installation, other than a pipe, through which water passes or in which it is stored;

“**water installation**” means the pipes and water fittings which are situated on any premises and ownership thereof vests in the owner thereof and used or intended to be used in connection with the use of water on such premises, and includes a pipe and water fitting situated outside the boundary of the premises, which either connects to the connection pipe relating to such premises or is otherwise laid with the permission of the municipality;

“**water services**” means water supply services and sanitation services;

“**water services intermediaries**” has the same meaning as that assigned to it in terms of the Act;

“**water supply services**” has the same meaning assigned to it in terms of the Act and includes for purposes of this by-law water for industrial purposes and fire extinguishing services;

“**water supply system**” means the structures, aqueducts, pipes, valves, pumps, meters or other apparatus relating thereto of which the ownership vests in the municipality and which are used or intended to be used by it in connection with the supply of water, and includes any part of the system;

“**wet industry**” means an industry which discharges industrial effluent; and

“**working day**” means a day other than a Saturday, Sunday or public holiday.

(2) Any word or expression used in this by-law to which a meaning has been assigned in—

(a) the Act will bear that meaning; and

(b) the National Building Regulations and Building Standards Act, 1997 (Act No. 103 of 1977), the Building Regulations will in respect of Chapter IV bear that meaning, unless the context indicates otherwise.

(3) Any reference in Chapter I of this by-law to water services or services must be interpreted as referring to water supply services or sanitation services depending on the services to which it is applicable.

*Part 2:  
Application for water services*

## 2. Application for water services

(1) No person shall gain access to water services from the water supply system, sewage disposal system or through any other sanitation services unless he or she has applied to the municipality on the prescribed form for such services for a specific purpose and to which such application has been agreed.

(2) The municipality may refuse to provide a water connection.

(3) Where a premises or consumer are provided with water services, it shall be deemed that an agreement in terms of subsection (1) exists.

(4) The municipality must on application for the provision of water services by a consumer inform that consumer of the different levels of services available and the tariffs and/or charges associated with each level of services.

(5) A consumer must elect the available level of services to be provided to him or her or it.

- (6) A consumer may at any time apply to alter the level of services elected in terms of the agreement entered into, provided that such services are available or that the municipality's water supply service allows for such alteration and that any costs and expenditure associated with altering the level of services will be payable by the consumer.
- (7) An application agreed to by the municipality shall constitute an agreement between the municipality and the applicant, and such agreement shall take effect on the date referred to or stipulated in such agreement.
- (8) A consumer shall be liable for all the prescribed tariffs and/or charges in respect of water services rendered to him or her until the agreement has been terminated in accordance with this by-law or until such time as any arrears have been paid.
- (9) In preparing an application form for water services the municipality will ensure that the document and the process of interaction with the owner, consumer or any other person making application are understood by that owner, consumer or other person. In the case of illiterate or similarly disadvantaged persons, the municipality will take reasonable steps to ensure that the person is aware of and understands the contents of the application form.
- (10) An application form will require at least the following minimum information:
  - (a) certification by an authorised agent that the applicant is aware of and understands the contents of the form;
  - (b) acceptance by the consumer of the provisions of this by-law and acceptance of liability for the cost of water services rendered until the agreement is terminated or until such time as any arrears have been paid;
  - (c) name of consumer;
  - (d) address or stand number of premises to or on which water services are to be rendered or the communal water services work where water services will be used;
  - (e) address where accounts will be sent;
  - (f) source of income of the applicant;
  - (g) name and address of the applicant's employer, where appropriate;
  - (h) if water will be supplied, the purpose for which the water is to be used; and
  - (i) the agreed date on which the provision of water services will commence.
- (11) Water services rendered to a consumer are subject to the provisions of this by-law and the conditions contained in the relevant agreement.
- (12) If a municipality refuses an application for the provision of water services, is unable to render such water services on the date requested for such provision of water services to commence or is unable to render the water services, the municipality will inform the consumer of such refusal and/or inability, the reasons therefor and, if applicable, when the municipality will be able to provide such water services.

### 3. Special agreements for water services

The municipality may enter into a special agreement for the provision of water services with an applicant in accordance with the municipality's by-law relating to credit control and debt collection.

### 4. Change in purpose for which water services are used

Where the purpose for, or extent to which, any municipal service is changed, the consumer must promptly advise the municipality of the change and enter into a new agreement with the municipality.

#### *Part 3: Tariffs and charges*

### 5. Prescribed charges for water services

All tariffs and or charges payable in respect of water services rendered by the municipality in terms of this by-law, including but not limited to the payment of connection charges, fixed charges or any additional charges or interest in respect of failure to pay such tariffs or charges on the specified date will be set by the municipality by a resolution passed by the Council in accordance with:

- (i) its tariff policy;
- (ii) any by-law in respect thereof; and
- (iii) any regulations in terms of national or provincial legislation

### 6. Availability charges for water services

- (1) The municipality may, in addition to the tariffs or charges prescribed for water services actually provided, levy a monthly fixed charge, annual fixed charge or once-off fixed charge in respect of the provision of water services in accordance with—
  - (a) its tariff policy;
  - (b) any by-law in respect thereof; and
  - (c) any regulations in terms of national or provincial legislation
- (2) Where a fixed charge is levied in terms of subsection (1), it shall be payable by every owner or consumer in respect of water services provided by the municipality to him, her or it, whether or not water services are used by him, her or it.

*Part 4:  
Payment*

**7. Payment of deposit**

- (1) Every consumer must on application for the provision of water services and before such water services will be provided by the municipality, deposit with the municipality a sum of money as determined by the municipality from time to time except in the case of a pre-payment measuring device being used by the municipality.
- (2) The municipality may require a consumer to whom services are provided and who was not previously required to pay a deposit, for whatever reason, to pay a deposit on request, within a specified period.
- (3) No interest shall be payable by the municipality on the amount of a deposit held by it in terms of this section.
- (4) An agreement for the provision of water services may contain a condition that a deposit shall be forfeited to the municipality if it has not been claimed within twelve months of the termination of the agreement.

**8. Payment for water services provided**

- (1) Water services provided by the municipality to a consumer shall be paid for by the consumer at the prescribed tariff or charge set in accordance with sections 5 and 6, for the particular category of water services provided.
- (2) A consumer shall be responsible for payment for all water services provided to the consumer from the date of an agreement until the date of termination thereof.
- (3) The municipality may estimate the quantity of water services provided in respect of a period or periods within the interval between successive measurements and may render an account to a consumer for the services so estimated.

*Part 5:  
Accounts*

**9. Accounts**

- (1) Monthly accounts will be rendered to consumers for the amount due and payable, at the address last recorded with the municipality.
- (2) Failure by the municipality to render an account does not relieve a consumer of the obligation to pay any amount due and payable.

*Part 6:  
Termination, limitation and discontinuation of water services*

**10. Termination of agreement for the provision of water services**

- (1) A consumer may terminate an agreement for the provision of water services by giving to the municipality notice in writing of his or her intention to do so.
- (2) The municipality may, by notice in writing of not less than thirty working days, advise a consumer of the termination of his, her or its agreement for the provision of water services if—
  - (a) he, she or it has not used the water services during the preceding six months and has not made arrangements to the satisfaction of the municipality for the continuation of the agreement;
  - (b) he, she or it has failed to comply with the provisions of this by-law and has failed to rectify such failure to comply on notice in terms of section 19;
  - (c) in terms of an arrangement made by it with another water services institution to provide water services to the consumer.
- (3) The municipality may, after having given reasonable notice, terminate an agreement for services if a consumer has vacated the premises to which such agreement relates.

**11. Limitation and/or discontinuation of water services provided**

- (1) The engineer may restrict or discontinue water services provided in terms of this by-law—
  - (a) on failure to pay the prescribed tariffs or charges on the date specified, in accordance with and after the procedure set out in the municipality's by-law relating to credit control and debt collection has been applied;
  - (b) at the written request of a consumer;
  - (c) if the agreement for the provision of services has been terminated in terms of section 10 and it has not received an application for subsequent services to the premises within a period of 90 (ninety) days of such termination.
  - (d) the building on the premises to which services were provided has been demolished;
  - (e) if the consumer has interfered with a restricted or discontinued service;
  - (f) in an emergency;
  - (g) if the consumer has interfered, tampered or damaged or caused or permitted interference, tampering or damage to the water supply system of the municipality for the purposes of gaining access to water supply services after notice by the municipality;
  - (h) on failure to comply with any other provisions of this by-law, after notice in terms of section 19 was given.
- (2) The municipality shall not be liable for any damages or claims that may arise from the limitation or disconnection of water services provided in terms of subsections (1), including damages or claims that may arise due to the limitation or disconnection of water services by the municipality in the bona fide belief that the provisions of subsection (1) applied.

*Part 7:  
General provisions*

**12. Responsibility for compliance with this by-law**

- (1) The owner of premises is responsible for ensuring compliance with this by-law in respect of all or any matters relating to any installation.
- (2) The consumer is responsible for compliance with this by-law in respect of matters relating to the use of any installation.

**13. Exemption**

- (1) The engineer may, in writing exempt an owner, consumer, any other person or category of owners, consumers, or other persons from complying with a provision of this by-law, subject to any conditions it may impose, if he or she is of the opinion that the application or operation of that provision would be unreasonable, provided that the engineer shall not grant exemption from any section of this by-law that may result in—
  - (a) the wastage or excessive consumption of water;
  - (b) the evasion or avoidance of water restrictions;
  - (c) significant negative effects on public health, safety or the environment;
  - (d) the non-payment for services;
  - (e) the installation of pipes and fittings which are not approved in terms of this by-law and
  - (f) the Act, or any regulations made in terms of it, not being complied with.
- (2) The municipality may at any time after giving written notice of at least thirty days, withdraw any exemption given in terms of subsection (1).

**14. Unauthorised use of water services**

- (1) No person may gain access to water services from the water supply system, sewage disposal system or any other sanitation services unless an agreement has been entered into with the municipality for the rendering of those services.
- (2) The municipality may, irrespective of any other action it may take against such person in terms of this by-law, by written notice order a person who has gained access to water services from the water supply system, sewage disposal system or any other sanitation services without an agreement with the municipality for the rendering of those services,
  - (a) to apply for such services in terms of sections 2 or 3; and
  - (b) to undertake such work as may be necessary to ensure that the consumer installation through which access was gained complies with the provisions of this by-law.
- (3) The provisions of sections 18 and 19 shall apply to a notice in terms of subsection (2) above.

**15. Interference with water supply system or any sanitation services**

- (1) No person other than the municipality shall manage, operate or maintain the water supply system or any sanitation system unless authorised by this by-law or an authorised agent.
- (2) No person other than the municipality shall effect a connection to the water supply system or sewage disposal system or render any other sanitation services.

**16. Interference with infrastructure**

- (1) No person may unlawfully interfere with infrastructure through which the municipality provides municipal services.
- (2) If a person contravenes subsection (1), the municipality may—
  - (a) by written notice require such person to seize or rectify the interference at his own expense within a specified period; or
  - (b) if it is of the opinion that the situation is a matter of urgency, without prior notice prevent or rectify the interference and recover the cost from such person.

**17. Obstruction of access to water supply system or any sanitation services**

- (1) No person shall prevent or restrict physical access to the water supply system or sewage disposal system.
- (2) If a person contravenes subsection (1), the municipality may—
  - (a) by written notice require such person to restore access at his or her own expense within a specified period; or
  - (b) if it is of the opinion that the situation is a matter of urgency, without prior notice restore access and recover the cost from such person.

**18. Signing of notices and documents**

A notice or document issued by the municipality in terms of this by-law and signed by a staff member of the municipality shall be deemed to have been duly issued and must on its mere production be accepted by a court as prima facie evidence of that fact.

**19. Service of notices**

- (1) Any notice, order or other document that is served on any person in terms of this by-law must, subject to the provisions of the Criminal Procedure Act 1977 (Act 51 of 1977), be served personally, failing which it may be regarded as having duly been served—
  - (a) when it has been left at a person's village, place of residence, or business or employment in the Republic, with a person apparently over the age of sixteen years;
  - (b) when it has been posted by registered or certified mail to a person's last known residential address or business address in the Republic and an acknowledgement of posting thereof from the postal service is obtained;
  - (c) if a person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in a manner provided for in subsections (a), (b) or (d); or
  - (d) if that person's address and agent or representative in the Republic is unknown, when it has been placed in a conspicuous place on the property or premises, if any, to which it relates.
- (2) Any legal process is effectively and sufficiently served on the municipality when it is delivered to the municipal manager or a person in attendance at the municipal manager's office.
- (3) When any notice or other document must be authorised or served on the owner, occupier of any property, or of any person who holds a right over, or in respect of it, it is sufficient if that person is described in the notice or other document as the owner, occupier or holder of the right over or in respect of, the property, and shall not be necessary to name him.
- (4) Where compliance with a notice is required within a specified number of working days, the period that is required shall commence on the date when the notice is served or when it has first been given in any other way contemplated in this by-law.

**20. Authentication of documents**

- (1) Every order, notice or other document requiring authentication by the municipality shall be sufficiently authenticated, if it is signed by the municipal manager, by a duly authorised officer of the municipality or by the Manager of the municipality's authorised agent.
- (2) Authority to authorise, as envisaged in subsection (1) must be conferred by a resolution of the municipality, by a written agreement or by a bylaw.

**21. Prima facie evidence**

In legal proceedings by or on behalf of the municipality, a certificate reflecting an amount of money as being due and payable to the municipality, shall, if it is made under the hand of the municipal manager, or of a suitably qualified employee of the municipality who is authorised by the municipal manager or the Manager of the municipality's authorised agent, shall upon its mere production constitute prima facie evidence of the indebtedness.

**22. Power to serve and compliance with notices**

- (1) The municipality may, by written notice, order an owner, consumer or any other person who fails, by act or omission, to comply with the provisions of this by-law or of any condition imposed thereunder to remedy such breach within a period specified in the notice.
- (2) If a person fails to comply with a written notice served on him or her by the municipality in terms of this by-law within the specified period, it may take such action that in its opinion is necessary to ensure compliance, including—
  - (a) undertaking the work necessary itself and recovering the cost of such action or work from that owner, consumer or other person;
  - (b) limiting or discontinuing the provision of services; and
  - (c) instituting legal proceedings.
- (3) A notice in terms of subsection (1) will—
  - (a) give details of the provision of the by-law not complied with;
  - (b) give the owner, consumer or other person a reasonable opportunity to make representations and state his or her case, in writing, to the municipality within a specified period, unless the owner, consumer or other person was given such an opportunity before the notice was issued;
  - (c) specify the steps that the owner, consumer or other person must take to rectify the failure to comply;
  - (d) specify the period within which the owner, consumer or other person must take the steps specified to rectify such failure; and
  - (e) indicate that the municipality—
    - (i) may undertake such work necessary to rectify the failure to comply if the notice is not complied with and that any costs associated with such work may be recovered from the owner, consumer or other person; and
    - (ii) may take any other action it deems necessary to ensure compliance.
- (4) In the event of an emergency the municipality may without prior notice undertake the work required by subsection (3)(e)(i) and recover the costs from such person.
- (5) The costs recoverable by the municipality in terms of subsections (3) and (4) is the full cost associated with that work and includes, but is not limited to, any exploratory investigation, surveys, plans, specifications, schedules of quantities, supervision, administration charge, the use of tools, the expenditure of labour involved in disturbing or rehabilitation of any part of a street or ground affected by the work and the environmental cost.

**23. Power of entry and inspection**

- (1) The municipality may enter and inspect any premises for any purpose connected with the implementation or enforcement of this by-law, at all reasonable times, after having given reasonable written notice to the occupier of the premises of the intention to do so.
- (2) Any entry and inspection must be conducted in conformity with the requirements of the Constitution of South Africa, 1996, and any other law and, in particular, with strict regard to decency and order, respect for a person's dignity, freedom and security, and personal privacy.
- (3) The municipality may be accompanied by an interpreter and any other person reasonably required to assist the authorised official in conducting the inspection.
- (4) A person representing the municipality must, on request, provide his identification.

**24. Provision of information**

An owner, occupier, consumer or person within the area of supply of the municipality must provide the municipality with accurate information requested by the municipality that is reasonably required by the municipality for the implementation or enforcement of this by-law.

**25. False statements or information**

No person shall make a false statement or furnish false information to the municipality or falsify a document issued in terms of this by-law.

**26. Indemnification from liability**

Neither employees of the municipality nor any person, body, organisation or corporation acting on behalf of the municipality is liable for any damage arising from any omission or act done in good faith in the course of his duties unless the damage is caused by a wrongful and intentional act or negligence.

**27. Conflict of law**

If there is any conflict between this by-law and any other by-law of the municipality, this by-law will prevail.

**28. Transitional arrangements**

- (1) Installation work authorised by the municipality prior to the commencement date of this by-law or authorised installation work in progress on that date shall be deemed to have been authorised in terms of this by-law; and the municipality may, for a period of 90 (ninety) days after the commencement of this by-law, authorise installation work in accordance with the by-law that regulated that work immediately prior to the promulgation of this by-law.
- (2) Any reference in this by-law to a charge determined by the municipal council shall be deemed to be a reference to a charge determined by the municipal council under the laws repealed by section 29, until the effective date of any applicable charges that may be determined by the municipal council in terms of this by-law, or by-law relating to credit control and debt collection, and any reference to a provision in the laws repealed by section 29 shall be deemed to be a reference to a corresponding provision in this by-law.
- (3) Any approval, consent or exemption granted under the laws repealed by section 29 shall, save for the provisions of subsection (3), remain valid.
- (4) No consumer shall be required to comply with this by-law by altering a water installation or part of it which was installed in conformity with any laws applicable immediately prior to the commencement of this by-law; provided that if, in the opinion of the engineer, the installation, or part, is so defective or in a condition or position that could cause waste or undue consumption of water, pollution of the water supply or a health hazard, the engineer may by notice require the consumer to comply with the provisions of this by-law.

**29. Repeal of existing municipal water services by-law**

The provisions of any by-law relating to water supply and sanitation services by the municipality are hereby repealed insofar as they relate to matters provided for in this by-law.

**30. Short title and commencement**

- (1) This by-law are called the Water Services By-law of the Bergrivier Municipality.
- (2) The municipality may, by notice in the Provincial Gazette, determine that provisions of this by-law, listed in the notice, do not apply in certain areas within its area of jurisdiction listed in the notice from a date specified in the notice.
- (3) Until any notice contemplated in subsection (2) is issued, this by-law is binding.

**31. Appeals against decisions of the municipality**

- (1) A consumer may appeal in writing against a decision of, or a notice issued by, the municipality in terms of this by-law.
- (2) An appeal in terms of subsection (1) must be made in writing and lodged with the municipality within 14 (fourteen) days after a consumer became aware of the decision or notice and must—
  - (a) set out the reasons for the appeal; and
  - (b) be accompanied by any security determined by the municipality for the testing of a measuring device, if it has been tested.
- (3) An appeal must be decided by the municipality within 14 (fourteen) days after an appeal was lodged and the consumer must be informed of the outcome in writing, as soon as possible thereafter.



- (4) The decision of the municipality is final.
- (5) The municipality may condone the late lodging of appeals or other procedural irregularities.

### 32. Waste of water

- (1) No consumer shall permit—
  - (a) the purposeless or wasteful discharge of water from terminal water fittings;
  - (b) pipes or water fittings to leak;
  - (c) the use of maladjusted or defective water fittings;
  - (d) an overflow of water to persist or
  - (e) an inefficient use of water to persist.
- (2) An owner shall repair or replace any part of his water and sanitation installation which is in such a state of disrepair that it is either causing or is likely to cause an occurrence listed in subsection (1).
- (3) If an owner fails to take measures as contemplated in subsection (2), the municipality shall, by written notice in terms of section 22, require the owner to comply with the provisions of subsection (1).
- (4) A consumer shall ensure that any equipment or plant connected to his or her water installation uses water in an efficient manner.
- (5) The municipality may, by written notice, prohibit the use by a consumer of any equipment in a water or sanitation installation if, in its opinion, its use of water is inefficient. Such equipment shall not be returned to use until its efficiency has been restored and a written application to do so has been approved by the municipality.

### 33. Unauthorised and illegal discharges

- (1) No person may discharge or cause or permit any sewage to be discharged directly or indirectly into a storm water drain, river, stream or other watercourse, whether natural or artificial.
- (2) The owner or occupier of any premises on which steam or any liquid other than potable water, is stored, processed or generated shall provide all facilities necessary to prevent any discharge or leakage of such liquid to any street, storm water drain or watercourse, whether natural or artificial, except where, in the case of steam, the municipality has approved such discharge.
- (3) Where the hosing down or flushing by rainwater of an open area on any premises is in the opinion of the municipality is likely to cause the discharge of objectionable matter into any street, storm water drain, river, stream or other watercourse, whether natural or artificial, or to cause or contribute towards the pollution of any such watercourse, the municipality may, by notice, require the owner of the premises to take reasonable measures to prevent or minimise such discharge or pollution.
- (4) No person may discharge or cause or permit the discharge of—
  - (a) any substance, including storm water, other than sewage, to be discharged into a drainage installation;
  - (b) of water from any swimming pool directly or indirectly over any road or into a gutter, storm water drain, watercourse, open ground or private premises other than the premises of the owner of such swimming pool;
  - (c) water from artificial fountains, reservoirs or swimming pools situated on premises into a drainage installation, without the approval of the municipality and subject to the payment of relevant charges and such conditions as the municipality may impose;
- (d) any sewage, industrial effluent or other liquid or substance which—
  - (i) in the opinion of the engineer may be offensive to or may cause a nuisance to the public;
  - (ii) is in the form of steam or vapour or has a temperature exceeding 44° C at the point where it enters the sewer;
  - (iii) has a pH value less than 6.0;
  - (iv) contains any substance of whatsoever nature likely to produce or release explosive, flammable, poisonous or offensive gases or vapours in any sewer;
  - (v) contains any substance having an open flashpoint of less than 93° C or which releases a poisonous vapour at a temperature below 93° C;
  - (vi) contains any material of whatsoever nature, including oil, grease, fat or detergents capable of causing obstruction to the flow in sewers or drains or interference with the proper operation of a sewerage treatment works;
  - (vii) shows any visible signs of tar or associated products or distillates, bitumens or asphalts;
  - (viii) contains any substance in such concentration to produce an undesirable taste after chlorination or an undesirable odour or colour, or excessive foam;
  - (ix) has either a greater PV or COD (Chemical Oxygen Demand) value, a lower pH value, or a higher caustic alkalinity or electrical conductivity than specified in Schedule A, without the prior approval and subject to the payment of relevant charges and such conditions as the municipality may impose;
  - (x) contains any substance which in the opinion of the engineer—
    - (aa) cannot be treated at the sewage treatment work to which it could be discharged; or
    - (bb) will negatively affect the treatment processes at the sewage treatment work to which it could be discharged or
    - (cc) will negatively impact on the ability of the sewage treatment work to produce discharges that meet the waste water discharge standards set in terms of the National Water Act, 1998 (Act No 36 of 1998), or



- (xi) either alone or in combination with other substance may—
  - (aa) generate or constitute a toxic substance dangerous to the health of persons employed at the sewage treatment works or entering the council's sewers or manholes in the course of their duties; or
  - (bb) be harmful to sewers, treatment plant or land used for the disposal of treated waste water; or
  - (cc) adversely affect any of the processes whereby sewage is treated or any re-use of sewage effluent.
- (5) No person shall cause or permit the accumulation of grease, oil, fat or solid matter in any drainage installation that will adversely affect its effective functioning.
- (6) The municipality may, notwithstanding any other actions that may be taken in terms of this by-law, recover from any person who discharges industrial effluent or any substance which is unauthorised or illegal all costs incurred, by the municipality as a result of such discharges, including costs that result from—
  - (a) injury to persons, damage to the sanitation system; or
  - (b) a prosecution in terms of the National Water Act, 1998 (Act No 36 of 1998).

#### **34. Illegal re-connection**

A consumer whose access to water supply services have been restricted or disconnected, who intentionally reconnects to services or who intentionally or negligently interferes with infrastructure through which water supply services are provided, shall be disconnected.

#### **35. Pipes in streets or public places**

No person shall for the purpose of conveying water or sewage derived from whatever source, lay or construct a pipe or associated component on, in or under a street, public place or other land owned by or under the control of any municipality, except with the prior written permission of the municipality and subject to such conditions as it may impose.

#### **36. Use of water from sources other than the water supply system**

- (1) No person shall use or permit the use of water obtained from a source other than the water supply system, other than rain water tanks which are not connected to the water installation, except with the prior approval of the engineer, and in accordance with such conditions as it may impose, for domestic, commercial or industrial purposes.
- (2) Any person desiring the consent referred to in subsection (1) shall provide the engineer with evidence satisfactory to it that the water referred to in subsection (1) complies, whether as a result of treatment or otherwise, with the requirements of SANS 241: Drinking Water, or that the use of such water does not or will not constitute a danger to health.
- (3) Any consent given in terms of subsection (1) may be withdrawn if, in the opinion of the engineer—
  - (a) a condition imposed in terms of subsection (1) is breached; or
  - (b) the water quality no longer conforms to the requirements referred to in subsection (2).
- (4) The engineer may take samples of water obtained from a source, other than the water supply system and cause the samples to be tested for compliance with the requirements referred to in subsection (2).
- (5) The determined charge for the taking and testing of the samples referred to in subsection (4) above shall be paid by the person to whom consent was granted in terms of subsection (1).
- (6) If water obtained from a borehole or other source of supply on any premises is used for a purpose which gives rise to the discharge of such water or a portion thereof into the municipality's sewerage system, the municipality may install a meter in the pipe leading from such borehole or other source of supply to the point or points where it is so used.

#### **37. Use of on-site sanitation services not connected to the sanitation system**

- (1) No person shall use or permit the use of on-site sanitation services not connected to the municipality's sanitation system except with the prior approval of the engineer, and in accordance with such conditions as it may impose, for domestic, commercial or industrial purposes.
- (2) Any person desiring the consent referred to in subsection (1) shall provide the engineer with evidence satisfactory to it that the sanitation facility is not likely to have a detrimental effect on health or the environment.
- (3) Any consent given in terms of subsection (1) may be withdrawn if, in the opinion of the engineer—
  - (a) a condition imposed in terms of subsection (1) is breached; or
  - (b) the sanitation facility has a detrimental impact on health or the environment.
- (4) The engineer may undertake such investigations as he or she may deem necessary to determine if a sanitation facility has a detrimental impact on health or the environment.
- (5) The person to whom consent was granted in terms of subsection (1) shall be liable for the costs associated with an investigation undertaken in terms of subsection (2) if the result of the investigation indicates that the sanitation facility has a detrimental impact on health or the environment.

#### **38. Offences and penalties**

- (1) No person may—
  - (a) unlawfully and intentionally or negligently interfere with any water services works of the municipality;
  - (b) refuse or neglect to provide information or provide false information reasonably requested by the municipality;

- (c) refuse to give access required by a municipality in terms of section 23;
  - (d) obstruct or hinder a municipality in the exercise of his or her powers or performance of his or her functions or duties under this by-law;
  - (e) contravene or fail to comply with a provision of this by-law;
  - (f) contravene or fail to comply with a condition or prohibition imposed in terms of this by-law;
  - (g) contravene or fail to comply with any conditions imposed upon the granting of any application; consent, approval, concession, exemption or authority in terms of this by-law; or
  - (h) fail to comply with the terms of a notice served upon him or her in terms of this by-law.
- (2) Any person who contravenes any of the provision of subsection (1) shall be guilty of an offence and liable on conviction to:
- (a) a fine or imprisonment, or either such fine or such imprisonment or both such fine and such imprisonment;
  - (b) in the case of a continuing offence, and additional fine or an additional period of imprisonment or either such additional fine or such additional imprisonment or both such additional fine and imprisonment for each day on which such offence is continued, and
  - (c) a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as result of such contravention.

### 39. Service levels

- (1) The municipal council may, from time to time, and in accordance with national policy, but subject to principles of sustainability and affordability, by public notice, determine the service levels it is able to provide to consumers.
- (2) The municipal council may in determining service levels differentiate between types of consumers, domestic consumers, geographical areas and socio-economic areas.
- (3) The following levels of service may, subject to subsection (1), be provided by the municipality on the promulgation of this by-law:
- (a) Communal water supply services and on-site sanitation services—
    - (i) constituting the minimum level of service provided by the municipality;
    - (ii) consisting of reticulated standpipes or stationery water tank serviced either through a network pipe or a water tanker located within a reasonable walking distance from any household with a Ventilated Improved Pit latrine located on each premises with premises meaning the lowest order of visibly demarcated area on which some sort of informal dwelling has been erected;
    - (iii) installed free of charge;
    - (iv) provided free of any charge to consumers; and
    - (v) maintained by the municipality.
  - (b) Yard connection not connected to any water installation and an individual connection to the municipality's sanitation system—
    - (i) consisting of an un-metered standpipe on a premises not connected to any water installation and a pour-flush toilet pan, wash-trough and suitable toilet top structure connected to the municipality's sanitation system;
    - (ii) installed free of charge;
    - (iii) maintained by the municipality.
  - (c) a metered pressured water connection with an individual connection to the municipality's sanitation system—
    - (i) installed against payment of the relevant connection charges;
    - (ii) provided against payment of prescribed charges; and
    - (iii) with the water and drainage installations maintained by the consumer.

## CHAPTER II

### WATER SERVICES INTERMEDIARIES

#### 40. Registration

The municipality may by public notice require water services intermediaries or classes of water services intermediaries to register with the municipality in a manner specified in the public notice.

#### 41. Provision of water services

- (1) Water services intermediaries must ensure that water services, including basic services as determined by the municipal council, are provided to such persons it is obliged to provide with water services.
- (2) The quality, quantity and sustainability of water services provided by a water services intermediary must meet any minimum standards prescribed in terms of the Act and must at least be of the same standards as provided by the municipality to consumers.

#### 42. Charges for water services provided

- (1) A water services intermediary may not charge for water services at a price which does not comply with any norms and standards prescribed under the Act and any additional norms and standards as may be set by the municipality.

- (2) A water services intermediary must provide subsidised water services, as determined by the municipal council in terms of the municipality's by-law relating to credit control and debt collection from time to time, and provided by the municipality to consumers at a price that is the same or less than the charges at which the municipality provides such services.

### CHAPTER III

#### WATER SUPPLY SERVICES

##### *Part 1:*

##### *Connection to water supply system*

#### **43. Provision of connection pipe**

- (1) If an agreement for water supply services in respect of premises has been concluded and no connection pipe exists in respect of the premises, the owner shall make application on the prescribed form and pay the determined charge for the installation of such a pipe.
- (2) If an application is made for water supply services which are of such an extent or so situated that it is necessary to extend, modify or upgrade the water supply system in order to supply water to the premises, the municipality may agree to the extension provided that the owner shall pay for the cost of the extension, as determined by the engineer.
- (3) Only the engineer may install a connection pipe but the owner or consumer may connect the water installation to the connection pipe.
- (4) No person may commence any development on any premises unless the engineer has installed a connection pipe and meter. A connection point will be provided by the municipality within 15 working days after a successful agreement for water supply services in respect of premises has been concluded.

#### **44. Location of connection pipe**

- (1) A connection pipe provided and installed by the engineer shall—
  - (a) be located in a position determined by the engineer and be of a suitable size as determined by the engineer;
  - (b) terminate at—
    - (i) the boundary of the land owned by or vested in the municipality, or over which it has a servitude or other right; or
    - (ii) at the outlet of the water meter or isolating valve if it is situated on the premises.
- (2) The engineer may at the request of any person agree, subject to such conditions as the engineer may impose, to a connection to a main other than that which is most readily available for the provision of water supply to the premises; provided that the applicant shall be responsible for any extension of the water installation to the connecting point designated by the municipality and for obtaining at his cost, any servitudes over other premises that may be necessary.
- (3) An owner must pay the determined connection charge in advance before a water connection can be effected.

#### **45. Provision of single water connection for supply to several consumers on the same premises**

- (1) Notwithstanding the provisions of section 43, only one connection pipe to the water supply system may be provided for the supply of water to any premises, irrespective of the number of accommodation units, business units or consumers located on such premises.
- (2) Where the owner, or the person having the charge or management of any premises on which several accommodation units are situated, requires the supply of water to such premises for the purpose of supply to the different accommodation units, the engineer may, in its discretion, provide and install either—
  - (a) a single measuring device in respect of the premises as a whole or any number of such accommodation units; or
  - (b) a separate measuring device for each accommodation unit or any number thereof.
- (3) Where the engineer has installed a single measuring device as contemplated in subsection (2) (a), the owner or the person having the charge or management of the premises, as the case may be—
  - (a) must, if the municipality so requires, install and maintain on each branch pipe extending from the connection pipe to the different accommodation units—
    - (i) a separate measuring device; and
    - (ii) an isolating valve; and
  - (b) will be liable to the municipality for the charges for all water supplied to the premises through such a single measuring device, irrespective of the different quantities consumed by the different consumers served by such measuring device.
- (4) Notwithstanding subsection (1), the municipality may authorise that more than one connection pipe to be provided on the water supply system for the supply of water to any premises comprising sectional title units if, in the opinion of the municipality, undue hardship or inconvenience would be caused to any consumer on such premises by the provision of only one connection pipe.
- (5) Where the provision of more than one connection pipe is authorised by the municipality under subsection (4), the tariffs and charges for the provision of a connection pipe is payable in respect of each water connection so provided.

#### **46. Interconnection between premises or water installations**

An owner of premises shall ensure that no interconnection exists between—

- (a) the water installation on his or her premises and the water installation on other premises; or

- (b) where several accommodation units are situated on the same premises, the water installations of the accommodation units; unless he or she has obtained the prior written consent of the municipality, and complies with any conditions that it may have imposed.

#### **47. Disconnection of water installation from the connection pipe**

The engineer may disconnect a water installation from the connection pipe and remove the connection pipe if—

- (a) the agreement for supply has been terminated in terms of section 10 and it has not received an application for a subsequent supply of water to the premises served by the pipe within a period of 90 days of such termination, or
- (b) the building on the premises concerned has been demolished, or
- (c) on termination of an agreement for the provision of water supply services in accordance with the municipality's by-law relating to credit control and debt collection.

*Part 2:  
Communal water services works*

#### **48. Provision of a water services work for water supply to several consumers**

- (1) The engineer may install a communal standpipe for the provision of water supply services to several consumers at a location it considers appropriate, provided that a majority of consumers, who in the opinion of the engineer, constitute a substantial majority, and to whom water services will be provided by the standpipe, has been consulted by him or the municipality and informed of the level of service, tariffs that will be payable and location of the work.
- (2) The engineer may provide communal water supply services through a communal installation designed to provide a controlled volume of water to several consumers.

*Part 3:  
Temporary water supply services*

#### **49. Water supplied from a hydrant**

- (1) The engineer may authorise a temporary supply of water to be taken from one or more fire hydrants specified by it, subject to such conditions and for any period that may be prescribed by him and payment of such applicable charges, including a deposit, as may be determined by the municipal council from time to time.
- (2) A person who wishes to obtain a temporary supply of water referred to in subsection (1) must apply for such a water supply service in terms of section 2 and must pay a deposit determined by the municipal council from time to time.
- (3) The supply of water in terms of subsection (1) must be measured and the applicant shall provide a portable water meter and all other fittings and apparatus necessary, to the satisfaction of the engineer, for the temporary supply of water from a hydrant.

*Part 4:  
Standards and general conditions of supply*

#### **50. Quantity, quality and pressure**

Water supply services provided by the municipality must comply with the minimum standards set for the provision of water supply services in terms of section 9 of the Act.

#### **51. Testing of pressure in water supply systems**

The engineer may, on application by an owner and on payment of the determined charge, determine and furnish the owner with the amount of the pressure in the water supply system relating to his premises over such period as the owner may request.

#### **52. Specific conditions of supply**

- (1) Notwithstanding the undertaking in section 50, the granting of a supply of water by the municipality shall not constitute an undertaking by it to maintain at any time or any point in its water supply system—
  - (a) an uninterrupted supply, subject to the provisions of regulations 4 and 14 of Regulation 22355 promulgated in terms of the Act on 8 June 2003; or
  - (b) a specific pressure or rate of flow in such supply other than requires in terms of regulation 15(2) of Regulation 22355 promulgated in terms of the Act on 8 June 2003.
- (2) The engineer may, subject to the provisions of subsection (1)(b), specify the maximum pressure to which water will be supplied from the water supply system.
- (3) If an owner of consumer requires—
  - (a) that any of the standards referred to in subsection (1); or
  - (b) a higher standard of service than specified in section 50;
 be maintained on his premises, he or she shall take the necessary steps to ensure that the proposed water installation is able to meet such standards.
- (4) The engineer may, in an emergency, interrupt the supply of water to any premises without prior notice.
- (5) If in the opinion of the engineer the consumption of water by a consumer adversely affects the supply of water to another consumer, he may

apply such restrictions as he may consider fit, to the supply of water to consumer in order to ensure a reasonable supply of water to the other consumer and must inform that consumer about the restrictions.

- (6) The municipality shall not be liable for any damage to property caused by water flowing from any water installation that is left open when the water supply is re-instated, after an interruption in supply.
- (7) Every steam boiler, hospital, industry and any premises which requires, for the purpose of the work undertaken on the premises, a continuous supply of water shall have a storage tank, which must comply with the specification for water storage tanks as stipulated in SANS 0252 Part 1, with a capacity of not less than 24 hours water supply calculated as the quantity required to provide the average daily consumption, where water can be stored when the continuous supply is disrupted.
- (8) No consumer shall resell water supplied to him by the municipality except with the written permission of the municipality, which may stipulate the maximum price at which the water may be resold, and may impose such other conditions as the municipality may deem fit.

*Part 5:  
Measurement of water supply services*

**53. Measuring of quantity of water supplied**

- (1) The engineer must provide a measuring device designed to provide either a controlled volume of water, or an uncontrolled volume of water, to a consumer.
- (2) The municipality must, at regular intervals, measure the quantity of water supplied through a measuring device designed to provide an uncontrolled volume of water.
- (3) Any measuring device and its associated apparatus through which water is supplied to a consumer by the municipality, shall be provided and installed by the engineer, shall remain its property and may be changed and maintained by the engineer when he consider it necessary to do so.
- (4) The engineer may install a measuring device, and its associated apparatus, at any point on the service pipe.
- (5) If the engineer installs a measuring device on a service pipe in terms of subsection (4), he may install a section of pipe and associated fittings between the end of its connection pipe and the meter, and that section shall form part of the water installation.
- (6) If the engineer installs a measuring device together with its associated apparatus on a service pipe in terms of subsection (4), the owner shall—
  - (a) provide a place satisfactory to the engineer in which to install it;
  - (b) ensure that unrestricted access is available to it at all times;
  - (c) be responsible for its protection and be liable for the costs arising from damage to it, excluding damage arising from normal fair wear and tear;
  - (d) ensure that no connection is made to the pipe in which the measuring device is installed between the measuring device and the connection pipe serving the installation;
  - (e) make provision for the drainage of water which may be discharged from the pipe, in which the measuring device is installed, in the course of work done by the engineer on the measuring device; and
  - (f) not use, or permit to be used on any water installation, any fitting, machine or appliance which causes damage or which, in the opinion of the engineer, is likely to cause damage to any meter.
- (7) No person other than the engineer shall:
  - (a) disconnect a measuring device and its associated apparatus from the pipe on which they are installed;
  - (b) break a seal which the engineer has placed on a meter; or
  - (c) in any other way interfere with a measuring device and its associated apparatus.
- (8) If the engineer considers that, a measuring device is a meter whose size is unsuitable because of the quantity of water supplied to premises, he may install a meter of a size that he considers necessary, and may recover the determined charge for the installation of the meter from the owner of the premises.
- (9) The municipality may require the installation, at the owner's expense, of a measuring device to each dwelling unit, in separate occupancy, on any premises, for use in ascertaining the quantity of water supplied to each such unit; but where controlled volume water-delivery systems are used, a single measuring device may otherwise be used for more than one unit.

**54. Quantity of water supplied to consumer**

- (1) For the purposes of ascertaining the quantity of water that has been measured by a measuring device that has been installed by the engineer and that has been supplied to a consumer over a specific period, it will, for the purposes of this by-law, be presumed except in any criminal proceedings, unless the contrary is proved, that—
  - (a) the quantity, where the measuring device designed to provide an uncontrolled volume of water, is the difference between measurements taken at the beginning and end of that period;
  - (b) the quantity, where the measuring device designed to provide a controlled volume of water, is the volume dispensed by the measuring device;
  - (c) the measuring device was accurate during that period; and
  - (d) the entries in the records of the municipality were correctly made; and
  - (e) if water is supplied to, or taken by, a consumer without having passed through a measuring device, the estimate by the municipality of the quantity of that water shall be presumed, except in any criminal proceedings, to be correct unless the contrary is proved.
- (2) Where water supplied by the municipality to any premises is in any way taken by the consumer without the water passing through any

measuring device provided by the municipality, the municipality may, for the purpose of rendering an account, estimate, in accordance with subsection (3), the quantity of water supplied to the consumer during the period that water is so taken by the consumer.

- (3) For the purposes of subsection (2), an estimate of the quantity of water supplied to a consumer shall, as the municipality may decide, be based either on—
  - (a) the average monthly consumption of water on the premises recorded over three succeeding measuring periods after the date on which an irregularity referred to in subsection (2) has been discovered and rectified, or
  - (b) the average monthly consumption of water on the premises during any three consecutive measuring periods during the twelve months immediately before the date on which an irregularity referred to in subsection (2) was discovered.
- (4) Nothing in this by-law shall be construed as imposing on the municipality an obligation to cause any measuring device installed by the engineer on any premises to be measured at the end of every month or any other fixed period, and the municipality may estimate the quantity of water supplied over any period during the interval between successive measurements of the measuring device and render an account to a consumer for the quantity of water so estimated.
- (5) Until the time when a measuring device has been installed in respect of water supplied to a consumer, the estimated or shared consumption of that consumer during a specific period, must be based on the average consumption of water supplied to the specific supply zone within which the consumer's premises are situated, during a specific period.
- (6) Where in the opinion of the engineer it is not reasonably possible or cost effective to measure water that is supplied to each consumer within a determined supply zone, the municipality may in terms of its tariff policy determine a basic tariff or charge to be paid by each consumer within that zone irrespective of actual consumption.
- (7) The municipality must within seven days, on receipt of a written notice from the consumer and subject to payment of the determined charge, measure the quantity of water supplied to the consumer at a time, or on a day, other than that upon which it would normally be measured.
- (8) If a contravention of section 53 (7) occurs, the consumer must pay to the municipality the cost of whatever quantity of water was, in the opinion by the municipality, supplied to him.

#### **55. Defective measurement**

If a consumer has reason to believe that a measuring device, used for measuring water, which was supplied to him or her by the municipality is defective he or she may take the steps as provided for in the municipality's by-law relating to credit control and debt collection.

#### **56. Special measurement**

- (1) If the engineer requires, for purposes other than charging for water consumed, to ascertain the quantity of water which is used in a part of a water installation, may, by written notice, advise the owner concerned of his intention to install a measuring device at any point in the water installation that he may specify.
- (2) The installation of a measuring device referred to in subsection (1), its removal, and the restoration of the water installation after such a removal shall be carried out at the expense of the municipality.
- (3) The provisions of sections 53 (6) and 53 (7) shall apply, insofar as they may be applicable, in respect of a measuring device that has been installed in terms of subsection (1).

#### **57. No reduction of amount payable for water wasted**

A consumer shall not be entitled to a reduction of the amount payable for water wasted or lost in a water installation.

#### *Part 6: Audit*

#### **58. Water audit**

- (1) The municipality may require a consumer, within one month after the end of a financial year of the municipality, to undertake a water audit at his own cost.
- (2) The audit must at least involve and report—
  - (a) the amount of water used during the financial year;
  - (b) the amount paid for water for the financial year;
  - (c) the number of people living on the stand or premises;
  - (d) the number of people permanently working on the stand or premises;
  - (e) the seasonal variation in demand through monthly consumption figures;
  - (f) the water pollution monitoring methods;
  - (g) the current initiatives for the management of the demand for water;
  - (h) the plans to manage their demand for water;
  - (i) a comparison of the report with any report that may have been made during the previous three years;
  - (j) estimates of consumption by various components of use; and
  - (k) a comparison of the above factors with those reported in each of the previous three years, where available.



*Part 7:  
Installation work*

**59. Approval of installation work**

- (1) If an owner wishes to have installation work done, he or she must first obtain the municipality's written approval; provided that approval shall not be required in the case of water installations in dwelling units or installations where no fire installation is required in terms of SANS 0400, or in terms of any Municipal by-law, or for the repair or replacement of an existing pipe or water fitting other than a fixed water heater and its associated protective devices.
- (2) Application for the approval referred to in subsection (1) shall be made on the prescribed form and shall be accompanied by—
  - (a) the determined charge, if applicable; and
  - (b) copies of the drawings as may be determined by the municipality, giving information in the form required by Clause 4.1.1 of SANS Code 0252: Part I;
  - (c) a certificate certifying that the installation has been designed in accordance with SANS Code 0252: Part I by a professional engineer.
- (3) The provisions of subsections (1) and (2) shall not apply to a qualified plumber who replaces a fixed water heater or its associated protective devices.
- (4) Authority given in terms of subsection (1) shall lapse at the expiry of a period of twenty-four months.
- (5) A complete set of approved drawings of installation work must be available at the site of the work at all times until the work has been completed, where approval was required in terms of subsection (1).
- (6) If installation work has been done in contravention of subsection (1) or (2), the municipality may by written notice require the owner of the premises concerned to—
  - (a) rectify the contravention within a specified period;
  - (b) if work is in progress, to cease the work; and
  - (c) to remove all such work which does not comply with this by-law.

**60. Provision and maintenance of water installations**

- (1) An owner must provide and maintain his water installation at his own cost and except where permitted in terms of subsection (2), must ensure that the installation is situated within the boundary of his premises.
- (2) Before doing work in connection with the maintenance of a portion of his water installation, which is situated outside the boundary of his premises, an owner shall obtain the written consent of the municipality or the owner of the land on which the portion is situated, as the case may be.

**61. Persons permitted to do installation and other work**

- (1) Only a plumber, a person working under the control of a plumber, or another person authorised in writing by the municipality, shall be permitted to:
  - (a) do installation work other than the replacement or repair of an existing pipe or water fitting;
  - (b) replace a fixed water heater or its associated protective devices;
  - (c) inspect, disinfect and test a water installation, fire installation or storage tank;
  - (d) service, repair or replace a back flow preventer; or
  - (e) install, maintain or replace a meter provided by an owner in a water installation.
- (2) No person shall require or engage a person who is not a plumber to do the work referred to in subsection (1).
- (3) Notwithstanding the provisions of subsection (1) the municipality may permit a person who is not a plumber to do installation work on his own behalf on premises owned and occupied solely by himself and his immediate household, provided that such work must be inspected and approved by a plumber at the direction of the engineer.

**62. Technical requirements for a water installation**

Notwithstanding the requirement that a certificate be issued in terms of section 59, all water installations shall comply with SANS 0252 Part 1 and all fixed electrical storage water heaters shall comply with SANS 0254.

**63. Use of pipes and water fittings to be authorised**

- (1) No person shall, without the prior written authority of the engineer, install or use a pipe or water fitting in a water installation within the municipality's area of jurisdiction unless it is included in the Schedule of Approved Pipes and Fittings as compiled by the municipality.
- (2) Application for the inclusion of a pipe or water fitting in the Schedule referred to in subsection (1) must be made on the form prescribed by the municipality and be accompanied by the prescribed charge.
- (3) A pipe or water fitting may be not be included in the Schedule referred to in subsection (1) unless it—
  - (a) bears the standardisation mark of the South African Bureau of Standards in respect of the relevant SANS specification issued by the Bureau; or
  - (b) bears a certification mark issued by the SANS to certify that the pipe or water fitting complies with an SANS Mark specification or a



- provisional specification issued by the SANS, provided that no certification marks shall be issued for a period exceeding two years; or
- (c) is acceptable to the municipality.
- (4) The municipality may, in respect of any pipe or water fitting included in the Schedule, impose such additional conditions, as it may consider necessary in respect of the use or method of installation.
- (5) A pipe or water fitting shall be removed from the Schedule if it—
- (a) no longer complies with the criteria upon which its inclusion was based; or
- (b) is no longer suitable for the purpose for which its use was accepted.
- (6) The current Schedule shall be available for inspection at the office of the municipality at any time during working hours.
- (7) The municipality may sell copies of the current Schedule at a determined charge.

#### **64. Labelling of terminal water fittings and appliances**

All terminal water fittings and appliances using or discharging water shall be marked, or have included within the packaging of the item, the following information:

- (a) the range of pressure in kPa over which the water fitting or appliance is designed to operate.
- (b) the flow rate, in litres per minute, related to the design pressure range, provided that this information shall be given for at least the following water pressures: 20 kPa, 100kPa and 400 kPa.

#### **65. Water demand management**

- (1) In any water installation where the dynamic water pressure is more than 200 kPa at a shower control valve, and where the plumbing has been designed to balance the water pressures on the hot and cold water supplies to the shower control valve, a shower head with a maximum flow rate of greater than 10 litres per minute must not be installed.
- (2) The maximum flow rate from any tap installed on a wash hand basin must not exceed 6 litres per minute.

#### *Part 8:*

#### *Water pollution, restriction and wasteful use of water*

#### **66. Owner to prevent pollution of water**

An owner shall provide and maintain approved measures to prevent the entry of a substance, which may be a danger to health or adversely affect the potability of water or affect its fitness for use, into—

- (a) the water supply system; and
- (b) any part of the water installation on his or her premises.

#### **67. Water restrictions**

- (1) The municipality may by public notice to prevent the wasteful use of water in terms of section 32 or in the event of a water shortage, drought or flood—
- (a) prohibit or restrict the consumption of water in the whole or part of its area of jurisdiction in general or for—
- (i) specified purposes;
- (ii) during specified hours of the day or on specified days; and
- (iii) in a specified manner; and
- (b) determine and impose—
- (i) limits on the quantity of water that may be consumed over a specified period;
- (ii) charges additional to those prescribed in respect of the supply of water in excess of a limit contemplated in subsection (1)(b)(i); and
- (iii) a general surcharge on the prescribed charges in respect of the supply of water; and
- (c) impose restrictions or prohibitions on the use or manner of use or disposition of an appliance by means of which water is used or consumed, or on the connection of such appliances to the water installation.
- (2) The municipality may limit the application of the provisions of a notice contemplated by subsection (1) to specified areas and categories of consumers, premises and activities, and may permit deviations and exemptions from, and the relaxation of, any of the provisions on reasonable grounds.
- (3) The municipality may—
- (a) take, or by written notice require a consumer at his or her own expense to take, such measures, including the installation of measurement devices and devices for restricting the flow of water, as may in its opinion be necessary to ensure compliance with a notice published in terms of subsection (1); or
- (b) discontinue or, for such period as it may deem fit, limit the supply of water to any premises in the event of a contravention on such premises or failure to comply with the terms of a notice published in terms of subsection (1), subject to notice in terms of section 22; and
- (c) shall where the supply has been discontinued, restore it only when the determined charge for discontinuation and reconnecting the supply has been paid.

- (4) The provisions of this section shall also apply in respect of water supplied directly by the municipality to consumers outside its area of jurisdiction, notwithstanding anything to the contrary in the conditions governing such supply, unless otherwise specified in the notice published in terms of subsection (1).

*Part 9:  
Fire services connections*

**68. Connection to be approved by the municipality**

- (1) The engineer shall be entitled in his absolute discretion to grant or refuse an application for the connection of a fire extinguishing installation to the municipality's main.
- (2) No water shall be supplied to any fire extinguishing installation until a certificate that the municipality's approval in terms of section 59 has been obtained and that the installation complies with the requirements of these and any other by-law of the municipality, has been submitted.
- (3) If in the engineer's opinion a fire extinguishing installation, which he has allowed to be connected to the municipality's main, is not being kept in proper working order, or is otherwise not being properly maintained, or is being used for purpose other than fire fighting, that shall be entitled either to require the installation to be disconnected from the main or itself to carry out the work of disconnecting it at the consumer's expense.

**69. Special provisions**

The provisions of SANS 0252-1 shall apply to the supply of water for fire fighting purposes.

**70. Dual and combined installations**

All new buildings erected after the commencement of this by-law, must comply with the following requirements in relation to the provision of fire extinguishing services:

- (a) If boosting of the system is required, a dual pipe system must be used, one for fire extinguishing purposes and the other for general domestic purposes.
- (b) Combined installations shall only be permitted where no booster pumping connection is provided on the water installation. In such cases a fire hydrant must be provided by the municipality, at the consumer's expense, within 90 metres of the property to provide a source of water for the fire tender to use in extinguishing the fire.
- (c) Combined installations where a booster pumping connection is provided, shall only be permitted when designed and certified by a professional engineer.
- (d) All pipes and fittings must be capable of handling pressures in excess of 1 800 kPa, if that pressure could be expected when boosting takes place and must be capable of maintaining their integrity when exposed to fire conditions.

**71. Connection pipes for fire extinguishing services**

- (1) After the commencement of this by-law, a single connection pipe for both fire (excluding sprinkler systems) and potable water supply services shall be provided by the engineer.
- (2) The engineer shall provide and install, at the cost of the owner a combination meter on the connection pipe referred to in (1).
- (3) A separate connection pipe shall be laid and used for every fire sprinkler extinguishing system unless the engineer gives his approval to the contrary.
- (4) A connection pipe must be equipped with a measuring device that will not obstruct the flow of water while the device is operating.

**72. Valves and meters in connection pipes**

Every connection pipe to a fire extinguishing installation must be fitted with valves and a measuring device which shall be:

- (a) supplied by the engineer at the expense of the consumer;
- (b) installed between the consumer's property and the main; and
- (c) installed in such position as may be determined by the engineer.

**73. Meters in fire extinguishing connection pipes**

The engineer shall be entitled to install a water meter in any connection pipe used solely for fire extinguishing purposes and the owner of the premises shall be liable for all costs in so doing if it appears to the municipality that water has been drawn from the pipe for purposes other than for the purpose of extinguishing a fire.

**74. Sprinkler extinguishing installation**

A sprinkler installation may be installed directly to the main, but the municipality may not be deemed to guarantee any specified pressure at any time.

**75. Header tank or double supply from main .**

- (1) The consumer must install a header tank at such elevation as will compensate for any failure or reduction of pressure in the municipality's main for its sprinkler installation, unless this installation is provided with a duplicate supply from a separate main.

- (2) The main pipe leading from a header tank to the sprinkler installation may be in direct communication with the main, provided that the main pipe must be equipped with a reflux valve which, if for any reason the pressure in the main fails or is reduced, will shut off the supply from the main.
- (3) Where a sprinkler installation is provided with a duplicate supply from a separate main, each supply pipe must be equipped with a reflux valve situated within the premises.

#### **76. Sealing of private fire hydrants .**

- (1) Except where a system is a combined system with a combination meter, all private hydrants and hose-reels must be sealed by the municipality and the seals must not, except for the purposes of opening the hydrant or using the hose when there is a fire, be broken by any person other than by the municipality in the course of servicing and testing.
- (2) The consumer must give the municipality at least 48 hours notice prior to a fire extinguishing installation being serviced and tested.
- (3) The cost of resealing hydrants and hose-reels shall be borne by the consumer except when the seals are broken by the municipality's officers for testing purposes.
- (4) Any water consumed through a fire installation or sprinkler system shall be paid for by the consumer at the charges determined by the municipality.

#### *Part 10: General provisions*

#### **77. Notification of boreholes**

- (1) No person may sink a borehole on premises situated in a dolomite area, and before sinking a borehole a person must determine if the premises on which the borehole is to be sunk are situated within a dolomite area.
- (2) The municipality may, by public notice, require—
  - (a) the owner of any premises within any area of the municipality upon which a borehole exists or, if the owner is not in occupation of such premises, the occupier to notify it of the existence of a borehole on such premises, and provide it with such information about the borehole that it may require; and
  - (b) the owner or occupier of any premises who intends to sink a borehole on the premises, to notify it on the prescribed form of its intention to do so before any work in connection sinking it is commenced.
- (3) The municipality may require the owner or occupier of any premises who intends to sink a borehole, to undertake an environmental impact assessment of the intended borehole, to the satisfaction of the municipality, before sinking it.
- (4) Boreholes are subject to any requirements of the National Water Act, 1998 (Act No 36 of 1998).
- (5) The municipality may by notice to an owner or occupier or by public notice, require an owner or occupier who has an existing borehole that is used for water supply services to—
  - (a) obtain approval from it for the use of a borehole for potable water supply services in accordance with sections 6, 7 and 22 of the Act; and
  - (b) adhere to conditions imposed by it in respect of the use of a borehole for water services; and
  - (c) to pay a fixed charge imposed by it in respect of the use of such a borehole.

#### **78. Sampling of water**

- (1) The municipality may take samples of water obtained from a source, authorised in terms of section 6 or 7 of the Act, other than the water supply system for domestic purposes and cause the samples to be tested for compliance with any national standards prescribed in terms of section 9 of the Act.
- (2) The prescribed charge for the taking and testing of the samples referred to in subsection (1) shall be paid by the person to whom approval to use the water for potable water was granted in terms of section 6(1) of the Act.

#### **79. Supply of non-potable water by municipality**

- (1) The municipality may on application in terms of section 3 agree to supply non-potable water to a consumer, subject to such terms and conditions as the municipality may impose.
- (2) Any supply of water agreed to in terms of subsection (1) shall not be used for domestic or any other purposes, which, in the opinion of the municipality, may give rise to a health risk.
- (3) No warranty, expressed or implied, shall apply to the purity of any non-potable water supplied by the municipality or its suitability for the purpose for which the supply was granted.
- (4) The supply of non-potable water shall, both as to condition and use, be entirely at the risk of the consumer, who shall be liable for any consequential damage or loss arising to himself, herself or others arising directly or indirectly there from, including the consequences of any bona fide fault of the municipality or the malfunction of a treatment plant.

#### **80. Testing of pressure in water supply systems**

The municipality may, on application by an owner and on payment of the prescribed charge, determine and furnish the owner with the value of the pressure in the water supply system relating to his or her premises over such period as the owner may request.

**81. Pipes in streets or public places**

No person shall for the purpose of conveying water derived from whatever source, lay or construct a pipe or associated component on, in or under a street, public place or other land owned by, vested in, or under the control of any municipality, except with the prior written permission of that municipality and subject to such conditions as it may impose.

**82. Use of grey water**

No person shall use grey water or permit such water to be used, except with the prior written permission of the municipality and subject to such conditions as it may impose.

**CHAPTER IV****SANITATION SERVICES***Part 1:**Standards and general provisions***83. Standards for sanitation services**

Sanitation services provided by the municipality will comply with the minimum standards set for the provision of sanitation services in terms of the section 9 of the Act.

**84. Objectionable discharge to sewage disposal system**

- (1) No person shall discharge, or permit the discharge or entry into the sewage disposal system of any sewage or other substance—
  - (a) which does not comply with the standards and criteria prescribed in sections 109 to 112 below;
  - (b) which contains any substance in such concentration as will produce or be likely to produce in the effluent produces for discharge at any sewage treatment plant or sea outfalls discharge point or in any public water any offensive, or otherwise undesirable taste, colour, odour, temperature or any foam;
  - (c) which may prejudice the re-use of treated sewage or adversely affect any of the processes whereby sewage is purified for re-use, or treated to produce sludge for disposal;
  - (d) which contains any substance or thing of whatsoever nature which is not amenable to treatment to a satisfactory degree at a sewage treatment plant or which causes or is likely to cause a breakdown or inhibition of the processes in use at such plant;
  - (e) which contains any substance or thing of whatsoever nature which is of such strength, or which is amenable to treatment only to a degree as will result in effluent from the sewage treatment plant or discharge from any sea outfalls not complying with standards prescribed under the National Water Act, 1998 (Act No. 36 of 1998);
  - (f) which may cause danger to the health or safety of any person or may be injurious to the structure or materials of the sewage disposal system or may prejudice the use of any ground used by the municipality for the sewage disposal system, other than in compliance with the permissions issued in terms of this by-law; and
  - (g) which may inhibit the unrestricted conveyance of sewage through the sewage disposal system.
- (2) No person shall cause or permit any storm water to enter the sewage disposal system.
- (3) The municipality may, by written notice, order the owner or occupier to conduct, at his or her cost, periodic expert inspections of the premises in order to identify precautionary measures which would ensure compliance with this by-law and to report such findings to an authorised agent.
- (4) If any person contravenes any provision of subsection (1) or subsection (2) he or she shall within twelve hours, or earlier if possible, advise the municipality of the details of the contravention and the reasons for it.

*Part 2:**On-site sanitation services and associated services***85. Application for infrastructure**

- (1) If an agreement for on site sanitation and associated services in accordance with section 2 exists and no infrastructure in connection therewith exists on the premises, the owner must immediately make application on the approved form and—
  - (a) pay the prescribed charge for the installation of necessary infrastructure; or
  - (b) with the approval by the municipality and at the request of the owner, install the connecting sewer or on site sanitation services in accordance with the specifications of the municipality.
- (2) A municipality may specify the type of on site sanitation services to be installed.

**86. Services associated with on-site sanitation services**

- (1) The removal or collection of conservancy tank contents, night soil or the emptying of pits will be undertaken by the municipality in accordance with a removal and collection schedule determined by the municipality.
- (2) Copies of the collection and removal schedule will be available on request.

**87. Charges in respect of services associated with on-site sanitation services**

Charges in respect of the removal or collection of conservancy tank contents, night soil or the emptying of pits will cover all the operating and maintenance costs in the removal of the pit contents, transportation to a disposal site, the treatment of the contents to achieve a sanitary condition and the final disposal of any solid residues shall be payable in terms of the municipality's tariff policy when the service is rendered.

**88. Installation of on-site sanitation services**

If an agreement for on-site sanitation services in respect of premises has been concluded, or if it is not reasonably possible or cost effective for the municipality to install a connecting sewer, the owner must install sanitation services specified by the municipality, on the site unless the service is a subsidised service that has been determined by the municipality in accordance with the municipality's Credit Control and Debt Collection By-Law.

**89. Ventilated improved pit latrines**

- (1) The municipality may, on such conditions as it may prescribe, having regard to the nature and permeability of the soil, the depth of the water table, the size of, and access to, the site and the availability of a piped water supply, approve the disposal of human excrement by means of a ventilated improved pit (VIP) latrine.
- (2) A ventilated improved pit latrine must have—
  - (a) a pit of 2m<sup>3</sup> capacity;
  - (b) lining as required;
  - (c) a slab designed to support the superimposed loading; and
  - (d) protection preventing children from falling into the pit;
- (3) A ventilated improved pit latrine must conform to the following specifications:
  - (a) the pit must be ventilated by means of a pipe, sealed at the upper end with durable insect proof screening fixed firmly in place;
  - (b) the ventilation pipe must project not less than 0.5m above the nearest roof, must be of at least 150mm in diameter, and must be installed vertically with no bend;
  - (c) the interior of the closet must be finished smooth so that it can be kept in a clean and hygienic condition. The superstructure must be well-ventilated in order to allow the free flow of air into the pit to be vented through the pipe;
  - (d) the opening through the slab must be of adequate size as to prevent fouling. The rim must be raised so that liquids used for washing the floor do not flow into the pit. It shall be equipped with a lid to prevent the egress of flies and other insects when the toilet is not in use;
  - (e) must be sited in a position that is independent of the dwelling unit;
  - (f) must be sited in positions that are accessible to road vehicles having a width of 3.0m in order to facilitate the emptying of the pit;
  - (g) in situations where there is the danger of polluting an aquifer due to the permeability of the soil, the pit must be lined with an impermeable material that is durable and will not crack under stress;
  - (h) in situations where the ground in which the pit is to be excavated is unstable, suitable support is to be given to prevent the collapse of the soil; and
  - (i) the latrine must have access to water for washing hands.

**90. Septic tanks and treatment plants**

- (1) The municipality may, on such conditions as it may prescribe, approve the disposal of sewage or other effluent by means of septic tanks or other on-site sewage treatment plants.
- (2) A septic tank or other sewage treatment plant on a site must not be situated closer than 3 metres to any dwelling unit or to any boundary of the premises on which it is situated.
- (3) Effluent from a septic tank or other on-site sewage treatment plant must be disposed of to the satisfaction of the municipality.
- (4) A septic tank must be watertight, securely covered and provided with gas-tight means of access to its interior adequate to permit the inspection of the inlet and outlet pipes and adequate for the purpose of removing sludge.
- (5) A septic tank serving a dwelling unit must—
  - (a) have a capacity below the level of the invert of the outlet pipe of not less than 500 litres per bedroom, subject to a minimum capacity below such an invert level of 2 500 litres;
  - (b) have an internal width of not less than 1 metre measured at right angles to the direction of the flow;
  - (c) have an internal depth between the cover and the bottom of the tank of not less than 1,7metre; and
  - (d) retain liquid to a depth of not less than 1,4metre.
- (6) Septic tanks serving premises other than a dwelling unit must be designed and certified by a professional civil engineer registered as a member of the engineering Council of South Africa.
- (7) No rain water, storm-water, or effluent other than that approved by the municipality may be discharged into a septic tank.

**91. French drains**

- (1) The municipality may, on such conditions as it may prescribe having regard to the quantity and the nature of the effluent and the nature of the soil as determined by the permeability test prescribed by the South African Bureau of Standards, approve the disposal of waste-water or other effluent by means of french drains, soakage pits or other approved works.

- (2) A french drain, soakage pit or other similar work shall not be situated closer than 5m to any dwelling unit or to any boundary of any premises on which it is situated, nor in any such position that will, in the opinion of the municipality, cause contamination of any borehole or other source of water which is, or may be, used for drinking purposes, or cause dampness in any building.
- (3) The dimensions of any french drain, soakage pit or other similar work shall be determined in relation to the absorbent qualities of the soil and the nature and quantity of the effluent.
- (4) French drains serving premises other than a dwelling house must be designed and certified by a professional Civil engineer registered as a member of the engineering Council of South Africa.

## **92. Conservancy tanks**

- (1) The municipality may, on such conditions as it may prescribe; approve the construction of a conservancy tank and ancillary appliances for retention of sewage or effluent.
- (2) No rain water, storm-water, or effluent other than approved by the municipality may be discharged into a conservancy tank.
- (3) No conservancy tank must be used as such unless—
  - (a) the invert of the tank slopes towards the outlet at a gradient of not less than 1 in 10;
  - (b) the tank is gas and water tight;
  - (c) the tank has an outlet pipe, 100mm in internal diameter, made of wrought iron, cast iron or other approved material, and except if otherwise approved by the municipality, terminating at an approved valve and fittings for connection to the municipality's removal vehicles;
  - (d) the valve and fittings referred to in paragraph (c) or the outlet end of the pipe, as the case may be, are located in a chamber that has hinged cover approved by the engineer and which is situated in a position required by the municipality;
  - (e) access to the conservancy tank must be provided by means of an approved manhole fitted with a removable cast iron cover placed immediately above the visible spigot of the inlet pipe.
- (4) The municipality may, having regard to the position of a conservancy tank or of the point of connection for a removal vehicle, require the owner or consumer to indemnify the municipality, in writing, against any liability for any damages that may result from rendering of that service as a condition for emptying the tank.
- (5) Where the municipality's removal vehicle has to traverse private premises for the emptying of a conservancy tank, the owner shall provide a roadway at least 3.5m wide, so hardened as to be capable of withstanding a wheel load of 4 metric tons in all weather, and shall ensure that no gateway through which the vehicle is required to pass to reach the tank, shall be less than 3.5m wide for such purposes.
- (6) The owner or occupier of premises on which a conservancy tank is installed shall at all times maintain the tank in good order and condition to the satisfaction of the municipality.

## **93. Operation and maintenance of on-site sanitation services**

The operation and maintenance of on-site sanitation services and all costs pertaining to it remains the responsibility of the owner of the premises, unless the on-site sanitation services are subsidised services determined in accordance with the municipality's by-law relating to credit control and debt collection.

## **94. Disused conservancy and septic tanks**

If an existing conservancy tank or septic tank is no longer required for the storage or treatment of sewage, or if permission for its use is withdrawn, the owner must either cause it to be completely removed or to be completely filled with earth or other suitable material, provided that the engineer may require a tank to be dealt with in another way, or approve its use for other purposes, subject to any conditions specified by him.

### *Part 3: Sewage disposal*

## **95. Obligation to connect to sanitation system**

- (1) All premises on which sewage is produced must be connected to the municipality's sanitation system if a connecting sewer is available or if it is reasonably possible or cost effective for the municipality to install a connecting sewer, unless approval for the use of on-site sanitation services was obtained in accordance with section 37.
- (2) The municipality may, by notice, require the owner of premises not connected to the municipality's sanitation system to connect to the sanitation system.
- (3) An owner of premises, who is required to connect those premises to the municipality's sanitation system in accordance with subsection (1), must inform the municipality in writing of any sanitation services, provided by the municipality on the site, which will no longer required as a result of the connection to the sanitation system.
- (4) The owner will be liable for any charge payable in respect of sanitation services on the site, until an agreement for rendering those services has been terminated in accordance with the municipality's by-law relating to credit control and debt collection.
- (5) If the owner fails to connect premises to the sanitation system after having had a notice in terms of subsection (2) the municipality, notwithstanding any other action that it may take in terms of this by-law, may impose a penalty determined by it.

## **96. Provision of connecting sewer**

- (1) If an agreement for sanitation services in respect of premises has been concluded in accordance with section 2 and no connecting sewer exists in respect of the premises, the owner shall make application on the prescribed form, and—



- (a) pay the tariffs and charges determined by the municipality for the installation of a connecting sewer.
  - (b) with the approval by the municipality and at the request of the owner, install the connecting sewer in accordance with any specifications of the municipality.
- (2) If an application is made for sanitation services which are of such an extent or so situated that it will become necessary to extend, modify or upgrade the sanitation system in order to provide sanitation services to any premises, the municipality may agree to the extension only if the owner pays or undertakes to pay for the cost, as determined by the engineer, of the extension, modification or upgrading of the services.
  - (3) Only the engineer may install or approve an installed connecting sewer; but the owner or consumer may connect the sanitation installation to the connection pipe.
  - (4) No person may commence any development on any premises unless the engineer has installed a connecting sewer.

#### **97. Location of connecting sewer**

- (1) A connecting sewer that has been provided and installed by the engineer or owner in terms of section 96 must—
  - (a) be located in a position determined by the engineer and be of a suitable size determined by the engineer; and
  - (b) terminate at
    - (i) the boundary of the premises; or
    - (ii) at the connecting point if it is situated on the premises
- (2) In reaching with an owner concerning the location of a connecting sewer, the municipality shall ensure that the owner is aware of—
  - (a) practical restrictions that may exist regarding the location of a connecting sewer pipe;
  - (b) the cost implications of the various possible locations of the connecting sewer;
  - (c) whether or not the municipality requires the owner to fix the location of the connecting sewer by providing a portion of his or her water installation at or outside the boundary of his or her premises, or such agreed position inside or outside his or her premises where the connection is required, for the municipality to connect to such installation.
- (3) The engineer may at the request of the owner of premises, approve, subject to any conditions that he may impose, a connection to a connecting sewer other than one that is most readily available for the provision of sanitation services to the premises; in which event the owner shall be responsible for any extension of the drainage installation to the connecting point designated by the municipality and for obtaining, at his own cost, any servitude over other premises that may be necessary.
- (4) Where an owner is required to provide a sewage lift as provided for in terms of the Building Regulations, or the premises are at a level where the drainage installation cannot discharge into the sewer by gravitation, the rate and time of discharge into the sewer has to be subject to the approval of the municipality.
- (5) The owner of premises must pay the connection charges and tariffs determined by the municipality before a connection to the connecting sewer can be effected.

#### **98. Provision of one connecting sewer for several consumers on same premises**

- (1) Notwithstanding the provisions of section 97, only one connecting sewer to the sanitation system may be provided for the disposal of sewage from any premises, irrespective of the number of accommodation units of consumers located on such premises.
- (2) Where the owner, or the person having the charge or management of any premises on which several accommodation units are situated, requires the disposal of sewage from such premises for the purpose of disposal from the different accommodation units, the municipality may, in its discretion, provide and install either—
  - (a) a single connecting sewer in respect of the premises as a whole or any number of such accommodation units; or
  - (b) a separate connecting sewer for each accommodation unit or any number thereof.
- (3) Where the municipality has installed a single connecting sewer as contemplated in subsection (2) (a), the owner or the person having the charge or management of the premises, as the case may be—
  - (a) must if the municipality so requires, install and maintain on each branch pipe extending from the connecting sewer to the different accommodation units—
    - (i) a separate connecting sewer; and
    - (ii) an isolating valve;
  - (b) will be liable to the municipality for the tariffs and charges for all sewage disposed from the premises through such a single connecting sewer, irrespective of the different quantities disposed by the different consumers served by such connecting sewer.
- (4) Notwithstanding subsection (1), the municipality may authorise that more than one connecting sewer be provided in the sanitation system for the disposal of sewage from any premises comprising sectional title units or if, in the opinion of the municipality, undue hardship or inconvenience would be caused to any consumer on such premises by the provision of only one connecting sewer.
- (5) Where the provision of more than one connecting sewer is authorised by the municipality under subsection (4), the tariffs and charges for the provision of a connecting sewer are payable in respect of each sewage connection so provided.

#### **99. Interconnection between premises**

An owner of premises must ensure, unless he has obtained the prior approval of the municipality and complies with any conditions that it may have imposed, that no interconnection exists between the drainage installation on his premises and the drainage installation on any other premises.



**100. Disconnection of draining installation from connecting sewer**

The municipality may disconnect a drainage installation from the connecting sewer and remove the connecting sewer if—

- (a) the agreement for provision has been terminated in terms of section 11 and it has not received an application for subsequent provision to the premises served by the sewer within a period of 90 days of such termination; or
- (b) the building on the premises concerned has been demolished.

*Part 4:  
Sewage delivered by road haulage*

**101. Acceptance of sewage delivered by road haulage**

A municipality may, at its discretion, and subject to such conditions as it may specify, accept sewage for disposal delivered to the municipality's sewage treatment plants by road haulage.

**102. Written permission for delivery of sewage by road haulage**

- (1) No person shall discharge sewage into the municipality's sewage treatment plants by road haulage except with the written permission of the municipality and subject to such period and any conditions that may be imposed terms of the written permission.
- (2) The charges for any sewage delivered for disposal to the municipality's sewage treatment plants shall be assessed by the municipality in accordance with the prescribed tariffs or charges.

**103. Conditions for delivery of sewage by road haulage**

- (1) When sewage is delivered by road haulage—
  - (a) the time of delivery shall be arranged in consultation with the municipality; and
  - (b) the nature and composition of the sewage shall be established to the satisfaction of the municipality prior to the discharge thereof and no person shall deliver sewage that does not comply with the standards laid down in terms of this by-law.

**104. Withdrawal of permission for delivery of sewage by road haulage**

- (1) The municipality may withdraw any permission, after giving written notice if its intention to a person permitted to discharge sewage by road haul if the person—
  - (a) fails to ensure that the sewage so delivered conforms to the standards prescribed in Schedule "A" or in the written permission; or
  - (b) fails or refuses to comply with any notice lawfully served on him or her in terms of this by-law or contravenes any provisions of this by-law or any condition imposed on him or her in terms of any permission granted to him or her; and
  - (c) fails to pay the assessed charges in respect of any sewage delivered.

*Part 5:  
Purified sewage*

**105. Use of purified sewage**

- (1) The municipality may on application in terms of section 2, agree to supply purified sewage to a consumer, subject to such terms and conditions as the municipality may impose.
- (2) No warranty, expressed or implied, shall be supplied by the municipality in respect of the suitability of the purified sewage for the purpose for which the supply was granted.
- (3) The supply of purified sewage shall, both as to condition and use, be entirely at the risk of the consumer, who shall be liable for any consequential damage or loss arising to himself, herself or others arising directly or indirectly there from, including the consequences of any bona fide fault of the municipality or the malfunction of a treatment plant.

*Part 6:  
Disposal of industrial effluent and trade premises*

**106. Application for disposal of industrial effluent**

- (1) A person must apply for approval to discharge industrial effluent into the sewage disposal system of the municipality in terms of section 2(1) and on the prescribed form attached as Schedule B to this by-law.
- (2) The municipality may, if in its opinion the capacity of a sewage disposal system is sufficient to permit the conveyance and effective treatment and lawful disposal of the industrial effluent, for such period and subject to such conditions it may impose, grant written permission to discharge industrial effluent.
- (3) The provisions of Chapter I will mutatis mutandis apply to any permission to discharge industrial effluent.
- (4) Any person who wishes to construct or cause to be constructed, a building which shall be used as a trade premises, shall at the time of lodging a building plan in terms of section 4 of the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977), also lodge applications for the provision of sanitation services and for permission to discharge industrial effluent in terms of subsection (1).

**107. Unauthorised discharge of industrial effluent**

- (1) No person shall discharge or cause or permit to be discharged into the sewage disposal system any industrial effluent except with and in terms of the written permission of the municipality and in accordance the provisions of this part.
- (2) A person to whom such permission is granted shall pay to the municipality any prescribed charges.

**108. Quality standards for disposal of industrial effluent**

- (1) A person to whom permission has been granted must ensure that no industrial effluent is discharged into the sewage disposal system of the municipality unless it complies with the standards and criteria set out in Schedule A hereto.
- (2) The municipality may by writing in the permission concerned, relax or vary the standards in Schedule A, provided that the municipality is satisfied that any such relaxation or variation represents the best practicable environmental option.
- (3) In determining whether relaxing or varying the standards in Schedule A represents the best practicable environmental option a municipality will consider—
  - (a) whether the applicant's undertaking is operated and maintained at optimal levels;
  - (b) whether technology used by the applicant represents the best available option to the applicant's industry and, if not, whether the installation of such technology would entail unreasonable cost to the applicant;
  - (c) whether the applicant is implementing a programme of waste minimisation which complies with national and local waste minimisation standards to the satisfaction of the municipality;
  - (d) the cost to the municipality of granting the relaxation or variation; and
  - (e) the environmental impact or potential impact of such a relaxation or variation.
- (4) Test samples may be taken at any time by a duly qualified sampler to ascertain whether the industrial effluent complies with Schedule A or any other standard laid down in a written permission.

**109. Conditions for disposal of industrial effluent**

- (1) The municipality may in the written permission or at any time, by written notice, require a person to—
  - (a) subject the industrial effluent to such preliminary treatment as in the opinion of the municipality will ensure that the industrial effluent conforms to the standards prescribed in Schedule A before being discharged into the sewage disposal system;
  - (b) install such equalising tanks, valves, pumps, appliances, meters and other equipment as in the opinion of the municipality will be necessary to control the rate and time of discharge into the sewage disposal system in accordance with the conditions imposed by it;
  - (c) install for the conveyance of his or her industrial effluent into the sewage disposal system at a given point, a drainage installation separate from the drainage installation for waste water and standard domestic effluent and may prohibit such person from disposing of his or her industrial effluent at any other point and from disposing of his or her waste water and standard domestic effluent by means other than into a sewage disposal system;
  - (d) construct on any pipe conveying his or her industrial effluent to any sewer, a service access hole or stop-valve in such position and of such dimensions and materials as the municipality may prescribe;
  - (e) provide all such information as may be required by the municipality to enable it to assess the tariffs or charges due to the municipality;
  - (f) provide adequate facilities such as level or overflow detection devices, standby equipment, overflow catch-pits, or other appropriate means to prevent a discharge into the sewage disposal system which is in contravention of this by-law;
  - (g) cause any meter, gauge or other device installed in terms of this Section to be calibrated by an independent authority at the cost of that person at such intervals as required by the municipality and copies of the calibration to be forwarded to it; and
  - (h) cause his or her industrial effluent to be analysed as often and in such manner as may be prescribed by the municipality and provide it with the results of these tests when completed.
- (2) The cost of any treatment, plant, works or analysis which the person mentioned in subsection (1) may be required to carry out, construct or install in terms of subsection (1) shall be borne by the said person.
- (3) The written permission of the municipality must be obtained for any proposed changes to the composition of industrial effluent discharged into the sewage disposal system.
- (4) In the event that industrial effluent that does not comply with the standards in Schedule A or the written permission issued in respect of that process or premises, is discharged into the sewage disposal system, the municipality must be informed of the incident and the reasons therefor within twelve hours of such discharge.

**110. Withdrawal of written permission for disposal of industrial effluent**

- (1) The municipality may withdraw any permission, after giving written notice if its intention to a person permitted to discharge industrial effluent into the sewage disposal system if the person—
  - (a) fails to ensure that the industrial effluent discharged conforms to the industrial effluent standards prescribed in Schedule A of this by-law or the written permission;
  - (b) fails or refuses to comply with any notice lawfully served on him or her in terms of this by-law or contravenes any provisions of this by-law or any condition imposed in terms of any permission granted to him or her; or
  - (c) fails to pay the assessed charges in respect of any industrial effluent discharged.

- (2) The municipality may on withdrawal of any written permission—
  - (a) in addition to any steps prescribed in this by-law, and on written notice authorise the closing or sealing of the connecting sewer of the said premises to any sewer for such charge as may be prescribed in the municipality's tariff of charges; and
  - (b) refuse to accept any industrial effluent until it is satisfied that adequate steps have been taken to ensure that the industrial effluent to be discharged conforms with the standards prescribed in this by-law.

### 111. Sea outfalls

- (1) The provisions of this part shall apply equally to industrial effluent discharged into any of the municipality or its authorised agent's sea outfalls, subject to any additional conditions specific to sea outfalls that may be imposed.
- (2) Where industrial effluent is accepted for discharge into a sea outfall it shall be delivered to the point of acceptance approved by the municipality or its authorised agent by means of a pipeline constructed and maintained by the permitted person at his or her expense.
- (3) No industrial effluent shall be accepted for discharge into a sea outfall unless—
  - (a) it complies with the standards and criteria set out in Schedule A; and
  - (b) it is proved to the satisfaction of the municipality or its authorised agent, that such effluent—
    - (i) is not toxic to marine fauna or flora;
    - (ii) contains no constituents in concentrations which can create a nuisance on the beaches or in the sea, or a health hazard or which may have an adverse effect on bathing or other recreational areas;
    - (iii) contains no floating material;
    - (iv) contains no substance which may be prejudicial or injurious to the municipality or its authorised agent's sea outfalls and associated sumps, sewers, plant and equipment or to its employees;
    - (v) contains no materials capable of creating a nuisance by frothing;
    - (vi) contain no standard domestic effluent; and
  - (c) it complies with any applicable standards in terms of the National Water Act, 1998 (Act No. 36 of 1998).
- (4) The municipality or its authorised agent may relax or vary the standards and criteria in Schedule A, provided that such relaxation or variation shall not constitute a relaxation or variation of those matters referred to in subsection (3).
- (5) The delivery pipeline from the premises concerned to the point of acceptance shall be maintained in a proper condition and free from all leaks.
- (6) Acceptance of the industrial effluent shall be subject to review at any time.

#### *Part 7:*

#### *Measurement of quantity of effluent discharged to sewage disposal system*

### 112. Measurement of quantity of standard domestic effluent discharged

- (1) The quantity of standard domestic effluent discharged shall be determined by a percentage of water supplied by the municipality; provided that where the municipality is of the opinion that such a percentage in respect of specific premises is excessive, having regard to the purposes for which water is consumed on those premises, the municipality may reduce the percentage applicable to those premises to a figure which, in its opinion and in the light of the available information, reflects the proportion between the likely quantity of sewage discharged from the premises and the quantity of water supplied thereto.
- (2) Where a premises is supplied with water from a source other than or in addition to the municipality's water supply system, including abstraction from a river or borehole, the quantity of standard domestic effluent will be a percentage of the total water used on that premises as may be reasonably estimated by the municipality.

### 113. Measurement of quantity of industrial effluent discharged

- (1) The quantity of industrial effluent discharged into the sewage disposal system shall be determined—
  - (a) where a measuring device is installed by the quantity of industrial effluent discharged from a premises as measured through that measuring device; or
  - (b) until such time as a measuring device is installed by a percentage of the water supplied by the municipality to that premises, according to Part II in Schedule B.
- (2) The municipality may require the owner of any premises to incorporate in any drainage installation conveying industrial effluent to a sewer, any control meter or gauge or other device of an approved type and in the control of the municipality for the purpose of ascertaining to the satisfaction of the municipality, the tempo, volume and composition of the effluent.
- (3) The municipality may install and maintain any meter, gauge or device referred to in subsection (2) at the expense of the owner of the premises on which it is installed.
- (4) Where premises are supplied with water from a source other than or in addition to the municipality's water supply system, including abstraction from a river or borehole, the quantity of standard industrial effluent will be a percentage of the total water used on that premises as may be reasonably estimated by the municipality.
- (5) Where a portion of the water supplied to the premises forms part of the end product of any manufacturing process or is lost by reaction or evaporation during the manufacturing process or for any other reason, the municipality may on application reduce the assessed quantity of industrial effluent.
- (6) The municipality may at its discretion enter into an agreement with any person discharging industrial effluent into the sanitation system, establishing an alternative method of assessing the quantity and tempo of effluent so discharged.

- (7) Charges relating to the quality of industrial effluent will be based on the formula for industrial effluent discharges as prescribed in Schedule C.
- (8) The following conditions apply in respect of the assessment of the quality of industrial effluent discharged:
- (a) each customer must conduct the prescribed tests, on a regular schedule as provided for in the approval to discharge industrial effluent, and report the results to the municipality;
  - (b) the municipality may conduct random compliance tests to correlate with those used in subsection (a) and, if discrepancies are found, the values of the municipality shall, except for the purpose of criminal proceedings, be presumed to be correct and further tests may be required by the municipality to determine, at the cost of the customer, the values for the formula;
  - (c) The average of the values of the different analysis results of 24 hourly composite or snap samples of the effluent, taken during the period of charge, will be used to determine the quality charges payable;
  - (d) in the absence of a complete daily set of 24 hourly composite or snap samples, the average of not less than two values of the sampled effluent, taken during the period of charge, will be used to determine the charges payable;
  - (e) in order to determine the strength (Chemical oxygen demand, suspended solids concentration, ammonia concentration, and orthophosphate concentration) in the effluent as well as the concentration of the metals, pH value and conductivity, the municipality will use the tests normally used by municipalities for these respective purposes. Details of the appropriate test may be ascertained from the municipality or the SANS. Test results from a laboratory, accredited by the municipality, will have precedence over those of the municipality;
  - (f) the formula is calculated on the basis of the different analysis results of individual snap or composite samples and the period of treatment for calculation shall not be less than one full 24-hour period; unless evidence, is submitted to the municipality that a lesser period is actually applicable;
  - (g) the terms of the disincentive formula cannot assume a negative value;
  - (h) the total system values for quality charges shall remain constant for an initial period of one month, but in any case not longer than twelve months from the date of commencement of these charges, after the expiry of which time they may be amended or revised from time to time depending on such changes in the analysis results or further samples, as may be determined from time to time: provided that the municipality in its discretion in any particular case, may levy the minimum charges prescribed in section 5 without taking any samples;
  - (i) whenever the municipality takes a sample, one half of it must be made available to the customer;
  - (j) for the purpose of calculating the quantity of effluent discharged from each point of discharges of effluent, the total quantity of water consumed on the premises shall be allocated to the several points of discharge as accurately as is reasonably practicable;
  - (k) the costs of conveying and treating industrial effluent shall be determined by the municipality and shall apply with effect from a date determined by the municipality; and
  - (l) in the discretion of the municipality, the charges for industrial effluent may be charged to a fixed monthly charge determined by taking into consideration the effluent strengths, the volume and the economic viability of micro and small industries.

#### **114. Reduction in the quantity determined in terms of sections 112 and 113**

- (1) A person shall be entitled to a reduction in the quantity determined in terms of sections 112 and 113 in the event that the quantity of water on which the percentage is calculated was measured during a period where water was wasted or a leakage was undetected if the consumer demonstrates to the satisfaction of the municipality that the said water was not discharged into the sewage disposal system.
- (2) The reduction in the quantity shall be based on the quantity of water loss through leakage or wastage during the leak period.
- (3) The leak period shall be either the measuring period immediately prior to the date of repair of the leak or the measurement period during which the leak is repaired, whichever results in the greater reduction in the quantity.
- (4) The quantity of water loss shall be calculated as the consumption for the leak period less an average consumption, based on the preceding 3 (three) months, for the same length of time. In the event of no previous consumption history being available the average water consumption will be determined by the municipality, after due consideration of all relevant information.
- (5) There shall be no reduction in the quantity if the loss of water directly or indirectly resulted from the consumer's failure to comply with or is in contravention of these or other by-law.

#### **115. Charges in respect of "on-site" sanitation services**

Charges in respect of the removal or collection of conservancy tank contents, night soil or the emptying of pits will cover all the operating and maintenance costs arising from the removal of the pit contents, its transportation to a disposal site, the treatment of the contents to achieve a sanitary condition and the final disposal of any solid residues and are payable by the owner.

The additional charge for industrial effluent for the disposal of high strength sewage to a waste water treatment plant shall be determined in accordance with the formula for the calculation of effluent discharge charges as included in Schedule C.

#### *Part 8: Drainage installations*

#### **116. Construction or installation of drainage installations**

An owner must provide and maintain his drainage installation at his own expense, unless the installation constitutes a basic sanitation facility as determined by the municipality, and except where otherwise approved by the municipality, must ensure that the installation is situated within the boundary of his premises.

- (1) The municipality may prescribe the point in the sewer, and the depth below the ground, at which any drainage installation is to be connected and the route to be followed by the drain to the connecting point and may require the owner not to commence the construction or connection of the drainage installation until the municipality's connecting sewer has been laid.
- (2) An drainage installation that has been constructed or installed must comply with any applicable specifications in terms of the Building Regulations and any standard prescribed in terms of the Act.

- (3) No person shall permit the entry of any liquid or solid substance whatsoever, other than clean water for testing purposes, to enter any drainage installation before the drainage installation has been connected to the sewer.
- (4) Where premises are situated in the 1 in 50 years flood plain, the top level of all service access holes, inspection chambers and gullies must be above the 1 in 50 years flood level.
- (5) After the completion of any drainage installation, or after any alteration to any drainage installation is completed, the plumber responsible for the execution of the work must submit to the building inspection section of the municipality a certificate certifying that the work was completed to the standards set out in the building regulations, this by-law and any other relevant law or by-law.
- (6) No rainwater or storm-water, and no effluent other than an effluent that has been approved by the municipality, may be discharged into a drainage installation.

#### **117. Drains**

- (1) Drains passing through ground which in the opinion of the engineer is liable to movement, shall be laid on a continuous bed of river sand or similar granular material not less than 100mm thick under the barrel of the pipe and with a surround of similar material and thickness, and the joints of such drains must be flexible joints approved by the engineer.
- (2) A drain or part of it may only be laid within, or either passes under or through a building, with the approval of the engineer.
- (3) A drain or part of it which it is laid in an inaccessible position under a building may not bend or be laid at a gradient.
- (4) If a drain passes through or under a wall, foundation or other structure, adequate precautions shall be taken to prevent the discharge of any substance to the drain.

#### **118. Drains in streets or public places**

No person shall for the purpose of conveying sewage derived from whatever source, lay or construct a drain on, in or under a street, public place or other land owned by, vested in, or under the control of the municipality, except with the prior written permission of the municipality and subject to such conditions as it may impose.

#### **119. Construction by municipality**

The municipality may agree with the owner of any premises that any drainage work which such owner desires, or is required to construct in terms of this by-law or the Building Regulations, will be constructed by the municipality against payment, in advance or on demand, of all costs associated with such construction.

#### **120. Maintenance of drainage installation**

- (1) The owner or occupier of any premises must maintain any drainage installation and any sewer connection on such premises at his own cost.
- (2) Any person who requests the municipality to clear a drainage installation will be liable to pay the prescribed tariff.
- (3) A municipality may, on the written application of the owner or occupier of any premises, inspect and test the drainage installation of such premises or any section thereof and recover from the owner or occupier the cost of such inspection and test, calculated at the rate specified in the prescribed tariff or charges.
- (4) Where any part of a drainage installation is used by two or more owners or occupiers, they shall be jointly and separately liable for the maintenance of the installation.
- (5) The owner of any premises must ensure that all manholes and cleaning eyes on the premises are permanently visible and accessible.

#### **121. Installation of pre-treatment facility**

A municipality may require that any new premises must be provided with a minimum pre-treatment facility of a type specified by it prior to that premises being connected to the sewage disposal system.

Protection from ingress of floodwaters

122. Where a premises is situated in the 1 in 50 years flood plain the top level of service access holes, inspection chambers and gullies is to be above the 1 in 50 years flood level, except, in the case of service access holes and inspection chambers, where the cover is secured in place by approved means.

#### **123. Disconnection of drainage installations**

- (1) Except for the purpose of carrying out maintenance or repair work, no drainage installation may be disconnected from the connection point.
- (2) Where any part of a drainage installation is disconnected from the remainder because it will no longer be used, the disconnected part must be destroyed or entirely removed from the premises on which it was used, unless the municipality approves otherwise.
- (3) When a disconnection has been made after all the requirements of the Building Regulations in regard to disconnection have been complied with, the engineer must upon the request of the owner, issue a certificate certifying that the disconnection has been completed in terms of the Building Regulations and that any charges raised in respect of the disconnected portion of the drainage installation shall cease to be levied from the end of the month preceding the first day of the month following the issue of such certificate.
- (4) When a drainage installation is disconnected from a sewer, the engineer must seal the opening caused by the disconnection and may recover the cost of doing so from the owner of the premises on which the installation is disconnected.
- (5) Where a drainage system is connected to or disconnected from the sewer system during a month, charges will be calculated as if the connection or disconnection were made on the first day of the month following the month in which the connection or disconnection took place.



**124. Technical requirements for drainage installations**

All drainage installations shall comply with SANS code 0252 and the Building Regulations.

**125. Sewer blockages**

- (1) No person may cause or permit an accumulation of grease, oil, fat, solid matter, or any other substance in any trap, tank, or fitting that may cause its blockage or ineffective operation.
- (2) When the owner or occupier of premises has reason to believe that a blockage has occurred in any drainage installation in or on it, he shall take immediate steps to have it cleared.
- (3) When the owner or occupier of premises has reason to believe that a blockage has occurred in the sewer system, he shall immediately inform the municipality.
- (4) Where a blockage occurs in a drainage installation, any work necessary for its removal must be done by, or under the supervision of, a plumber.
- (5) Should any drainage installation on any premises overflow as a result of an obstruction in the sewer, and if the municipality is reasonably satisfied that the obstruction was caused by objects emanating from the drainage installation, the owner of the premises served by the drainage installation shall be liable for the cost of clearing the blockage.
- (6) Where a blockage has been removed from a drain or portion of a drain which serves two or more premises, the owners are jointly and severally liable for the cost of clearing the blockage.
- (7) Where a blockage in a sanitation system has been removed by the engineer and the removal necessitated the disturbance of an owners paving, lawn or other artificial surface neither the engineer nor the municipality shall be required to restore them to their previous condition and shall not be responsible for any damage to them unless caused by the wrongful act or negligence of the engineer.

**126. Grease traps**

A grease trap of an approved type, size and capacity must be provided in respect of all premises that discharge sewage to on-site sanitation systems or where, in the opinion of the municipality, the discharge of grease, oil and fat is likely to cause an obstruction to the flow in sewers or drains, or to interference with the proper operation of any waste-water treatment plant.

**127. Industrial grease traps**

- (1) The owner or manufacturer must ensure that industrial effluent which contains, or which, in the opinion of the municipality is likely to contain, grease, oil, fat or inorganic solid matter in suspension shall, before it is allowed to enter any sewer, be passed through one or more tanks or chambers, of a type, size and capacity designed to intercept and retain such grease, oil, fat or solid matter, that is approved by the engineer.
- (2) The owner or manufacturer must ensure that oil, grease or any other substance which is contained in any industrial effluent or other liquid and which gives off an inflammable or noxious vapour at a temperature of, or exceeding, 20° C must be intercepted and retained in a tank or chamber so as to prevent its entry of into the sewer.
- (3) A tank or chamber as referred to in subsection (2) must comply with the following requirements:
  - (a) It shall be of adequate capacity, constructed of hard durable materials and water-tight when completed;
  - (b) the water-seal of its discharge pipe shall be not less than 300mm in depth; and
  - (c) shall be provided with a sufficient number of manhole covers for the adequate and effective removal of grease, oil fat and solid matter.
- (4) Any person discharging effluent to a tank or chamber must remove grease, oil, fat or solid matter regularly from the tank or chamber and must maintain a register recording—
  - (a) the dates on which the tank or chamber was cleaned;
  - (b) the name of any the persons employed by him to clean the tank or chamber or, if he cleaned it himself, that fact that he did so; and
  - (c) a certificate from the person employed to clean it certifying that the tank or chamber has been cleaned and stating the manner in which the contents of the tank or chamber were disposed of, or, if he cleaned it himself, his own certificate to that effect.

**128. Mechanical appliances for lifting sewage**

- (1) The owner of any premise must obtain the approval of the engineer before installing any mechanical appliance for the raising or transfer of sewage in terms of the Building Regulations.
- (2) Approval must be applied for by a professional engineer and must be accompanied by drawings prepared in accordance with the relevant provisions of the Building Regulations and must show details of the compartment containing the appliance, the sewage storage tank, the stilling chamber and their position, and the position of the drains, ventilation pipes, rising main and the sewer connection.
- (3) Notwithstanding any approval given in terms of subsection (1), the municipality shall not be liable for any injury, loss or damage to life or property caused by the use, malfunctioning or any other condition arising from the installation or operation of a mechanical appliance for the raising or transfer of sewage unless the injury or damage be caused by the wrongful intentional or negligent act or negligence of an employee of the municipality.
- (4) Every mechanical appliance installed for the raising or transfer of sewage shall be specifically designed for the purpose and shall be fitted with a discharge pipe, sluice valves and non-return valves located in approved positions.
- (5) Unless otherwise permitted by the engineer, such mechanical appliances shall be installed in duplicate and each such appliance shall be so controlled that either will immediately begin to function automatically in the event of failure of the other.
- (6) Every mechanical appliance forming part of a drainage installation shall be located and operated so as to not cause any nuisance through noise or smell or otherwise, and every compartment containing any such appliance must be effectively ventilated.

- (7) The maximum discharge rate from any mechanical appliance, and the times between which the discharge may take place, shall be as determined by the engineer who may, at any time, require the owner to install such fittings and regulating devices as may in his opinion, be necessary to ensure that the determined maximum discharge rate shall not be exceeded.
- (8) Except where sewage storage space is incorporated as an integral part of a mechanical appliance, a sewage storage tank must be provided in conjunction with such appliance.
- (9) Every sewage storage tank required must—
  - (a) be constructed of hard, durable materials and must be watertight and the internal surfaces of the walls and floor must be smooth and impermeable;
  - (b) have a storage capacity below the level of the inlet equal to the quantity of sewage discharged there into it in 24 hours or 900 litres, whichever is the greater quantity; and
  - (c) be so designed that the maximum of its sewage content shall be emptied at each discharge cycle of the mechanical appliance.
- (10) Every storage tank and stilling chamber shall be provided with a ventilation pipe in accordance with the engineer's specifications.

*Part 9:  
Other sanitation services*

**129. Stables and similar premises**

The municipality may approve the connection of a drainage installation to stables, cowsheds, dairies, kennels, other premises for the accommodation of animals, and tanneries, subject to the payment of all applicable charges and the fulfilment of any condition that the municipality may impose; but approval will be given only if—

- (a) the floor of the premises is paved by impervious materials that are approved by the municipality and graded to a silt trap, grease trap or gully of adequate capacity; and
- (b) every part of the floor of the premises is covered by a roof, or another protective device, in a way that adequately prevents the entry of rain or storm water into the drainage installation.

**130. Mechanical food-waste or other disposal units**

The municipality may approve the connection or incorporation of a mechanical waste food, disposal which and any disposal unit or garbage grinder, into a drainage installation that has a capacity in excess of 500W, subject to the payment of all applicable charges and to any condition that the municipality may impose, but approval will be given only if—

- (a) a water meter is installed by the municipality;
- (b) the engineer is satisfied that the municipality's sewerage and sewage treatment system will not be adversely affected; and
- (c) the installation or incorporation is installed in conformity with the municipality's by-law relating to electricity.

*Part 10:  
Installation work*

**131. Approval of installation work**

- (1) If an owner wishes to have installation work done, he must first obtain the municipality's written approval.
- (2) Application for the approval referred to in subsection (1) must be made on the prescribed form and shall be accompanied by—
  - (a) a charge determined by the municipality, if a charge is determined, and
  - (b) copies of all drawings that may be required and approved by the municipality;
  - (c) a certificate by a professional engineer certifying that the installation has been designed in accordance with any applicable SANS Codes.
- (3) Approval given in terms of subsection (1) shall lapse after 24 (twenty-four) months.
- (4) When approval has been given in terms of subsection (1), a complete set of the drawings that have been required and approved by the municipality must be available for inspection at the site at all reasonable times until the work has been completed.
- (5) If installation work has been done in contravention of subsections (1) or (2), the municipality may require the owner—
  - (a) to rectify the contravention within a specified time;
  - (b) if work is in progress, to cease the work; and
  - (c) to remove all work that does not comply with this by-law.

**132. Persons permitted to do installation and other work**

- (1) No person who is not a plumber, or working under the control of a plumber, shall be permitted to—
  - (a) do installation work other than the replacement or repair of an existing pipe or sanitation fitting;
  - (b) inspect, disinfect and test a drainage installation, fire installation or storage tank;
  - (c) service, repair or replace a back flow preventer; or
  - (d) install, maintain or replace a meter provided by an owner in a drainage installation.
- (2) No person shall require or engage a person who is not a plumber to do the work referred to in subsection (1).



- (3) Notwithstanding the provisions of subsections (1) and (2), the municipality may permit a person, who is not a plumber, to do installation work at his own premises if they are occupied by himself or his own household, but if permission is given, the work must be inspected and approved by a plumber under the direction of or who has been nominated by, the engineer.

### 133. Testing of drainage installations

- (1) No drainage installation, or any part of one, shall be connected to on-site sanitation services nor shall, the municipality's sanitation system be connected to an existing approved installation, unless any one or more of the following tests have been applied in the presence, and to the satisfaction, of the engineer, before the draining installation has been enclosed:
- the interior of every pipe or series of pipes between two points of access shall be inspected throughout its length by means of a mirror and a source of light, and during the inspection, a full circle of light must appear to the observer, and the pipe or series of pipes must be seen to be unobstructed;
  - a smooth ball having a diameter 12mm less than the nominal diameter of the pipe shall, when inserted at the higher end of the pipe, roll down without assistance or interruption to the lower end;
  - after all openings to the pipe or series of pipes to be tested, after having been plugged or sealed and after all traps associated with them have been filled with water, air shall be pumped into the pipe or pipes until a manometric pressure of 38mm of water is indicated, after which the pressure must remain greater than 25mm of water for a period of at least 3 (three) minutes without further pumping; and
  - all parts of the installation are subjected to and required to withstand an internally applied hydraulic test pressure of not less than a 3m head of water for a period of not less than 10minutes.
- (2) If the municipality has reason to believe that any drainage installation or any part of it has become defective, it may require the owner of any premises to conduct any or all of the tests prescribed in subsection (1) and, if the installation fails to pass any test, or all the tests, to the satisfaction of the municipality, the municipality may by notice require the owner to take all reasonable measures that may be necessary to enable the installation to satisfy any or all of them.

### 134. Water demand management

- (1) Notwithstanding the provisions of section 32, no flushing urinal that is not user-activated shall be installed or continue to operate in any water installation. All flushing urinals that are not user-activated installed prior to the commencement of these regulations must be converted to user-activated urinals within two years of the commencement of this by-law.
- (2) No cistern, and related pan designed to operate with such cistern, shall be installed with a cistern capacity of greater than 9 litres and all cisterns not intended for public use shall be fitted with flushing devices allowing interruptible or multiple flushes, provided that such flushing device shall not be required in cisterns with a capacity of 4,5 litres or less.

*Part 11:  
General*

### 135. Conflict with other legislation

In the event of any conflict between any provision of this by-law and National and Provincial legislation, standards, policies or guidelines, the National and Provincial legislation, standards, policies or guidelines shall prevail.

### 136. Revocation of by-laws

The provisions of any by-laws previously promulgated by the municipality or by any of the disestablished municipalities now incorporated in the municipality, are hereby repealed as far as they relate to matters provided for in this by-law, and insofar as it has been made applicable to the municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Local Government: Municipal Structures Act, Act 117 of 1998.

### 137. Short title and commencement

This by-law shall be known as the Water Services By-law and commences on the date of publication thereof in the Provincial Gazette.

*Part 12:  
Quality standards*

#### SCHEDULE A

##### Acceptance of industrial effluent for discharge into the sewage disposal system

No person shall discharge or cause or permit to be discharged directly or indirectly into any sewer any effluent which—

- has a temperature exceeding 40 deg. C ;
- has a pH value of less than 6,0 or more than 10,0 at 25 deg. C;
- contains calcium carbide;
- contains any substance which gives off or produces or is liable to give off or produce explosive, inflammable, poisonous or offensive gases or vapours;
- contains any substance which has an open flash point of less than 95 deg. C;
- contains any volatile inflammable solvents or organic solvents immiscible with water;
- contains any radio-active waste or isotopes of such nature or in such concentration as do not meet the requirements laid down in the Nuclear Energy Act, Act 46 of 1999;
- contains any of the following substances in concentrations exceeding the amount, in milligrams per litre, shown opposite such substances:

- |   |           |
|---|-----------|
| (a) Settleable solids .....                                 | 50mg/l    |
| (b) Suspended solids .....                                  | 500mg/l   |
| (c) Total dissolved solids at 105 deg. C .....              | 1 000mg/l |
| (d) Inorganic dissolved solids at 600 deg. C .....          | 500mg/l   |
| (e) Chloride as Cl .....                                    | 150mg/l   |
| (f) Total sulphates as SO <sub>4</sub> .....                | 500mg/l   |
| (g) Total cyanides as CN .....                              | 20mg/l    |
| (h) Total sulphides as S .....                              | 50mg/l    |
| (i) Total phenols as C <sub>6</sub> H <sub>5</sub> OH ..... | 50mg/l    |
| (j) Substances soluble in toluene .....                     | 50mg/l    |
| (k) Substances soluble in petroleum 40/60 deg. C .....      | 50mg/l    |
| (l) Total of "j" and "k" .....                              | 80mg/l    |
| (m) Sodium as Na .....                                      | 500mg/l   |
| (n) Anionic surface active compounds .....                  | 500mg/l   |
| (o) Sugars and/or starch (expressed as glucose) .....       | 1 000mg/l |
| (p) Metals:   |           |
| Iron as Fe .....  | 25mg/l    |
| Arsenic as As .....   | 5mg/l     |
| Boron as B .....  | 5mg/l     |
| Cadmium as Cd .....   | 5mg/l     |
| Chromium as Cr .....  | 10mg/l    |
| Cobalt as Co .....  | 5mg/l     |
| Copper as Cu .....  | 10mg/l    |
| Lead as Pb .....  | 5mg/l     |
| Mercury as Hg .....   | 5mg/l     |
| Nickel as Ni .....  | 5mg/l     |
| Selenium as Se .....  | 5mg/l     |
| Titanium as Ti .....  | 5mg/l     |
| Zinc as Zn .....  | 20mg/l    |
| Permissible total concentration of all heavy metals .....   | 50mg/l    |
- (ix) has an electrical conductivity exceeding 220mS/m at 25 deg. C, or
- (x) contains any substance which may, in the opinion of the municipality, of itself or in combination with any other substance—
- cause a nuisance to the public or any section thereof;
  - endanger the health of or injure any person, whether employed by the municipality or not;
  - have a harmful effect on any sewer or any works or land connected with any sewer or with the conveyance, treatment, purification, disposal or re-use of the effluent, or
  - in any way prejudice the disposal or re-use of sewage of effluent after treatment or purification or lead to an effluent which does not meet any requirement laid down in terms of the National Water Act, 1998 (Act 36 of 1998), as amended.

#### RADIO-ACTIVE WASTES

Radio-active wastes or isotopes: Such concentration as may be laid down by the Atomic Energy Board or any National Department:

Provided that, notwithstanding the requirements set out in this Part, the municipality reserves the right to limit the total mass of any substance or impurity discharged per 24 hours into the sanitation system from any premises.

#### METHOD OF TESTING

The method of testing in order to ascertain the concentration of any substance in this Schedule, shall be the test normally used by the municipality for these purposes. Any person discharging any substance referred to in this Schedule shall ascertain the details of the appropriate test from the municipality.

**SCHEDULE B**

**APPLICATION FORM FOR THE DISCHARGE OF INDUSTRIAL EFFLUENT TO THE MUNICIPALITY’S SANITATION SYSTEM**

(Please complete application in block capitals)

I (name): .....  
 the undersigned, duly authorised to set on behalf of .....  
 and hereinafter referred to as the applicant, hereby apply in terms of the Water Services By-law of the municipality for approval to discharge industrial effluent into the municipality’s sanitation system in accordance with the information provided herein.

**PART I**

1. NATURE OF THE BUSINESS OR INDUSTRY CONCERNED: .....
2. NAME OR STYLE UNDER WHICH THE BUSINESS OR INDUSTRY IS CONDUCTED: .....
3. POSTAL ADDRESS OF THE BUSINESS OR INDUSTRY: .....
4. PHYSICAL STREET ADDRESS: .....
- ERF NO OR FARM PTN: ..... TOWNSHIP OR FARM: .....
5. If the business or industry is conducted by a company or closed corporation, state the name of the secretary, and if it is a partnership state the names of the partners: .....
6. IS THIS A NEW OR ESTABLISHED BUSINESS: .....
7. DESCRIPTION OF INDUSTRIAL OR TRADE PROCESS BY WHICH THE EFFLUENT WILL BE PRODUCED: .....
8. INFORMATION RELATING TO EMPLOYEES:

	Office	Factory
(2) Total number of daily employees (not included in (4)):		
(2) Number of shifts worked per day:		
(3) Number of days worked per day:		
(4) Number of persons resident on the premises:		
(5) Is a canteen provided?:		

**PART II**

**INFORMATION RELATING TO THE CONSUMPTION OF WATER**

1. TOTAL NUMBER OF LITRES OF WATER CONSUMED IN SIX MONTHS:

	Meter No	Meter No	Meter No	Total
Water purchased from the municipality				
Water from borehole or other source				
Water entering with raw materials				
Section of plant served by meter				
Total A				

2. WATER CONSUMPTION

- (1) Industrial kℓ/Month
  - (i) Quantity of water in product .....
  - (ii) Quantity of water lost by evaporation .....
  - (iii) Quantity of water used as boiler make-up .....
  - (iv) Quantity of water for other uses (e.g. cooling, gardens, etc) .....
  - TOTAL B =====
- (2) Domestic use kℓ/month
  - (i) Total number of employees (Allow 1 kilolitre/person/month) .....
  - (ii) Total number of employees permanently resident on the premises eg. hostels (Allow 1 kilolitre/person/month) .....
  - TOTAL C =====

3. EFFLUENT DISCHARGE INTO SANITATION SYSTEM

- (1) Metered volume (if known) ..... kℓ/Month
- (2) Estimated un-metered volume (see below\*) ..... kℓ/Month
- (3) Estimated rate of discharge .....
- (4) Period of maximum discharge (eg. 07:00 to 08:00) .....

\* In the event that no effluent meter is installed on the premises, the estimated volume of un-metered effluent discharge to sewer is calculated as follows:

A-(B + C) = ..... Kilotitre /Month

**PART III**

**INFORMATION REGARDING THE COMPOSITION OF INDUSTRIAL EFFLUENT**

Information relating to the chemical and physical characteristics of the effluent to be discharged:

- (1) Maximum temperature of effluent °C
- (2) pH value Ph
- (3) Nature and amount of settleable solids
- (4) Organic Content (Expressed as Chemical Oxygen Demand)
- (5) Maximum total daily discharge (kilolitres)
- (6) Maximum rate of discharge (kilolitres/hr)
- (7) Periods of maximum discharge, (e.g. 7:00 am to 8:00 am)
- (8) If any of the substances or their salts, specified in the table, are formed on the premises, a cross must be placed in the space in which the substance appears, and, if possible, the average concentration of this substance likely to be present in any effluent must also be stated.

**TABLE**

ELEMENTS	COMPOUNDS	OTHER SUBSTANCES
Arsenic mg/l	Ammonium mg/l	Grease and/or oil mg/l
Boron mg/l	Nitrate mg/l	Starch and/or sugars mg/l
Cadmium mg/l	Sulphide mg/l	Synthetic detergents mg/l
Chromium mg/l	Sulphate mg/l	Tar and/or tar oils mg/l
Cobalt mg/l	Others (Specify) mg/l	Volatile Solvents mg/l
Copper mg/l		Others (Specify) mg/l
Cyanide mg/l		
Iron mg/l		
Lead mg/l		
Manganese mg/l		
Mercury mg/l		
Nickel mg/l		
Selenium mg/l		
Tungsten mg/l		
Titanium mg/l		
Zinc mg/l		
Other (Specify) mg/l		

- (9) Any further information as to kind or character, chemical compositions, concentrations or other properties peculiar to the industrial effluent to be furnished on a separate sheet and attached hereto.

**PART IV**

**CONDITIONS RELATING TO THE ACCEPTANCE OF INDUSTRIAL EFFLUENT**

- 1. The applicant shall attach descriptions and a statement of the dimensions of grease and oil traps, screens, dilution and neutralising tanks and any other provision made for the treatment of the effluent prior to discharge to the sanitation system.
- 2. The applicant shall submit to the municipality, if requested, plans showing the reticulation systems on his premises for water and industrial effluent.
- 3. The applicant shall, in addition to complying with the provisions of the municipality’s Water Services By-law aimed at the protection of its employees, sewers and treatment plant from damage, comply with any direction concerned with such protection given by the engineer verbally or in writing for the purpose of ensuring the applicant’s compliance with the said by-law.
- 4. The applicant shall notify the municipality, as soon as possible after he becomes aware thereof, or at least 14 days before anything is done to cause material alteration in the nature or quantity of the industrial effluent specified in this application or in any of the facts stated by him therein.
- 5. The applicant shall, within 30 days from the date of signature of this application, procure an accurately representative sample of not less than 5 litre of the industrial effluent to be discharged into the sewer, which sample shall be free of domestic sewage, and shall submit one half thereof to the municipality for analysis and also submit to the engineer a report on the sample made by an analyst appointed by him: Provided

that in the case of a newly established industry the period specified may be extended by the municipality for a period not exceeding six months or such further extended periods as the municipality in its discretion may approve.

6. The applicant hereby declares and warrants that the information given by him in this form, or otherwise, in connection with this application is, to the best of his knowledge and belief, in all respects correct.
7. The applicant agrees that the said information, being in all respects correct, shall form the basis on which this application is granted by the municipality.

Thus done at ..... by the applicant this ..... day of .....20 .....

Signature and capacity of the applicant

**SCHEDULE C**

**FORMULA FOR THE CALCULATION OF EFFLUENT DISCHARGE CHARGES**

1. The additional charge for industrial effluent for the disposal of high strength sewage to a waste water treatment plant shall be determined in accordance with the following formula:

$$T_c = Q_c t \left[ a \left\{ \frac{COD_c - COD_d}{COD_d} \right\} + b \left\{ \frac{P_c - P_d}{P_d} \right\} + c \left\{ \frac{N_c - N_d}{N_d} \right\} \right]$$

- Where
- T<sub>c</sub> = Extraordinary Treatment Cost to Consumer
  - Q<sub>c</sub> = Waste water Volume discharged by consumer in kl
  - t = Unit Treatment cost of waste water in R/kl
  - COD<sub>c</sub> = Total COD of waste water discharged by consumer in milligrams/litre and is inclusive of both the biodegradable and non-biodegradable portion of the COD
  - COD<sub>d</sub> = Total COD of domestic waste water in milligrams per litre
  - P<sub>c</sub> = Ortho-phosphate concentration of waste water discharged by consumer in milligrams phosphorus per litre
  - P<sub>d</sub> = Ortho-phosphate concentration of domestic waste water in milligrams phosphorus per litre
  - N<sub>c</sub> = Ammonia concentration of waste water discharged by consumer in milligrams of nitrogen per litre
  - N<sub>d</sub> = Ammonia concentration of domestic waste water in milligrams of nitrogen per litre
  - a = Portion of the costs directly related to COD
  - b = Portion of the costs directly related to the removal of phosphates
  - c = Portion of the costs directly related to the removal of nitrates

Different terms	Value
T	R0.82/kl
COD <sub>d</sub>	600mg/l
	10mg/l
N <sub>d</sub>	25mg/l
A	0.6
B	0.25
C	0.15

BERGRIVIER MUNICIPALITY  
STORMWATER MANAGEMENT BY-LAWS

Under the provisions of section 156 of the Constitution of the Republic of South Africa, 1996 the Bergrivier Municipality, enacts as follows:—

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## 1. Definitions

In this by-law, unless the context otherwise indicates—

“**built-up areas**” means those portions or areas of the municipality which are divided into erven by means of physical survey or which are surrounded by surveyed erven, including the public roads adjacent thereto;

“**floodplain**” means land adjoining a watercourse which is predisposed to flooding up to the 100 year recurrence interval;

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

“**organ of state**” bears the meaning assigned to it in section 239 of the Constitution.

“**private storm water system**” means a stormwater system which is owned, operated or maintained by a person on his own property;

“**pollute**” bears the meaning assigned to it in the National Water Act, 1998 (Act 36 of 1998);

“**stormwater**” means water resulting from natural rainfall or the accumulation thereof, and includes—

- (a) groundwater and spring water ordinarily conveyed by the stormwater system; and
- (b) sea water within estuaries,

but excludes water in a drinking water or waste water reticulation system;

“**stormwater system**” means both the constructed and natural facilities, including roads, pipes, culverts, watercourses and their associated floodplains, whether over or under public or privately owned land, used or required for the management, collection, conveyance, temporary storage, control, monitoring, treatment, use or disposal of storm water;

“**watercourse**” bears the meaning assigned to it in the National Water Act, 1998 (Act 36 of 1998);

## 2. Purpose of by-law

The purpose of this by-law is to regulate stormwater management and activities that may have an adverse impact on the development, operation and maintenance of the stormwater system.

## 3. Application of by-law

This by-law binds an organ of state and applies to storm water systems in built-up areas.

## 4. Prohibited conduct

- (1) No person may, except with the written consent of the municipality-
  - (a) discharge, place or permit to enter into the stormwater system—
    - (i) anything other than stormwater;
    - (ii) anything likely to damage the stormwater system or interfere with the operation thereof;
    - (iii) anything likely to pollute the water in the stormwater system;

- (b) discharge from any place, or place onto any surface, any substance other than stormwater, where that substance could reasonably be expected to find its way into the stormwater system;
- (c) undertake any action that is likely to destroy, damage, alter, endanger or interfere with the free flow of water or the stormwater system, or the operation thereof, which action includes, but is not limited to—
  - (i) obstructing or reducing the capacity of the stormwater system;
  - (ii) opening a pipe, culvert or canal which forms part of the storm water system;
  - (iii) constructing or erecting any structure or thing over or in such a position or in such a manner as to destroy, damage, endanger or interfere with the stormwater system or the operation thereof;
  - (iv) draining, abstracting or diverting any water directly from the stormwater system;
  - (v) filling, excavating, shaping, landscaping, opening up or removing the ground above, within, under or immediately next to any part of the stormwater system;
  - (vi) changing the design or the use of, or otherwise modify any feature of the stormwater system which alone or in combination with other existing or potential land uses, may cause an increase in flood levels or create a potential flood risk; or
  - (vii) any activity which alone or in combination with other existing or future activities, may cause an increase in flood levels or create a potential flood risk.
- (2) No person may carry out any activity that causes storm water to flood the property of the municipality or that of any other person or to create the risk of such flooding.
- (3) When an incident contemplated in subsection (1) (a) or (b) occurs without the consent of the municipality—
  - (a) if the incident is not the result of natural causes, the person responsible for the incident; or
  - (b) the owner of the property on which the event took place or is taking place,
 must immediately report the incident to the municipality, and take, at own cost, all reasonable measures to contain and minimise the effects of the incident, which measures include, but are not limited to, the undertaking of cleaning up operations including the rehabilitation of the environment.
- (4) A person who contravenes a provision of subsection (1), (2) or (3) commits an offence.

#### **5. Application and conditions which municipality may impose**

- (1) A person who wishes to obtain the consent of the municipality as contemplated in section 4, must submit an application in the form prescribed by the municipality.
- (2) When considering an application the municipality may require the applicant to provide the municipality, at own cost, with impact studies such as, but not limited to, environmental impact studies or environmental impact investigations which are required by environmental legislation.
- (3) The municipality may also require the applicant to establish and provide documentation indicating flood lines.

#### **6. Stormwater systems on private land**

- (1) An owner of property on which a private stormwater system is located—
  - (a) may not carry out any activity which may impair the effective functioning of the stormwater system or which could reasonably be expected to impair the effective functioning of the stormwater system; and
  - (a) must, at own cost, keep the stormwater system functioning effectively, including undertaking, on written instruction by the municipality, the refurbishment and reconstruction thereof if the municipality has reasonable grounds for issuing such instruction;
- (2) Subsection (1)(b) does not apply where the municipality has accepted responsibility for any of the duties contained in a maintenance agreement or in terms of a condition of a servitude.
- (3) Should an owner fail or refuse to comply with an instruction by the municipality made in terms of subsection (1)(b), the municipality may undertake measures to refurbish or reconstruct the stormwater system, and the municipality may recover from the owner all reasonable costs incurred as a result of action taken.
- (4) An owner who contravenes a provision of subsection (1)(a) or who fails or refuses to comply with an instruction contemplated in subsection (1)(b) commits an offence.

#### **7. Powers of municipality**

- (1) The municipality may at all reasonable times enter upon any premises or any portion thereof with the aim of carrying out any inspection or test to determine the current status of a stormwater system.
- (2) The municipality may, for the purpose of providing and maintaining infrastructure for a stormwater system—
  - (a) on any premises, construct, expand, alter, maintain or lay any drain, pipe or other structure related to the stormwater system on or under any immovable property, and may do any other thing necessary or desirable or incidental, supplementary or ancillary to such construction, expansion, alteration or maintenance;
  - (b) drain stormwater or discharge water from any municipal service works into any watercourse;
  - (c) repair and make good any damage done in or damage resulting from a contravention of section 4(1)(a)(ii) or 4(1)(c), such as, but not limited to—



- (i) demolishing, altering or otherwise dealing with any building, structure or other thing constructed, erected or laid in contravention of section 4(1)(c)(iii);
- (ii) filling in, removing and making good any ground excavated, removed or placed in contravention of section 4(1)(c)(v);
- (d) remove anything—
  - (i) discharged or permitted to enter into the stormwater system or watercourse in contravention of section 4(1)(a) or (b);
  - (ii) damaging, obstructing or endangering or likely to obstruct, endanger or destroy any part of the stormwater system;
- (e) seal off or block any point of discharge from any premises, irrespective of whether the point is used for lawful purposes;
- (f) cancel any consent granted in terms of section 5 if any condition under which the consent was granted is not complied with;
- (g) by written notice, instruct any owner of property—
  - (i) to retain stormwater on such property or to lay, at the cost of such owner, a stormwater drain pipe or gutter to a suitable place indicated by the municipality, irrespective of whether the course of the pipe or gutter will run over private property or not;
  - (ii) to allow the owner of a higher lying property to lay a stormwater drain pipe or gutter over his or her property for the draining of concentrated stormwater;
- (h) discharge stormwater into any watercourse, whether on private land or not.
- (3) Should an owner of property fail to comply with an instruction contemplated in subsection (2)(g)(i), the municipality may undertake measures to retain such stormwater or to lay such stormwater drain pipe or gutter.
- (4) Where it seems that any action or neglect by a person or owner of property may lead to a contravention of a provision of this by-law, the municipality may notify, in writing, such person or owner to comply with such requirement as may be necessary to prevent the occurrence of such contravention.
- (5) The municipality may recover all reasonable costs incurred as a result of action taken—
  - (a) in terms of subsection (2)(c) or (d), from the person who was responsible for a contravention of the provisions of this by-law or the owner of the property on which a contravention occurred; or
  - (b) in terms of subsection (3), from the owner of the property.
- (6) Any drain, pipe or structure provided in terms of subsection (2)(a) vests in the municipality.
- (7) A person commits an offence if he or she—
  - (a) fails to comply with a notice contemplated in subsection (2)(g);
  - (b) threatens, resists, hinders, obstructs or otherwise interfere with, or who uses foul or abusive language towards or at an employee or contractor of the municipality in the exercise of any powers or performance of any duty or function in terms of this by-law; or
  - (c) impersonates an employee or contractor of the municipality.

## 8. Authentication and service of notices and other documents

- (1) A notice or other document requiring authentication by the municipality must be signed by the municipal manager and when issued by the municipality in terms of this by-law is deemed to be duly issued if it is signed by the municipal manager.
- (2) Any notice or other document that is served on a person in terms of this by-law is regarded as having been served if such notice or document has been served in terms of section 115(1) of the Municipal Systems Act, 2000 (Act 32 of 2000.)
- (3) Service of a copy is deemed to be service of the original.
- (4) Any legal process is effectively and sufficiently served on the municipality when it is delivered to the municipal manager or a person in attendance at the municipal manager's office.

## 9. Appeal

A person whose rights are affected by a decision of the municipality may appeal against that decision by giving written notice of the appeal and the reasons therefor in terms of section 62 of the Local Government: Municipal Systems Act, Act 32 of 2000 to the municipal manager within 21 days of the date of the notification of the decision.

## 10. Exemptions

- (1) Any person may by means of a written application, in which the reasons are given in full, apply to the municipality for exemption from any provision of this by-law.
- (2) The municipality may—
  - (a) grant an exemption in writing and the conditions in terms of which, if any, and the period for which such exemption is granted must be stipulated therein;
  - (b) alter or cancel any exemption or condition in an exemption; or
  - (c) refuse to grant an exemption.
- (3) An exemption does not take effect before the applicant has undertaken in writing to comply with all conditions imposed by the municipality under subsection (2), however, if an activity is commenced before such undertaking has been submitted to the municipality, the exemption lapses.
- (4) If any condition of an exemption is not complied with, the exemption lapses immediately.

**11. Offences and Penalties**

A person who contravenes any provision or fails to comply with any provision of this by-law commits an offence and shall on conviction be liable to—

- (a) a fine or imprisonment, or either such fine or imprisonment or to both such fine and such imprisonment and,
- (b) in the case of a continuing offence, to an additional fine or an additional period of imprisonment or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued and,
- (c) a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as result of such contravention or failure.

**12. Conflict with other legislation**

In the event of any conflict between any provision of this by-law and National and Provincial legislation, standards, policies or guidelines, the National and Provincial legislation, standards, policies or guidelines shall prevail.

**13. Repeal of by-laws**

The provisions of any by-laws previously promulgated by the municipality or by any of the disestablished municipalities now incorporated in the municipality, are hereby repealed as far as they relate to matters provided for in this by-law, and insofar as it has been made applicable to the municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Local Government: Municipal Structures Act, Act 117 of 1998.

**14. Short title and commencement**

This by-law shall be known as the Storm Water Management By-law, and commences on the date of publication thereof in the Provincial Gazette.

