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PROVINCIAL NOTICES

NO. 176 OF 2011

NOTICE IN TERMS OF SECTION 14(2)(a)(i) OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000 (ACT NO. 32 OF 2000) STANDARD COMMONAGE BY-LAWS

I, M.G Qabathe, Member of the Executive Council responsible for Cooperative Governance, Traditional Affairs and Human Settlement in the Free State, after consulting the Minister of Cooperative Governance and Traditional Affairs and the South African Local Government Association Free State, do hereby in terms of section 14(2)(a)(i) of the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000), make standard by-laws as set out in the Schedule.

SCHEDULE

COMMONAGES STANDARD BYLAW

Purpose of By-Laws

The purpose of these by-laws is to -

- (a) Set aside land identified as commonage for the pasture of animals and for the purpose of establishing garden allotments; to assist with local development and provide for an inexpensive portion of land to people with a focus on registered indigents; to provide for the conservation of the commonage through the prohibition of certain activities, the damaging of vegetation, bird- and animal life and to provide for matters incidental thereto, and
- (b) Manage together with the Department of Agriculture land made available by the Provincial Land Reform Office of the Free State to assist categories of emerging farmers.

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Definitions

1. In these by-laws, unless the context otherwise indicates,

"animal" means any livestock defined hereunder: cattle, sheep, goat (ruminants); horse, mule, donkey (non-ruminants) ostrich (monogastric) and pig or the hybrid of such animal).

"commonage" means any land or portion of land which is in possession or under the control of the municipality and set aside by the municipality for the purposes of establishing grazing camps for animals, irrigation land or plots for gardening or other economic activity, excluding any farm the municipality is leasing to a commercial farmer as an entity;

"commonage management committee" means a representative management body comprising at least 1 member but not more than 2 members

of the owner, X members of the beneficiary group and X other persons agreed to by the Owner and the Beneficiary Group;

“Department of Agriculture” means the National Department responsible for Agriculture;

“commonage manager” means a manager appointed in terms of Section 56 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) by a Municipal Council, after consultation with the municipal manager, who is directly accountable to the municipal manager.

"municipal area" means any land situated inside the area of jurisdiction of the Municipality of which the Municipality is the owner, but outside the boundaries of any residential area;

"Municipality" means the Local Municipality established in terms of Section 12 of the Local government: Municipal Structures Act, 1998 (Act No. 117 of 1998), and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with these by-laws 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" means the person appointed in terms of section 82 of the Local Government: Municipal Structures Act 1998 (Act No. 117 of 1998);

"permit holder" means the person to whom a permit has been issued by the Municipal Manager in terms of these by-laws;

"plot" means any portion of a commonage set aside by the municipality for other purposes than grazing or irrigation farming.

Commonage

2. (1) The Municipality may by resolution, subject to the provisions of any law or any restrictions regarding the use of land in the title deed of that land:
 - (a) Reserve suitable municipal land as commonage,
 - (b) At any time add defined municipal land to the commonage so reserved, and
 - (a) At any time, partly or wholly in consultation with the Premier of the Free State withdraw any land which forms part of the commonage.
- (2) The Provincial Land Reform Office may purchase and make available land to the municipality in terms of section 10 of the Provision of Land and Assistance Act, 1993 (Act No. 126 of 1993) for the purpose of farming activities by categories of emerging farmers.
- (3) The Municipality must subject to the provisions of any law or any restrictions regarding the use of land in the title deed of that land manage together with the Department of Agriculture any land acquired by the Provincial Land Reform Office and transferred to the Municipality for the purpose of a commonage as such;
- (4) The Municipality may subject to the provisions of any law or any restrictions regarding the use of land in the title deed of that land at any time, partly or wholly withdraw any land which forms part of the commonage, excluding the commonage or portion of the commonage mentioned in subsection (2), in consultation with the Premier of the Free State.

Eligibility Criteria

3. The following persons would be eligible for using the commonage:
 - (a) residents of the town owning the commonage, and
 - (b) households that qualify in terms of municipality's indigent policy

Commonage Fees

4. The Council by resolution may set fees for the use of commonage land and for this purpose may differentiate between categories of commonage users.

Commonage Management Committee

5. (1) Users of land on the commonage must establish a commonage management committee facilitated by the Municipal Manager as set out in Annexure A;
- (2) The Municipal Manager in the event of leasing the commonage to a functioning commonage management committee may not issue grazing or irrigation permits to or enter into a lease agreement with any individual person or group of persons in respect of that commonage;
- (3) The Municipal Manager shall lease the commonage as a unit to a commonage management committee established in terms of subsection (1) for a period not exceeding 9 years and eleven months under such conditions as determined by the Council;
- (4) The commonage management committee must sub-let grazing camps or irrigation land for farming activities to specific interest groups and or farmers recognised by that commonage management committee in respect of the specific categories of users and farmers identified in sections 11 or 12 for a period of not less than one year but not exceeding five years.
- (5) The original lease or rent agreement mentioned in subsection (4) must be handed to the Municipal Manager for safekeeping.
- (6) The lessee of a camp, plot, or land on the commonage shall not sublease such camp land or field.
- (7) The lease agreements contemplated in subsection (4) and the agreements contemplated in subsection (6) shall not lapse when the commonage management committee ceases to exist. In such event the municipal manager must forthwith facilitate the election of a new commonage management committee in terms of Annexure A to take over the powers, functions, assets, liabilities and budget of the previous commonage management committee.

Functions of the commonage management committee

6. The commonage management committee should serve as an advisory body, or in its absence, the Municipal Manager or nominated municipal official must: —
- (1) Divide each piece of land reserved as commonage in terms of section 3, in separate camps suitable for the grazing of animals, gardening plots, or irrigational land allocating a number to each camp, garden plot and irrigational land;
 - (2) Provide, in each camp, plot or irrigational land in consultation with and assistance of the Department of Agriculture such facilities as may be necessary for the maintenance of animals, gardening or irrigation in that camp plot or land;
 - (3) Compile proper maps of each piece of land reserved as part of the commonage, indicating at least the boundaries of camps, plots, gates and waterholes;
 - (4) Establish and maintain the following:-
 - (a) A separate budget for the commonage;
 - (b) A commonage management plan linked to the Municipal Integrated Development Plan, and
 - (c) A register of all registered animals kept on municipal commonages.
 - (5) Allocate the animals of each permit holder, lessee or renter to a specific camp or camps and notify such permit holder accordingly;
 - (6) Ensure that the necessary infrastructure (fences, water, roads etc) is in place before any permit is issued or lease or rental agreements are entered into;
 - (7) Ensure that the minimum water requirements as set out in Annexure B are met, and in the event where available water for grazing animals falls below the minimum requirements, the Municipality will support commonage users to restore the recommended levels subject to the availability of funds and resources.
 - (8) Ensure that leases or rental agreements are fair and fully understood by the lessee or renter
 - (9) Ensure that the Municipality, permit holders, lessees and renters adhere to the commonage management plan.
 - (10) Ensure that commonages are accessible to persons registered as indigent in terms of the municipality's indigent policy and endeavour to terminate as soon as possible any leases or users agreements with any institutions or persons other than registered indigent persons or the commonage management committee;
 - (11) Develop and implement a proper program of rotation of grazing on land reserved as commonage by the Municipality; and
 - (12) Keep proper records, open for public inspection, regarding-
 - (i) all permit or lease holders or renters;
 - (ii) dates of expiry of all permits;
 - (iii) payments or exemptions of payment of all permit holders, and any other matter which, in the opinion of the Municipal Manager, needs to be recorded.

Grazing permit required to graze animals on commonage

7. (1) A person must not graze animals on the commonage of the Municipality, unless;
- (a) he or she is the holder of a grazing permit issued by the Municipal Manager in consultation with the Commonage Management Committee, in respect of a category 1 user as identified in section 10, subject to the conditions of such permit stipulating the camp number in the commonage and the number and kind of animals to be kept in the camp;
 - (b) he has paid the applicable fees, determined by the Municipality in respect of the period for which the grazing permit was issued.
- (2) A permit holder may partly or wholly be exempted from the payment of such commonage fees in terms of the indigent policy of the Municipality.

Application for and issue of grazing permit

8. (1) An application for a grazing permit by a category 1 user as identified in section 12 must -
- (a) be directed to the Municipal Manager
 - (b) be on the prescribed form made available by the Municipality for this purpose;
 - (c) contain adequate proof that the applicant is a South African citizen and a permanent resident within the area of jurisdiction of the Municipality; and
 - (d) contain such further particulars as the Municipality may require.
- (2) When considering an application, the commonage management committee together with Municipal Manager must take into account the availability and condition of land in the commonage of the Municipality to accommodate the required number of animals for which application is made;
- (3) After due consideration of the application, the commonage management committee together with the Municipal Manager must -
- (a) issue the permit as applied for by the applicant;
 - (b) issue a permit for a lesser number of animals than applied for; or
 - (c) give written notification to the applicant that his or her application was unsuccessful and state the reasons thereof.
- (4) An aggrieved person may in terms of section 62(4)(b) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), appeal to the Municipality against a finding of the commonage management committee and Municipal Manager.
- (5) A permit for the grazing of animals on the municipal commonage is —

- (a) valid for not less than one year or more than 5 years and all permits shall lapse on the 30th June of the year of termination;
- (b) subject to the conditions set out in the permit, and;
- (c) subject to prior payment of the applicable fees determined by the Municipality.
- (6) The Municipal Manager in consultation with the Commonage Management Committee or designated official may withdraw a permit for the grazing of animals on the municipal commonage if the permit holder contravenes or fails to—
 - (a) comply with a condition subject to which the permit was issued;
 - (b) comply with any provision of this By-law;
 - (c) comply with a lawful direction by the Municipal Manager or of the veterinary surgeon appointed by the Municipality, or
 - (d) pay the applicable fees as determined by Council within 30 days after becoming due,
 Provided a permit holder had been given a 14-day notice to comply or provide reasons why his permit should not be withdrawn.
- (7) A permit to graze animals on the commonage of the Municipality is not transferable and may not be subleased.

Management and Maintenance of Commonage

- 9. (1) The Municipal Manager is responsible for the proper management and maintenance of all land, infrastructure and equipment forming part of the commonage.
- (2) The Municipal Manger must register and keep record of all animals kept on the commonage in terms of a valid permit or lease or rental agreement.
- (2) The Municipality has the right to gather all animals on the commonage from time to time to ascertain if the animals are registered with the Municipality. All animals, which are not registered, will be impounded.
- (3) It is the owner's responsibility to mark and register his animals.

Appointment of Municipal Commonage Manager

- 10. The Municipality may appoint a commonage- manager with agricultural-, business- and communication skills on a performance based fixed term contract as contemplated in section 57 of the Local Government: Municipal Systems Act, Act, 2000 (Act No. 32 of 2000) or any suitable person or official to fulfil the functions prescribed by the Municipal Manager.

Categories of commonage users and pasture farming

- 11. Only a person or farmer falling within one of the following categories may obtain a grazing permit from the municipality or commonage management committee or enter into a livestock farming agreement with the commonage management committee for a period not less than one year but not exceeding five years:-
 - (1) Category 1 user consisting of:-
 - (a) new entrants into the commonage farming system;
 - (b) subsistence or indigent users using commonage land to supplement income but are not able to graduate to commercial farming.
 - (c) Minimum requirements for a person to qualify as category 1 user:-
 - (i) be a registered owner of animals;
 - (ii) must be resident in the town owning the commonage
 - (iii) must obtain an annual grazing permit from the commonage management committee or municipality;
 - (iv) must have a maximum number of 5 cattle, or 30 sheep or 30 goats or a combination of animals equal to 5 cattle as determined by Department of Agriculture.
 - (2) Category 2 user consisting of farmers:-
 - (a) sharing a piece of the commonage with a maximum number of 4 other commonage farmers in terms of a lease agreement with the commonage management committee, and
 - (b) having at least 5 cattle, or 30 sheep or 30 goats or a combination of animals that is equivalent to 5 cattle; but not more than 15 cattle, or 90 sheep or 90 goats or a combination that is equivalent to 15 cattle.
 - (3) Category 3 users consisting of farmers:-
 - (a) renting or leasing his or her own piece of land from the commonage management committee, and
 - (b) having at least 15 cattle, or 90 sheep or 90 goats or a combination of animals equal to 15 cattle but not more than 30 cattle, or 180 sheep or 180 goats or a combination of animals equal to 30 cattle;
 - (4) Any farmer with more livestock than mentioned in subsection (3)(b) must be assisted by the Provincial Land Reform Office to purchase own land not forming part of the commonage.

Categories of farmers and irrigation farming

12. Only a farmer falling within one of the following categories may enter into an irrigation farming agreement with the commonage management committee for a period not less than one year but not exceeding five years:-
- (1) Category 1 farmers consisting of farmers:-
 - (a) belonging to a farming co-operative;
 - (b) who have a constitution approved by the municipality or commonage management committee, and
 - (c) with a maximum allocation of 3ha irrigational land.
 - (2) Category 2 farmers consisting of farmers:-
 - (a) who have been allocated not less than 3ha and not more than 10ha irrigational land for personal use, and
 - (b) with a rental agreement signed with the municipality or commonage management committee.
 - (3) Any farmer with more than 10ha irrigational land must be assisted by the Provincial Land Reform Office to purchase own land not forming part of the commonage.

Prevention of Veld Fires

13. **The Municipal Manager or Fire Protection Association established in terms of the National Veld and Forest Fires Act, 1998 (Act No. 101 of 1998) must provide a firebreak to a permit holder, lessee or renter.**

Prohibited Actions

14.
 - (1) A person is not allowed to keep any animal in any residential area or on the boundaries thereof
 - (2) A person is not allowed to keep a pig on the commonage in any place other than in an enclosure or cage as approved by the Municipal Manager;
 - (3) A person is not allowed to keep on the commonage any animal of which he is not the bona fide owner;
 - (4) A person is not allowed to kill and or slaughter any animal on the commonage, save for the purpose of disposing of the carcass of a dead animal.
 - (5) A person is not allowed in, on or at any of the Municipality's water resources without prior written approval from the Municipality;
 - (6) A person must not erect any hut, shelter, kraal, habitation or structure of any kind nor occupy, camp or squat on any portion of the commonage or in any street, or road, thoroughfare or public place without the prior written consent of the Municipality;
 - (7) A person must not without prior permission of the Municipality, accumulate, dump or deposit or cause to be accumulated, dump or deposited on any portion of the commonage any scrap or waste;
 - (8) A person must not on the commonage dig or remove soil, clay, sand, gravel or boulders without a valid and current permit issued by the municipality;
 - (9) A person must not make bricks, or erect brick-, lime - or charcoal kilns, on any portion of the commonage, on the any land within the municipal area, or on land under control of the municipality, without prior written consent of the Municipality, except on land denoted for such purposes in terms of an approved spatial development plan and zoning scheme and further subject to payment of the fees determined by municipality;
 - (10) A person must not 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 grazing camps on the commonage without prior written permission of the Municipality;
 - (11) A person must not 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;
 - (12) A person must not make use of any road over the commonage other than such roads as must be allowed open by the municipality from time to time;
 - (13) A person must not deposit or in any way leave any poison for whatever purpose on the commonage without the written permission of the municipality;
 - (14) The municipality may cause traps to be set for vermin on the commonage and any person interfering with or damaging such traps in any way or letting loose or removing or causing to be loosened or removed any vermin from such traps or in any way disposing of any bodies from such a trap without the prior approval of the municipality, is guilty of an offence;
 - (15) A person must not kill, catch, capture, hunt, remove or attempt to kill, any game on the commonage;
 - (16) A person must not set traps of whatsoever description on the commonage without the prior written consent of the municipality;
 - (17) A person must not remove any bees, hives or honey from the commonage without the written permission of the Municipality;
 - (18) A person is not allowed to make an open fire on the commonage, unless it is for the purpose of making or maintaining a fire break.
 - (19) A person must not hunt, shoot, catch, disturb or kill any wild bird on the commonage or destroy or disturb the nest of any wild bird, nor shall any person remove the eggs or young thereof from such nest, and
 - (20) If the Municipality is of the opinion that it is in the public interest, it may, for such period and subject to such conditions as it may deem fit, exempt any person, group or category of persons in writing from compliance with any prohibited action in terms of this section.

Liability

15. The permit holder, lessee or renter is liable for:-
- (1) Any damage or claims, which originate from damage caused by his or her animal or animals outside the commonage, and.
 - (2) Any damage to or loss of the infrastructure or installations on a grazing camp, irrigation field or plot on a commonage at the expiry of the permit or lease agreement.
 - (3) Any damages resulting from non compliance of the conditions of the permit.

Penalties

16. (1) A person who contravenes or fails to comply with any provision of this By-law or any requirement, condition hereunder or to pay the prescribed commonage fees due in terms of this by-law is guilty of an offence.
- (2) A person convicted of an offence in terms of subsection (1) is liable to a fine or to imprisonment or to both a fine and such imprisonment.

Transitional Arrangements

17. Any permission obtained, right granted, condition imposed, activity permitted or anything done under a repealed law, is deemed to have been obtained, granted, imposed, permitted or done under the corresponding provision (if any) of this By-law, as the case may be.

Repeal of by-laws

18. Any by-laws relating to commonages adopted by the Municipality or any municipality now comprising an administrative unit of the Municipality is repealed from the date of promulgation of these by-laws.

Short title

19. These by- laws are called the Municipal Commonage By - Law, 2011.

ANNEXURE A**Commonage Management Committee Structure**

1. The Municipal Manager must facilitate the establishment of interest groups of commonage users in each town to form interest groups representative of all like-minded users who must develop a constitution, ground rules, and an informed leadership structure who will manage the group's production and financial affairs positively;
2. Each interest group must in consultation with the Department of Agriculture develop and maintain a management plan for the respective enterprises of that interest group;
3. Two members of an interest group should be elected to a Commonage Management Committee;
4. The Commonage Management Committee should elect three or four representatives (or one each from the interest groups) to the Municipal Commonage Management Committee;
5. Each Commonage Management Committee must in consultation with the Department of Agriculture develop and maintain an overall management plan for its area, and
6. The Municipal Commonage Committee is accountable for all lease agreements, commonage management plans, maintenance of assets, collecting of rentals from the interest groups and the payment thereof to the Municipality.

ANNEXURE "B"

Daily water requirements of grazing animals

Animal	Age	Weight kg	Condition	Water requirements litres per day
Cattle	4 weeks	51	growing	0.3-5.7
	8 weeks	69	growing	5-7
	12 weeks	93	growing	8-9
	16 weeks	119	growing	11-13
	20 weeks	148	growing	15-17
	26 weeks	189	growing	17-23
	60 weeks	354	growing	23-30
	84 weeks	464	pregnant	30-38
	1-2 months	464-545	fattening	30-34
	2-8 months	545-726	lactating	39-95
	2-8 months	545-726	grazing	17-34
Pigs		14	growing	1-4
		27-36	growing	2.6-4.5
		36-57	growing	4.0-7.5
		91-180	maintenance	5.7-13
		91-180	pregnant	15-19
	91-180	lactating	19-25	
Sheep and Goats		9	growing	1.9
		23	growing	1.5
		68-91	grazing	1.9-5.7
		68-91	grazing (salty)	8
		68-91	hay and grain	0.4-3.0
		68-91	good pasture	<1.9
Horses				45

PROVINCIAL NOTICE

[NO. 177 OF 2011]

NOTICE IN TERMS OF SECTION 14(2)(a)(i) OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000: PUBLICATION: STANDARD CONTROL OF COLLECTIONS BY-LAW.

I, M.G Qabathe, Member of the Executive Council responsible for Cooperative Governance, Traditional Affairs and Human Settlement in the Free State Province, after consulting the Minister of Cooperative Governance and Traditional Affairs and the South African Local Government Association Free State, do hereby in terms of section 14(2)(a)(i) of the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000), make standard by-laws as set out in the Schedule.

SCHEDULE

CONTROL OF COLLECTIONS STANDARD BY-LAWS

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Definitions

- 1. (1) In these by-laws, unless the context indicates otherwise indicates:
 - "Council"** means the municipal council of the Local Municipality in which the executive and legislative authority of the municipality is vested, and which is the decision making body of the municipality, and its delegates;
 - "collection"** means the collection of money, goods or contributions from the public in public places or by means of visits to residential or business places;
 - "municipality"** means the Local Municipality, and when referred to as-
 - (a) an entity, means Local Municipality as described in section 2 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000); and
 - (b) a geographic area, means the municipal area of the Local Municipality as determined in terms of the Local Government: Municipal Demarcation Act, 1998 (Act No 27 of 1998);
 - "public place"** means any street, road, thoroughfare, park, square or open space.
- (2) In these by-laws, unless the context otherwise indicates, words and expressions denoting the singular includes the plural and vice versa and reference to a natural person includes a legal person and vice versa.

Collections

- 2. (1) No person must within the Municipality be engaged in, attempt to, or permit or in any way be concerned with the conducting of a collection, without the prior written consent of the Council.
- (2) Any application for the consent of the Council in terms of subsection (1) must be made and submitted to the Council in writing, and must clearly set out:
 - (a) the full name and address and occupation of the person to be responsible, or of persons to be jointly responsible for such collection and the name of the organisation concerned;
 - (b) the object for which such collection is to be made or the fund to which the proceeds thereof are to be devoted and whether such object or fund is local to the Municipality;
 - (c) in the event that the applicant is the local branch of a parent organisation, what percentage, if any, will be paid over to the parent organisation;
 - (d) the day or days on which and the hours between which such collection is to be made;
 - (e) the area where such collection is to be made;
 - (f) whether the gross amount of the proceeds, without any deduction, is to be devoted to the object or fund in question;
 - (g) the full name and address of the person who will supervise such collection; and
 - (h) whether contributions in cash will be recorded on lists or will be received in receptacles.

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- (3) Where such contributions are to be received in receptacles, such receptacles must be sealed, and each receptacle must bear a label indicating the object or the fund to which the proceeds must be devoted.
 - (4) Where contributions are to be recorded on lists, such lists must be endorsed by the Council and must clearly set out:
 - (a) that such collection is being made with the consent of the Council;
 - (b) the object or the fund to which the proceeds is devoted;
 - (c) by whom such collection is being made or conducted and
 - (d) the full name and address of the person supervising such collection.
 - (5) Where contributions are to be received or recorded in a manner other than that prescribed in subsections (3) or (4), the consent of the Council thereto must first be obtained.

Age of the persons to be used for collections

3. No person under the age of 16 years must be employed or engaged in any collection and any person who or any organization which has obtained the written permission of the Council to make such collection must be responsible for ensuring that the provisions of this section are strictly complied with.

Offences and penalties

4. (1) Any person contravening or failing to comply with any of the provisions of these by-laws is guilty of an offence and must upon conviction by a court be liable to a fine or imprisonment or both a fine as well as imprisonment, or such other fine or imprisonment which the Minister of Justice may from time to time determine in terms of the provisions of section 92 of the Magistrate's Courts Act, 1944 (Act No 32 of 1944).
- (2) Any expense incurred by the Council as a result of a contravention of these by-laws or in the doing of anything which a person was directed to do under these by-laws and which he or she failed to do, may be recovered by the Council from the person who committed the contravention or who failed to do such thing.

Repeal

5. Any by-laws relating to the Control of Collections adopted by the municipality or any municipality now comprising an administrative unit of the municipality is repealed from the date of promulgation of these by-laws.

Short title

6. These by-laws are called the Control of Collections By-laws, 2011.
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PROVINCIAL NOTICE

[NO. 178 OF 2011]

NOTICE IN TERMS OF SECTION 14 OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000: PUBLICATION: STANDARD CONTROL OF PUBLIC NUISANCES BY-LAW

I, M.G Qabathe, Member of the Executive Council responsible for Cooperative Governance, Traditional Affairs and Human Settlement in the Free State, after consulting the Minister of Cooperative Governance and Traditional Affairs and the South African Local Government Association: Free State, do hereby in terms of section 14(2)(a)(i) of the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000), make standard by-laws as set out in the Schedule.

SCHEDULE

CONTROL OF PUBLIC NUISANCES BY-LAW

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Definitions

1. In this By-law, unless the context otherwise indicates:
 - "building"** means any enclosed area of a structure owned or leased or administered by the Municipality;
 - "graffiti"** means any drawing, figure inscription, symbol, or other marking which is scratched, painted, drawn in pen or marker or placed by some other permanent or semi-permanent means upon streets, public or private view without the express permission or consent of the property owner;
 - "health Officer"** means an individual who carries on , and is registered in terms of legislation to carry on , an occupation which involves the provision of health care, health advice or treatment for the physical or mental health or for the well-being of individuals.
 - "local community"** means community as defined in section 1 of the Local Government: Municipal Systems Act 32 Of 2002;
 - "Municipal area"** means Municipal area determined in terms of the Local Government: Municipal Demarcation Act 27 of 1998;
 - "Municipal Manager"** means the Municipal Manager appointed as such in terms of Section 82 of the Municipal Structures Act 117 of 1998 as amended; **"notice"** means notice in writing, and "notifying" and "notified" shall have corresponding meanings;
 - "public nuisance"** means a thing, act, occupation, condition or use of property which shall continue for such length of time as to:
 - (a) annoy, injure or endanger the comfort, health, repose or safety of the public
 - (b) in any way render the public insecure in life or in the use of the property;
 - (c) greatly offend the public moral decency;
 - (d). unlawfully and substantially interfere with; obstruct or render dangerous for passage any street, ally, road, navigable body of water or other public way;
 - "smoking"** means using, carrying or possessing a lighted cigarette, cigar, pipe or other lighted smoking equipment;
 - "vehicle"** means any self-propelled, enclosed car owned or leased by the Municipality, including those vehicles contracted for passenger transportation services;

Interpretation

2. When interpreting a provision of this By-law, the interpreter must prefer any reasonable interpretation of the provisions that is consistent with the spirit and object of this By- law over any alternative interpretation that is inconsistent thereto.

Purpose of this by-law

3. This By-law aims to create a safe, healthy and peaceful living environment in which people exercise their Constitutional rights responsibly, respect the rights of others and uphold high moral values, thus fulfilling the primary objects of this By-law, viz:
 - a) To give effect to the Municipality's constitutional mandate to promote a safe and a healthy environment as contained in section 152 (d) of the Constitution of the Republic of South Africa, 1996
 - (i) by regulating public nuisances likely to affect peace and safety, and
 - (ii) by prohibiting all public nuisances having negative impact on health,
 - b) To give effect to the Municipality's duty to protect and uphold Communities good moral values by outlawing all immoral and indecent practices, and

Application of the By-Law

4. This By-law applies to:
 - (a) The local community as contemplated in Section 1 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000); and
 - (b) Legal personae existent or incorporated within the Municipal area.

Public nuisance affecting health

5. The following acts, omissions, places, conditions and things are hereby specifically declared to and prohibited as public health nuisances, but may not to be construed to exclude any other health nuisance within the definition of any applicable law
- (1) All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public;
 - (2) Carcasses of animals, birds or fowls not buried or otherwise disposed of in a sanitary manner within twenty-four hours after death;
 - (3) Accumulation of decayed animals or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal or any material whatsoever in which flies, mosquitoes, disease-carrying insects, rats or other vermin may breed;
 - (4) Stagnant water in which mosquitoes, flies or other insects can multiply;
 - (5) Uncovered refuse bins;
 - (6) Noxious weeds and other rank growth or vegetation,
 - (7) The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash or industrial dust within one kilometre therefore in such quantities as to endanger the health of persons or ordinary sensibilities or to threaten or cause substantial injury to property;
 - (8) The pollution of any public well or cistern, stream lake, canal or body of water by sewerage, industrial wastes or other substances;
 - (9) Any use of property, substances or things within the Municipal area, emitting or causing any foul, offensive, nauseous, noxious, or disagreeable odours, or stenches extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the Municipality;
 - (10) All abandoned wells not securely covered or secured from public use; and
 - (11) All animals running at large.

Public nuisance offending moral decency

6. The following acts, places, conditions and things are hereby specially declared to be prohibited as public nuisances offending public morals and decency, but such enumeration is not to be construed to exclude other nuisance offending public morals and decency within the definition of any other applicable law:
- (1) all disorderly houses, houses of ill fame, gambling houses and buildings or structures kept for or resorted to for the purposes of prostitution, sexual intercourse or gambling in contravention of any law;
 - (2) all gambling devices and slot machines not operated in accordance with the law;
 - (3) all places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled, or manufactured, without a permit or license as provided for in law;
 - (4) any place or premises within the area of the Municipality where laws relating to the public health, safety, peace, morals or welfare, are openly, continuously, repeatedly and intentionally violated;
 - (5) any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of the laws of the republic;
 - (6) consumption of any intoxicating liquor or fermented malt beverages while in or upon any public street, alley, sidewalk or public place;
 - (7) defecating or urinating outside of designated sanitary facilities, upon sidewalk, street, alley, public parking lot, park, playground, cemetery, or other public area or upon a private property in open view of the public or in the halls, rooms, stairway, or elevators of public or commercial building or indecent exposing his or her person; and
 - (8) smoking in any of the Municipality's vehicles, buildings or areas designated as non-smoking zone,

Public nuisance affecting peace and safety

7. The following acts, place, conditions and things are hereby declared to be and outlawed as public nuisances affecting peace and safety, but this enumeration may not be construed to exclude other nuisances affecting public peace or safety within the definition of any other applicable laws:
- (1) signs and billboards, awnings and other similar structures over or near streets, sidewalks, public grounds or places frequented by the public, so situated as to endanger the public safety;
 - (2) all buildings erected, repaired or altered in violation of the provision of the building regulations relating to materials and manner of construction of buildings and structures within the Municipality;
 - (3) all unauthorised signs, signals, markings or devices whose purpose is or may be mistaken as official traffic control devices placed or maintained upon or in view of any Municipal road;
 - (4) all trees, billboards or obstructions which prevent persons driving vehicles on public streets and Municipal roads from obtaining a clear view of traffic when approaching an intersection or pedestrian crossing;
 - (5) all use or display of fireworks except as approved by Council resolution;
 - (6) unnecessary discharging of firearms, shooting or discharging a bow, crossbow or similar devices which propels or projects an arrow or similar projectile within the area of the municipality;
 - (7) all building structures so old, dilapidated or out of repairs as to be dangerous, unsafe, unsanitary or otherwise unfit for human use;

- (8) all loud, discordant and unnecessary noises or vibration of any kind;
- (9) the keeping or harbouring of any animal or fowl which by frequent or habitual howling, yelping, barking, crowing or making of other noises greatly annoys or disturbs a neighbourhood or any considerable number of persons within the area of the Municipality;
- (10) all obstructions of streets, sidewalks or municipal roads and all excavations in or under the same, except as permitted by the by-laws of the Municipality or which, although made in accordance with such bylaws, are kept or maintained for an unreasonable length of time after the purpose therefore has been accomplished,
- (11) all open and unguarded pits, wells, excavations or unused basements freely accessible from any public street, alley or sidewalks,
- (12) all abandoned refrigerators from which the doors and other covers have not been removed or which are not equipped with a device for opening from inside;
- (13) any unauthorised or unlawful use of property abutting on a public street, alley or sidewalks or of a public street, alley or sidewalks which cause large crowds of people to gather, obstructing traffic and free use of the streets or sidewalks;
- (14) repeated or continuous violations of the by-laws of the Council or laws of the Republic relating to the storage of flammable liquids;
- (15) discarding or leaving outside of any building or dwelling in a place accessible to children any box or container of any kind which has an airtight door or lock which may not be realized for opening from inside, without first removing the door lock.

Public nuisance affecting property and property usage

8. Property owners, occupants or person authorized to use same:

- (1) shall maintain in good repair, painted or covered with exterior siding material intended for that use by the manufacturer for purposes of preservation and appearance, the exterior of every structure or accessory structure, residential and non-residential, including fences;
- (2) shall maintain, free of broken or missing siding, shingles or exterior woodwork, crumbling stone or bricks, excessive chipped, peeling, or lack of paint, missing, broken or deteriorating steps, porches, handrails and guardrails or any other condition reflective of deterioration and or inadequate maintenance or as may tend to depreciate property values in the area or create a nuisance or hazard;
- (3) may not allow on any property any debris or condition, including, but not limited to woods, bricks, concrete, rubble, or other building material, crap metal, tree limbs or bush, tree stumps with a height greater than their diameter, diseased or dead trees or other yard waste, household refuse not properly contained or stored, inoperable machinery or parts thereof (except when housed inside out of public view), refrigerators, stoves, washing machines, dryers, or other appliance, water heaters, bedsprings or other furniture not intended for exterior use by the manufacturer and used or stored on open porches or yards, rutted lawns on driveways or any other unsightly conditions as may tend to depreciate property values in the area or create a nuisance, hazard or eyesore;
- (4) may not store outdoors or allow the outside storage of firewood on any property used or zoned for residential use, except as permitted in this paragraph. Firewood may not be stored in the front yard of such property or within the setback, except that firewood maybe temporarily stored for a period not exceeding fourteen days of delivery to the property. All firewood may be stacked no higher than the upper-most horizontal portion of the fence and infestation of mice, rats, other rodents or insects may not be permitted under or near the stack;
- (5) may not allow any brush, debris or refuse from the processing of firewood to remain anywhere on the property;
- (6) shall be responsible for the extermination of any insects, rodents, pigeons or pests when the infection is caused by their failure to maintain the building in the pests -proof condition.

Defacement or damage of property by graffiti

9. Graffiti is hereby declared to be a public nuisance devaluing property and:

- (1) any person who affix graffiti to any property is liable for the cost of removing or covering such graffiti in addition to any fine imposed for violating this section;
- (2) parents of any minor child who affixed graffiti may be held liable for the cost of removing or covering the said graffiti;
- (3) upon the discovery of the graffiti the owner or lawful occupant of the property must:
 - (a) notify the Council before removing or covering such graffiti.
 - (b) cover or remove the graffiti within fifteen days in compliance with written notice served upon them by the Council to remove or cover such graffiti.
- (4) In the event of the owner or lawful occupant of the property failing to comply with the Council notice to cover or remove the graffiti, the Council shall have the graffiti covered or removed and all costs, fees and expenses will be assessed to the said owner or lawful occupant.

Damage to public property

10. The following acts constitute damage to public property and are declared public nuisance:
- (1) breaking, soiling, defacing, injuring or damaging any guidepost, signs, street lamp or post, traffic signs or signal, fountain, statue, monument or other ornamental structure within any public street, alley, park, cemetery or other public place;
 - (2) breaking, soiling, defacing, injuring or damaging any part of any public building or any public property or equipment,
 - (3) opening, removing, operating or otherwise tampering with any Municipal property or equipment, including but not limited by way of emuneration, to manholes and covers, pumps, storm grates, sewers and mains, water valves and stop shut-off boxes, meters, vehicles, and attachment thereto, barricades and signal lighting for construction and emergency purposes;
 - (4) painting or posting any bill, notice, picture, advertisement upon any public building, curb stone, crosswalk, gutter, street, sidewalk, hydrant, lamp post and bridge;
 - (5) tampering with, injuring, breaking, cutting, taking down or disarranging any electric light pole, fire or alarm box, or any wire cord, lamp or other apparatus used in operating or maintaining any electric light or firearm, without authority to do so or, post any bills or posters of any kind whatsoever upon any such poles or posts within the area of the Council;
 - (6) This section (Section 10) does not apply to duly authorized employees or agents of the Municipality or to a person authorized by the permit issued by the Council, or to any person possessing written authorisation from the Municipal Manager.)

Advertisement on private property without consent

11. A person may not post paper or any written or painted bill, notice or advertisement on any part of the outer walls of any building without first having obtained the consent of the owner thereof.

Procedure on receipt of complaint

12. Whenever compliant is made to the Municipal Manager that a public nuisance exists within the Municipal area, the Municipal Manager must notify the police, health Officer or building Inspector who must forthwith inspect the premises and make a written report of his or her findings to the Municipal Manager. Whenever practicable, the Inspecting Officer shall cause photographs to be taken of the premises and must file the same.

Summary abatement

13. (1) If the inspecting officer shall determine that a public nuisance exists on private property and that there is great and immediate danger to the public health, safety, peace, morals or decency, the Municipal Manager may direct that a notice be served on the owner or, if the owner cannot be found on the occupant or person causing, permitting or maintaining such nuisance and to post a copy of said notice on the premises. Such notice must direct the owner, occupant or person causing, permitting or maintaining such nuisance to abate or remove such nuisance within twenty-four hours and must state that unless such nuisance is so abated, the Municipality will cause the same to be abated and will charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the same, as the case may be.
- (2) If the nuisance is not abated within the time provided or if the owner, occupant or person causing the nuisance cannot be found, the health Officer, in case of health nuisance, and the police, in other cases, shall cause the abatement or removal of such public nuisance.

Repeal

14. Any by-laws relating to the Control of Public Nuisance adopted by the municipality or any municipality now comprising an administrative unit of the municipality is repealed from the date of promulgation of these by-laws.

Short title and commencement

15. These by-laws are called the by-laws relating to Control of Public Nuisance, 2011.
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[NO. 179 OF 2011]

NOTICE IN TERMS OF SECTION 14(2)(a)(i) OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000: PUBLICATION: STANDARD CONTROL OF STREET VENDORS, PEDDLERS OR HAWKERS BY-LAW

I, M.G Qabathe, Member of the Executive Council responsible for Cooperative Governance, Traditional Affairs and Human Settlement in the Free State Province, after consulting the Minister of Cooperative Governance and Traditional Affairs and the South African Local Government Association: Free State, do hereby in terms of section 14(2)(a)(i) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), make standard by-laws as set out in the Schedule.

SCHEDULE**CONTROL OF STREET VENDORS, PEDDLERS OR HAWKERS BY-LAW****Definitions**

1. In this by-law, unless the context indicates otherwise, any expression to which a meaning has been as signed in the Business Act, 1991 (Act No. 71 of 1991) and the Road Traffic Act, 1989 (Act No. 29 of 1989) is, when used in these Bylaws, have the meaning thus assigned and –
 - "council"** means theCouncil.
 - "street vendor, peddler or hawker"** means any person carrying on business, whether as principal, employee or agent, by selling any goods or services -
 - (i) which is conveyed from place to place, whether by vehicle or otherwise;
 - (ii) on a public road or at any other place accessible to the public;
 - (iii) in, on or from a movable structure or stationary vehicle;
 - "nuisance"** means any conduct which brings about or may bring about a state of affairs or condition which constitutes a health risk or a sources or danger to human lives or property or which interferes with persons ordinary comfort, convenience, peace or quiet;
 - "officer"** means -
 - (i) a traffic officer appointed under section 3 of the Road Traffic Act, 1989 (Act No. 29 of 1989);
 - (ii) a member of the Force as defined in section 1(1) of the South African Police Services Act, 1995 (Act No. 68 of 1995).
 - (iii) a peace officer contemplated by section 334 of the Criminal Procedure Act, 1977 (Act. No. 51 of 1977); "public place" includes any street, road, thoroughfare, sanitary passage, square or open space shown on a general plan of a township or settlement, filed in any deeds' registry or surveyor-general's office, and all land (other than erven shown on the general plan) the control whereof is vested, to the entire exclusion of the owner, in a local authority or to which the owners of erven in the township have a common right;
 - "public road"** means any road, street, thoroughfare or any other place (whether a thoroughfare or not) which is commonly used by the public or a section thereof has a right of access and includes -
 - (i) the verge of any such road, street or thoroughfare;
 - (ii) any bridge, ferry or drift traversed by any such road, street or thoroughfare, and
 - (iii) any other work or object forming part of or connected with or belong to such road, street or thoroughfare, "sell" includes to prepare, process, store, offer or display for sale; "sidewalk" means that portion of a verge intended for the exclusive use of pedestrians;
 - "the Act"** means the Business Act, 1991 (Act No. 71 of 1991);
 - "verge"** means that portion of the road, street or thoroughfare which is not the roadway.

Carrying on of business

2. Subject to the provisions of this by-law and other applicable legislation, a street vendor, peddler or hawker may carry on his or her business within the municipal area of the Council.

Prohibited business areas

3. Subject to the provisions of sections 2 and 4 no person shall carry on business as street vendor, peddler or hawker -
 - (1) in a garden or park to which the public has a right of access;
 - (2) on a verge contiguous to -
 - (a) a building belonging to or occupied solely by the State or the Council;
 - (b) a church or other place of worship;
 - (3) in a building declared to be a national monument in terms of the National Monuments Act, 1969 (Act No. 28 of 1969);
 - (4) in an area declared by the Council as a prohibited business area in terms of section 6A(2) of the Act or an area to be declared as such;
 - (5) at a place where -
 - (a) it causes an obstruction in front of a fire hydrant or an entrance to or exit from a building;
 - (b) it substantially obstructs pedestrians in their use of a sidewalk.
 - (6) on a verge contiguous to a building in which business is being carried on by any person who sells goods of the same nature as or of a similar nature to goods being sold by the street vendor, peddler or hawker concerned, without the consent of that person;

- (7) 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 thereto.

Restricted business areas

4. (1) The Council may by resolution, after compliance, with the provisions of section 6A(2)(b) up to (h) of the Act, declare any place within the municipal area of the Council to be an area in which the carrying on of the business of street vendor, peddler or hawker may be restricted.
- (2) The Council may within the areas contemplated in sub section 4(1), restrict the carrying on of the business of street vendor, peddler or hawker to specified hours, specified places and specified goods or services.
- (3) The Council may within the areas contemplated in sub section 4(1), by means of resolution -
- (a) set apart and demarcate stands or areas for the purposes of street vendors, peddlers or hawkers on any public road whereof the management or ownership is vested in the Council, or on any other property occupied and controlled by the Council;
- (b) extend, reduce or disestablish the stand or areas set apart and demarcated as such;
- (c) let or otherwise allocate stands or areas set apart and demarcated as such, by agreement.
- (4) The Council may within the areas contemplated in sub section 4(1), by means of resolution, after compliance with the provisions of section 6A(2)(b) up to (h) of the Act, lease any verge or any portion thereof to the owner or occupier of the contiguous land on the condition that such owner or occupier shall admit a specified number of street vendors, peddlers or hawkers on stands or places designated by such owner or occupier on such verge.
- (5) A person must carry on the business of street vendor, peddler or hawker on stands or areas contemplated in sub sections 4(3) and 4(4), only if he or she is in possession of proof that he or she is hiring such stand or area or that it has otherwise been allocated to him or her.
- (6) A person must within the areas as contemplated in sub section 4(1), carry on the business of street vendor, peddler or hawker only during the hours, on the places and with the goods or services as contemplated in sub section 4(2).

Control measures

5. (1) No street vendor, peddler or hawker must -
- (a) sleep overnight at his or her place of business or erect any structure for the purpose of providing shelter, without the prior written approval of the Council;
- (b) carry on his or her business in such a manner as to -
- (i) create a nuisance;
- (ii) damage or deface the surface of any public road or public place or any other property of the Council;
- (iii) create a traffic hazard;
- (c) accumulate, dump, store or deposit or cause or permit to be accumulated, dumped, stored or deposited any refuse, scrap or waste material on any land or premises or on any public road or public place, other than in a refuse receptacle approved by the Council.
- (2) Every street vendor, peddler or hawker must -
- (a) remove from any public road or public place at the conclusion of trading, all waste, packaging material, stock and equipment of whatever nature which are utilised in connection with such business, unless prior written approval exempting him or her from this provision, has been given by the Council;
- (b) carry on his or her business in such a manner as not to be a danger or threat to public health or public safety;
- (c) at the request of an officer or an employee of the council, move or remove any goods, receptacle, vehicle or movable structure used for his or her business.

Removal and impoundment

6. (1) An officer may remove and impound any goods, receptacle, vehicle or movable structure which he or she reasonably suspects are being used or are intended to be used or have been used in or in connection with the carrying on of a business of a street vendor, peddler or hawker -
- (a) which he or she finds at a place where -
- (i) the carrying on of the business of a street vendor, peddler or hawker is prohibited in terms of section 3;
- (ii) the business of a street vendor, peddler or hawker is being carried on contrary to the provisions of section 4.
- (b) which a street vendor, peddler or hawker has failed or refused to remove from the place after having been requested to do so by an officer or any employee of the Council, or which have been left there or abandoned.
- (2) An officer acting in terms of sub regulation 6.1, must -
- (a) issue to a street vendor, peddler or hawker a written proof for any goods, receptacle, vehicle or movable structure so removed and impounded;
- (b) forthwith deliver any such goods, receptacle, vehicle or movable structure to the Council;
- (3) An officer, the Council or an employee of the Council is not liable for any loss or theft of or damage to any goods, receptacle, vehicle or movable structure removed and impounded in terms of these regulations.

Display of approval

7. A street vendor, peddler or hawker must carry on his or her person a written approval granted or issued to him or her by the Council in terms of these regulations and must on demand show such written approval to an officer or an employee of the Council.

Delegation

8. With the exception of the powers mentioned in sections 2, 3 and 4, the Council may delegate or assign in writing any power, duty or function imposed by or under these regulations upon the Council, to any person in its employ subject to such conditions as it may deem necessary.

Offences and penalties

9. (1) A person who -
- (a) contravenes any provision of these Bylaws or fails to comply therewith or with any condition imposed in terms thereof;
 - (b) threatens, resists, interferes with or obstructs any officer or any employee of the Council in the performance of his or her duties or functions in terms of or under these Bylaws, or
 - (c) deliberately furnishes false or misleading information to an officer or an employee of the Council, is guilty of an offence and liable on conviction to a fine not exceeding one thousand rand or to imprisonment for a period not exceeding three months.
- (2) Any person who, after conviction in terms of these Bylaws, persists in the conduct or neglect which caused the offence, is guilty of a continuing offence and liable to a fine in respect of every day that he or she so persists.
- (3) Any expense incurred by the Council as a result of a contravention of these regulations or in the doing of anything which a person was directed to do under these regulations and which he or she failed to do, may be recovered by the council from the person who committed the contravention or who failed to do such thing.

Repeal

10. Any by-laws relating to Street Vendors, Peddlers and Hawkers adopted by the municipality or any municipality now comprising an administrative unit of the Municipality is repealed from the date of promulgation of these by-laws

Short title

11. This By-law shall be called the Control of Street Vendors, Peddlers and Hawkers By-law, 2011.
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[NO. 180 OF 2011]

NOTICE IN TERMS OF SECTION 14(2)(a)(i) OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000: PUBLICATION: STANDARD CREDIT CONTROL AND DEBT COLLECTION BY-LAW

I, M.G Qabathe, Member of the Executive Council responsible for Cooperative Governance, Traditional Affairs and Human Settlement in the Free State Province, after consulting the Minister of Cooperative Governance and Traditional Affairs and the South African Local Government Association Free State, do hereby in terms of section 14(2)(a)(i) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), make standard by-laws as set out in the Schedule.

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**CHAPTER 1:
DEFINITIONS AND APPLICATION****Definitions**

1. In these By-laws any word or expression to which a meaning has been assigned in the Act bears the same meaning, and unless the context otherwise indicates –

"account" means a notification by means of a statement of account to a person liable for payment of any amount for which he or she is liable to pay the Council in respect of the following :

- (a) Electricity consumption based on a meter reading or estimated consumption;
- (b) water consumption based on a meter reading or estimated consumption ;
- (c) refuse removal and disposal;
- (d) rates;
- (e) interest; and
- (f) miscellaneous and sundry fees and collection charges;

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

"arrears" means any amount that is due, owing and payable by a customer in respect of a municipal service or property rates that has not been paid on or before due date and includes collection charges and interest in respect of the principal amount in arrears;

"authorised official" means any official or agent of the Council who has been authorised by it to administer, implement and enforce the provisions of these By-laws;

"by-law" means a by-law adopted and promulgated by the Council;

"collection charges" means charges which may be recovered by the Council in terms of section 75A of the Act, and includes –

- (a) the cost of reminding customers of arrears;
- (b) the cost of the termination, restriction and reinstatement of municipal services;
- (c) the costs of any notice rendered, sent or delivered in terms of these By-laws;
- (d) the costs and administration fees contemplated in section 22;
- (e) all legal costs, including attorney and client costs, incurred in the recovery of arrears; and
- (f) any commission and other expenses relating to the recovery of arrears payable by the Council to any person or partnership.

"Council" means - (a) the Local Municipality ofestablished in terms of the Local Government: Municipal Structures Act, 1998, as amended, exercising its legislative and executive authority through its municipal council; or

- (b) its successor in title; or
- (c) a structure or person exercising a delegated power or carrying out an instruction, where any power in these By-laws has been delegated or sub-delegated, or an instruction given, as contemplated in section 59 of the Act; or
- (d) a service provider fulfilling a responsibility under these By-laws, assigned to it in terms of section 81(2) of the Act, or any other law, as the case may be;

"customer" means a person with whom the council has concluded or is deemed to have concluded an agreement to provide any municipal service and includes a customer as defined in the Water Service Act, 1997 (Act No. 108 of 1997);

"fee" means a fee prescribed for or in respect of any municipal service;

"Municipal Manager" means –

- (a) the person appointed by the Council as the Municipal Manager in terms of section 82 of the Local Government : Municipal Structures Act, 1998 (Act No. 117 of 1998), and includes any person acting in that position; or
- (b) in relation to a service provider referred to in paragraph (d) of the definition of "Council", the chief executive officer of that service provider.

"municipal service" means services provided by the Council including refuse removal, water supply, sanitation and electricity services;

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

"owner" –

- (a) in relation to a property referred to in paragraph (a) of the definition of "property", means a person in whose name ownership of the property is registered;
- (b) in relation to a right referred to in paragraph (b) of the definition of "property", means a person in favour of whom the right is registered;
- (c) in relation to a right referred to in paragraph (c) of the definition of "property", means a person in favour of whom the right is registered or to whom it was granted in terms of any law; and
- (d) in relation to public service infrastructure referred to in paragraph (d) of the definition of "property", means the organ of state which owns or controls that public service infrastructure, and includes a person who the Council may for the purpose of these By-laws regard as the owner of a property in the following cases:

- (i) A trustee, in the case of a property in a trust, but excluding state trust land in relation to rates contemplated in the Local Government: Municipal Property Rates Act, 2004 (Act No.6 of 2004);
- (ii) an executor or administrator, in the case of a property in a deceased estate;
- (iii) a trustee or liquidator, in the case of a property in an insolvent estate or the owner of which is in liquidation;
- (iv) a judicial manager, in the case of a property in the estate of a person under judicial management;
- (v) a curator, in the case of a property in the estate of a person under curatorship;
- (vi) a person in whose favour a usufruct or other personal servitude is registered, in the case of a property that is subject to a usufruct or other personal servitude;
- (vii) a lessee, in the case of a property that is registered in the name of the Council and is let by it; or
- (viii) a buyer, in the case of a property that was sold by the Council and of which possession was given to the buyer pending registration of ownership in the name of the buyer;

"Policy" means the Credit Control and Debt Collection Policy adopted by the Council;

"prescribed" means prescribed by the Council from time to time, by resolution;

"premises" means any piece of land, with or without any building or structure thereon, the external surface boundaries of which are delineated on –

- (a) a general plan or diagram registered in terms of the Land Survey Act, 1997 (Act No. 8 of 1997), or in terms of the Deeds Registry Act, 1937 (Act No. 47 of 1937); or
- (b) a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act No. 95 of 1986), which is situated within the area of jurisdiction of the Council;

"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 favour of a person, excluding a mortgage bond registered against the property;

(c) a land tenure right registered in favour of a person or granted to a person in terms of any law; or

(d) public service infrastructure;

"rates" means a municipal rate on property levied in terms of the Local Government : Municipal Property Rates Act, 2004 (Act No. 6 of 2004), and

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

Application of By-laws

2. (1) These By-laws only apply in respect of amounts of money due and payable to the Council for:-
 - (a) rates;
 - (b) fees and surcharges on fees in respect of the following municipal services:
 - (i) the provision of water and the availability thereof;
 - (ii) refuse removal and disposal;
 - (iii) sewerage and the availability thereof; and
 - (iv) electricity consumption and the availability thereof;
 - (c) interest which has or will accrue in respect of any amount of money due and payable or which will become due and payable to the Council in regard to rates and municipal services; and
 - (d) collection charges;
- (2) These By-laws also apply to any municipal service provided through pre-paid meters, in so far as the By-laws may be relevant.

CHAPTER 2

SERVICE AGREEMENTS AND TERMS AND CONDITIONS OF THE PROVISION OF MUNICIPAL SERVICES

Provision of municipal services to applicants

3. (1) No municipal service may be provided to any applicant, unless and until –
 - (a) application for the service has been made in writing on a form substantially similar to the form prescribed;
 - (b) any information and documentation required by the Council have been furnished;
 - (c) a service agreement, in a form substantially similar to the form of agreement prescribed, has been entered into between the customer and the Council; and
 - (d) an amount equal to the amount prescribed, in cash or a bank cheque, has been deposited as security or other acceptable security, as prescribed, has been furnished.
- (2) If an applicant for a municipal service is an existing customer of the Council in respect of any other municipal service in respect of which any amount is in arrears –
 - (i) such arrears must be paid; or
 - (ii) an agreement for payment of the arrears in terms of section 21 must have been entered into and payment in terms thereof must not be in arrears,
 before an application for a new service in terms of this section may be considered.
- (3) The Council may at any time require a customer to increase a deposit paid or security furnished in terms of subsection (1)(d);
- (4) No interest is payable on any amount deposited in terms of subsection (1)(d) or (3).

General terms and conditions for the provision of municipal services

4. The general terms and conditions for the provision of any municipal service set out in a service agreement contemplated in section 3(1)(c) apply to the provision of such service to any customer.

Estimated consumption

5. The Council may have an estimate made of the consumption of water or electricity for any relevant period if –
 - (a) no meter reading could be obtained in respect of the period concerned; or
 - (b) no meter has been installed to measure the consumption on the premises concerned,
 and the customer concerned is liable for payment of the prescribed fee in respect of such estimated consumption.

New service agreements and deposits or security by existing customers

6. (1) Any existing customer, or the trustee, liquidator, judicial manager or curator of such customer, may be required by the Council to enter into a new service agreement to replace an existing agreement of the customer concerned, and to pay a deposit or furnish security contemplated in section 3, notwithstanding the fact that a service agreement was previously entered into in respect of the municipal service concerned and the provisions of section 3(3) apply in respect of such new agreement.
- (2) The provisions of section 3(4) apply to a deposit referred to in subsection (1).

Termination of service agreements

7. (1) Subject to the provisions of sections 13 and 21 –
- (a) a customer may terminate an agreement for the provision of any municipal service by notice in writing of not less than seven working days to the Council, of his or her intention to do so;
- (b) the Council may, subject to compliance with the provisions of these By-laws and any other applicable law, by notice in writing of not less than 14 working days, to a customer, terminate his or her agreement for the provision of the municipal service concerned, if the customer –
- (i) has not used the municipal service during the preceding six months and has not made arrangements to the satisfaction of the Council for the continuation of the agreement;
- (ii) has failed to pay any prescribed fee or arrears due and payable in respect of the municipal service concerned;
- (iii) has made an arrangement with another services provider to provide the municipal service concerned to the customer; or
- (iv) has vacated the premises to which the agreement concerned relates.
- (2) A customer to whom notice has been given in terms of subsection (1)(b), may within the period of 14 working days referred to in that subsection, make written representations to the Council why the agreement concerned should not be terminated and if such representations are unsuccessful, either wholly or in part, the agreement concerned may be terminated.

CHAPTER 3**ACCOUNT ADMINISTRATION****Accounts**

8. (1) Accounts must be rendered and administered in accordance with the Credit Control and Debt Collection Policy, other prescribed requirements and any other law.
- (2) The Council may, in accordance with the provisions of section 102 of the Act–
- (a) consolidate any separate accounts of a customer liable for payments in terms of these By-laws to the Council;
- (b) credit any payment by such customer against any account of that customer; and
- (c) implement any of the debt collection and credit control measures provided for in these By-laws in relation to any arrears on any of the accounts of a customer.
- (3) The amount due and payable by a customer constitutes a consolidated debt, and any payment made by a customer of an amount less than the total amount due, will, subject to the provisions of section 19(1), be allocated in reduction of the consolidated debt in the order prescribed.
- (4) (a) Any amount paid by a customer in excess of an existing debt may be held in credit for the customer in anticipation of future rates and fees for municipal services or for the purposes contemplated in section 14(b).
- (b) No interest is payable on any amount contemplated in paragraph (a).

Account information

9. Accounts must contain at least the following information –
- (a) the consumption or estimated consumption of water and electricity as determined for the measuring or consumption period;
- (b) the measuring or consumption period for water and electricity;
- (c) the amount due based on the measured or estimated consumption of services;
- (d) the amount due and payable for any other municipal service;
- (e) the amount in arrears, if any;
- (f) the interest payable on any arrears, if any;
- (g) collection charges insofar as they may be relevant;
- (h) the final date for payment; and
- (i) the methods, places and approved agents where payment may be made.

Account administration

10. The Council must, subject to the provisions of section 5, endeavour to ensure –
- (a) accurate metering of consumption at fixed intervals with the minimum delay between service connection and first and subsequent rendering of accounts;
 - (b) accurate and up-to-date information in accounts;
 - (c) accurate monthly accounts with the application of the appropriate and correct prescribed fees, rates and other related amounts due and payable;
 - (d) the timely dispatch of accounts;
 - (e) adequate provision and the efficient operation of facilities for payment throughout the municipal area;
 - (f) the appointment of agents to accept payments on behalf of the Council; and
 - (g) appropriate hours of business in order to facilitate account payments.

Queries or complaints in respect of accounts

11. (1) A customer may lodge a query or complaint in respect of the accuracy of any amount due and payable in terms of an account rendered to him or her in terms of these By-laws.
- (2) A query or complaint must be lodged with the Council before or on the due date for payment specified in the account concerned, or as soon as reasonably possible thereafter.
- (3) If a query or complaint contemplated in subsection (1), is lodged –
- (a) before the due date for payment specified in the account concerned, an amount at least equal to the average amount that was due and payable in respect of rates or the municipal service concerned, as specified in the accounts for the preceding three months which are not in dispute, must be paid by the customer concerned before or on such due date; or
 - (b) after the due date for payment specified in the account concerned, such query or complaint must if the full amount in dispute has not been paid, be accompanied by at least the amount contemplated in paragraph (a); and
 - (c) before or after the due date for payment specified in the account concerned, the customer concerned must pay the full amount of any account, insofar as it relates to rates or the municipal service concerned, rendered in respect of a subsequent period, before or on the due date for payment specified in such account, except insofar as that account may incorporate the amount in dispute.
- (4) An authorised official must register the query or complaint and provide the customer with a reference number.
- (5) The Council must –
- (a) investigate or cause the query or complaint to be investigated within 14 days, or as soon as possible after the query or complaint was received; and
 - (b) inform the customer, in writing, of its decision as soon as possible after conclusion of the investigation, instructing that any amount found to be due and payable must, subject to the provisions of section 21, be paid within 21 days from the date on which the customer is notified thereof, unless an appeal is lodged within that period in terms of subsection (6) or section 12.
- (6) A customer may, subject to the provisions of section 12, lodge an appeal with the Municipal Manager in terms of section 62 of the Act against a decision referred to in subsection (5), within 21 days of the date of the notification of the decision.
- (7) The Council must inform the customer concerned in writing of the decision of the appeal, instructing that any amount found to be due and payable, must be paid within seven days from the date on which the customer is notified thereof.

Appeals against decision by service providers on queries and complaints

12. (1) If a decision contemplated in section 11(5) has been made in respect of a municipal service provided by a service provider referred to in paragraph (d) of the definition of Council in section 1, a customer may lodge an appeal against that decision by giving written notice of the appeal and reasons to the chief executive officer of the service provider concerned, within 21 days of the date of the notification of the decision.
- (2) The chief executive officer must promptly submit the appeal to the appropriate appeal authority specified in subsection (4).
- (3) The appeal authority must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation may detract from any rights that may have accrued as a result of the decision.
- (4) If an appeal is against a decision taken by –
- (a) a staff member, other than the chief executive officer, the chief executive officer is the appeal authority;
 - (b) the chief executive officer or any committee of the service provider –
 - (i) the board of directors of the service provider; or
 - (ii) a committee of directors who were not involved in the decision concerned and appointed by the board of directors for this purpose, is the appeal authority.
- (5) An appeal authority contemplated in subsection (4), must commence with an appeal within 42 days after submission of the appeal and decide the appeal within a reasonable period.
- (6) A service provider must comply with the provisions of section 11(7).

Arrear accounts

13. (1) If a customer fails to pay an amount due and payable for any municipal service or rates on or before the due date for payment specified in the account concerned, a final demand notice may be sent to the customer.
- (2) A final demand notice referred to in subsection (1), must contain the following :
- (a) the amount in arrears and any interest payable, and a statement that payment must be made within 14 days of the date of the final demand notice;
 - (b) that the customer may in terms of section 21, within the period contemplated in paragraph (a), conclude a written agreement with the Council for payment of the arrears in installments;
 - (c) that if no such agreement is entered into within the period stipulated in paragraph (b), the municipal service concerned may be terminated or restricted and that legal action may be instituted for the recovery of any amount in arrear without further notice;
 - (d) that the customer's name may be made public, and may be listed with a credit bureau in terms of section 20(1)(a);
 - (e) that the account may be handed over to a debt collector or attorney for collection;
 - (f) that proof of registration as an indigent person in terms of section 23 and any other documentation required by the Council must be furnished to the Council on or before the date for payment contemplated in paragraph (a);
 - (g) that an indigent person referred to in paragraph (f) is only entitled to benefits relating to municipal services as stipulated in the Council's policy relating to the supply of municipal services to indigent persons; and
 - (h) that the customer has an opportunity to make representations in writing on any matter referred to in a final demand notice within the period of 14 days contemplated in paragraph (a).

Action to secure payment

14. The Council may, in addition to the normal civil legal steps to secure payment of any arrears , take the following action to secure payment of such amount :
- (a) The termination or restriction of the provision of any municipal service in terms of section 15; and
 - (b) the allocation of the whole or a portion of a payment of an account, or the whole or a portion of a pre-payment for future accounts as contemplated in section 8(4)(a), as payment for arrear municipal service fees or rates, in terms of section 19.

Power to terminate or restrict provision of municipal services

15. (1) For the purposes of subsection (2), a final demand notice means a notice contemplated in sections 11(5)(b), 11(7), 12(6) and 13(1).
- (2) Subject to the provisions of subsection (4), the Council may terminate or restrict the provision of water or electricity, or both, whichever service is relevant, in terms of the termination and restriction procedures prescribed or contained in any law, to any premises if the customer in respect of the municipal service concerned –
- (a) fails to make full payment of arrears specified in a final demand notice sent to the customer concerned, before or on the date for payment contemplated in sections 11(5)(b), 11(7), 12(6) or 13(1), whichever is applicable, and no circumstances have arisen which require the Council to send a further final demand notice to that customer in terms of any of those sections, and the customer –
 - (i) fails to enter into an agreement in terms of section 21, in respect of the arrears concerned before termination or restriction of the service concerned; or
 - (ii) fails to submit written proof of registration as an indigent person in terms of section 23, before such termination or restriction;
 - (b) fails to pay any instalment payable in terms of an agreement referred to in paragraph (a)(i) before or on the due date;
 - (c) fails to comply with any condition or provision in respect of the supply of electricity or water, as the case may be, imposed by the Council;
 - (d) obstructs the efficient provision of electricity or water to another customer;
 - (e) provides electricity or water to a person who is not entitled thereto or permits such provision to continue;
 - (f) causes a situation relating to electricity or water which, in the opinion of the Council, is dangerous or constitutes a contravention of any applicable law, including the common law;
 - (g) in any way reinstates the provision of a previously terminated or restricted electricity or water service;
 - (h) is placed under provisional sequestration, provisional liquidation or judicial management, or commits an act of insolvency in terms of the Insolvency Act, 1936 (Act No. 24 of 1936) or is subject to an administration order granted in terms of section 74 of the Magistrates Court Act, 1944 (Act No. 32 of 1944), and there is a failure to enter into a new service agreement within 14 days of the Council requiring such service agreement in terms of section 6.
- (3) The Council may send a termination notice or a restriction notice to a customer informing him or her –
- (a) that the provision of the municipal service concerned will be, or has been terminated or restricted on the date specified in such notice; and
 - (b) of the steps which can be taken to have the municipal service concerned reinstated.

- (4) Any action taken in terms of subsections (2) and (3) is subject to compliance with: –
- (a) sections 3 and 4 of the Water Services Act, 1997 (Act No. 108 of 1997), if the provision of water is involved;
 - (b) the relevant provisions of the Electricity Regulation Act, 2006 (Act No. 4 of 2006), if the provision of electricity is involved;
 - (c) the relevant provisions of the Health Act, 1977, (Act No. 63 of 1977), and any regulations made in terms of that Act; and
 - (d) the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), in so far as it is applicable.

Reinstatement of municipal services

16. (1) The Council must reinstate full levels of provision of any electricity or water service terminated or restricted in terms of section 15 after –
- (a) the full amount of arrears has been paid; or
 - (b) an agreement for payment of the arrears contemplated in paragraph (a) has been entered into in terms of section 21; or
 - (c) the full amount of arrears in respect of any agreement entered into in terms of section 21, and any increased deposit, have been paid, or any additional security required has been provided, and any other condition of the Policy that the Council may consider appropriate, has been complied with.
- (2) Any reinstatement in terms of subsection (1) may only be done after an authorised official has issued a written certificate of authorisation to the effect that every applicable condition contemplated in subsection (1) has been complied with and that the municipal service concerned may be reinstated.

Interest

17. All arrears in respect of accounts for rates and municipal services bear interest at a rate prescribed.

Collection charges

18. Collection charges, prescribed where relevant, may be levied against a customer in respect of any relevant action taken in terms of, or for the purposes of, these By-laws.

Full and final settlement of an amount

19. (1) The Council may appropriate monies received in respect of any debt contemplated in these By-laws at its sole discretion, unless the customer otherwise instructs in writing.
- (2) If any amount due and payable to the Council in terms of these By-laws has not been paid in full, any lesser amount tendered to and accepted by any employee of the Council, does not constitute payment in full and final settlement of the full amount, unless the lesser amount was accepted in full and final settlement in writing, under a power delegated or sub-delegated to such employee in terms of section 59 of the Act or by a service provider contemplated in paragraph (d) of the definition of "Council".

Accounts outstanding after the due date

20. (1) If an account for assessment rates or any municipal service is rendered to a customer and remains unpaid, wholly or in part, for more than 14 days after the due date for payment stipulated in the account concerned –
- (a) the defaulting customer's name may be made public, and may be listed with a credit bureau; and
 - (b) may be handed over to a debt collector or an attorney for collection.
- (2) A customer is liable for any interest and collection charges and, in addition, payment of a higher deposit or the provision of additional security if required by the Council.
- (3) No action taken in terms of this section may be suspended or withdrawn, unless the arrears and a higher deposit, if required by the Council, have been paid in full or additional security has been provided, if so required.

Agreements for the payment of arrears in installments

21. (1) A customer with positive proof of identity or a person authorised, in writing, by such customer, may, subject to the approval of the Council, enter into an agreement in a form substantially similar to a form prescribed, for the payment of arrears in installments.
- (2) The amount due and payable by a customer in terms of an agreement contemplated in subsection (1), constitutes a consolidated debt and any payment made by a customer of an amount less than the total amount due, must be allocated in reduction of the consolidated debt in the order prescribed, unless the customer otherwise instructs in writing.

- (3) A customer may be required to arrange a debit order for the payment of arrears in respect of which an agreement, contemplated in subsection (1), has been entered into.
- (4) Subject to the provisions of subsection (5), no agreement for the payment of arrears may allow for a period of payment of longer than 24 months.
- (5)
 - (a) The Council may allow a period of payment in excess of 24 months for the payment of arrears, but not exceeding a period of 60 months, if special circumstances which the customer could not reasonably have prevented or avoided, prevail and which, in the opinion of the Council, warrant a longer period of payment.
 - (b) Documentary proof of any special circumstances as contemplated in paragraph (a), must be furnished by a customer on request by the Council.
- (6) The Council must, in exercising its discretion in terms of subsection (5), have regard to a customer's –
 - (a) credit record;
 - (b) electricity and water consumption;
 - (c) ability to afford the proposed installments, taking into account the customer's financial situation;
 - (d) level of service;
 - (e) previous breaches of agreements for the payment of arrears in installments; and
 - (f) any other relevant factor.
- (7) A copy of an agreement contemplated in subsection (1), must, on request, be furnished to the customer concerned.
- (8) If a customer fails to comply with an agreement contemplated in subsection (1), the total arrears, and payment of a higher deposit if required by the Council, will immediately become due and payable, and additional security, if so required, must be provided, without further notice.
- (9) If a customer fails to comply with an agreement contemplated in subsection (1), entered into after receipt of a termination or restriction notice for water or electricity services, or both, as the case may be, the municipal service concerned may be terminated or restricted without further notice, in addition to any other action taken, or which may be taken, against the customer concerned.
- (10) No customer is permitted to enter into an agreement contemplated in subsection (1), if that customer has failed to honour a previous agreement for the payment of arrears in installments, unless the Council otherwise decides.
- (11) Once an agreement contemplated in subsection (1), has been concluded, the amount in arrears must be reflected as a current amount, and no further interest may be added.

Dishonoured cheques

22. If any payment is made to the Council by a negotiable instrument, and such negotiable instrument is dishonoured, the Council may levy costs and administration fees against the account of the defaulting customer at a prescribed rate.

CHAPTER 4

INDIGENT PERSONS

Registration as indigent person

23.
 - (1) A person who wishes to receive assistance in terms of the Council's policy for the provision of municipal services to indigent persons, must make application for registration as an indigent person on a prescribed form at any of the Council's offices.
 - (2) An application in terms of subsection (1), must be considered by the Council which must adhere to the principles of transparency, equity, consistency, non-discrimination, accessibility, empathy, integrity, confidentiality and objectivity during the evaluation process.
 - (3) An applicant, contemplated in subsection (1), must, at the request of the Council, furnish any further information to enable the Council to arrive at a decision and the Council may, for the purpose of properly evaluating the application, conduct any investigation which it considers appropriate.
 - (4) An applicant must be informed that he or she will automatically be disqualified from receiving any assistance contemplated in subsection (1), and be liable to-
 - (a) refund the amount of any such assistance received from the Council, if the application or information contemplated in subsection (3), contains any false information; and
 - (b) prosecution if any false information as contemplated in paragraph (a) is furnished by the applicant.
 - (5) If the Council finds an applicant to be indigent, such applicant is entitled to assistance in terms of the policy referred to in subsection (1), and his or her personal particulars must be recorded in a prescribed register of indigent persons.
 - (6) The position of every indigent person so recorded, must be reviewed annually by an authorised official in accordance with the directives of the Council.
 - (7) A successful applicant must be informed in writing that he or she must immediately notify the Council when his or her indigent status has changed.

CHAPTER 5**MISCELLANEOUS****Council's right of access to premises**

24. The Council may exercise its right of access to premises in terms of section 101 of the Act through the Municipal Manager or any authorised official or any duly appointed agent of the Council, authorised thereto in writing.

Preservation of rights consequent on non-compliance

25. A failure by the Council to render an account in terms of section 8(1), to send a final demand notice contemplated in section 15(1) or to comply with any other provision of these By-laws does not in any way affect the liability of any person to pay any amount due and payable to the Council as contemplated in these By-laws, nor the Council's right to recover such amount.

Transmission of documentation

26. Subject to the provisions of any law, if in terms of or for the purposes of these By-laws any written communication must or may be rendered, sent or delivered –
- (a) by the Council to any person, such communication must be –
 - (i) delivered by hand –
 - (aa) to that person's domicilium citandi et executandi, as stipulated in an agreement entered into in terms of section 3(1)(c) or 6(1) or 21(1); or
 - (bb) in the absence of such agreement, to that person's most recently recorded address; or
 - (cc) to the premises concerned in respect of which rates are levied or any municipal service is provided, whichever is relevant; or
 - (ii) sent by post to the address referred to in subparagraph (i)(aa) or (bb), whichever is applicable, or to the address of the premises contemplated in subparagraph (i)(cc).
 - (b) by any person to the Council, such communication must be –
 - (i) delivered by hand to –
 - (aa) the Council's domicilium citandi et executandi stipulated in the agreement contemplated in paragraph (a)(i)(aa); or
 - (bb) another address, if the Council has in writing furnished such an address to the person concerned; or
 - (ii) sent by post to the address referred to in subparagraph (i)(aa) or, in the circumstances contemplated in subparagraph (i)(bb), to the address contemplated in that subparagraph.

Prima facie evidence of documentation

27. For the purposes of the recovery of any amount due and payable to the Council in terms of these By-laws –
- (a) a copy of any relevant account ; and
 - (b) an extract from the Council's records relating to the quantity of consumption or provision of any municipal service and the period of provision of such service, certified by an authorised official as being correct, constitute prima facie evidence of the information contained in such documents.

Repeal and amendments

28. Any by-laws relating to credit control and debt collection adopted by the Council or any municipality now comprising an administrative unit of the Council is repealed from the date of promulgation of these by-laws

Conflicting laws

29. If there is any conflict between a provision in these By-laws and a provision of any other by-law of the Council, the provisions of these By-laws prevail.

Short title

30. These By-laws are called the Credit Control and Debt Collection By-laws, 2011.
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[NO. 181 OF 2011]

NOTICE IN TERMS OF SECTION 14 OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000: PUBLICATION: STANDARD DELEGATION OF POWERS BY-LAW

I, M.G Qabathe, Member of the Executive Council responsible for Cooperative Governance, Traditional Affairs and Human Settlement in the Free State, after consulting the Minister of Cooperative Governance and Traditional Affairs and the South African Local Government Association Free State, do hereby in terms of section 14(2)(a)(i) of the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000), make standard by-laws as set out in the Schedule.

SCHEDULE

DELEGATION OF POWERS BY-LAW

Purpose of By-law

The purpose of this by-law is to promote the development of a system of delegation by the municipality to maximise administrative and operational efficiency and to provide for adequate checks and balances in relation thereto.

Definitions

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

'accounting officer', in relation to the municipality, means the municipal official referred to in Section 60 of the Local Government : Municipal Finance Management Act, 2003 (Act No. 56 of 2003);

'chief financial officer', in relation to the municipality, means the person designated in terms of Section 80(2)(a) of the Local Government : Municipal Finance Management Act, 2003 (Act No. 56 of 2003);

'council' means the municipal council of the municipality and includes any committee or staff member thereof acting in terms of a delegated power;

'councillor' means a member of the council;

'day' means a calendar day, including a Saturday, Sunday and any public holiday;

'delegating authority', in relation to the delegation of a power or a duty by a municipal council, means the council or, in relation to the sub-delegation of a power or a duty by another political structure, political office bearer, councillor or staff member, means that political structure, political office bearer, councillor or staff member;

'delegation' means the delegation of a power, as envisaged by Section 59 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) and includes the delegation of a duty and

'delegate' has a corresponding meaning;

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

'municipal manager' means a person appointed in terms of Section 82 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

'Municipal Structures Act' means the Local Government: Municipal Structures Act 1998(Act No. 117 of 1998);

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

'municipality' means the Local Municipality established in terms of Section 12 of the Municipal Structures Act, and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with these by-laws by virtue of a power vested in the municipality and delegated or subdelegated to such political structure, political office bearer, councillor, agent or employee;

'political office bearer' in relation to the municipality, means the speaker, executive mayor, mayor, deputy mayor or a member of the executive committee referred to in the Municipal Structures Act;

'political structure', in relation to the municipality, means the council or any committee or other collective structure of the municipality that has been elected, designated or appointed in terms of a specific provision of the Municipal Structures Act;

'reserved power' includes a power mentioned in Section 160(2) of the Constitution of the Republic of South Africa, 1996 , the power to set tariffs, the decision to enter into a service delivery agreement in terms of Section 76(b) of the Local Government: Municipal Systems Act and to approve or amend the municipality's integrated development plan; and

"staff" or **'staff member'** means the employees of the municipality, including the municipal manager.

Development of system of delegation –

2. The council must develop a system of delegation that will maximise administrative and operational efficiency.

Delegation of powers

3. (1) The council shall delegate appropriate powers, except reserved powers, to the appropriate political structure, political office bearer, councillor or staff member so as to give effect to the objects of section 2.
- (2) A delegation of power in terms of this section must include an instruction to any political structure, political office bearer, councillor or staff member to perform any of the municipality's duties.

Withdrawal of delegated powers

4. A delegation in terms of section 3 may be withdrawn by the council at any time, provided that -
 - (1) reasonable notification is given beforehand, unless the urgency of the matter prevents such notification; and
 - (2) the administrative and operational efficiency of the municipality will not be prejudiced.

Requirements for delegation

5. A delegation of power in terms of section 3 must
 - (1) not conflict with the Constitution of the Republic of South Africa, 1996 the Municipal Structures Act or the Municipal Systems Act;
 - (2) be recorded in writing in a resolution adopted by the council;
 - (3) be subject to any limitations, conditions and directions the council may impose;
 - (4) not divest the council of the responsibility concerning the exercise of the power or the performance of the duty; and
 - (5) be reviewed when a new council is elected or, if it is a district council, elected and appointed.

Review of delegated power

6. (1) In accordance with the procedures contained in its rules and orders or at the request in writing of at least 25% (one quarter) of the councillors, the council must review any decision taken by a political structure, political office bearer, councillor or staff member in consequence of a delegation or instruction referred to in section 3 and either confirm, vary or revoke the decision subject to any rights that may have accrued to a person as a result of such decision.
- (2) Where appropriate, the council may require its executive committee or mayor to review any decision taken by such a political structure, political office bearer, councillor or staff member in consequence of a delegation or instruction given in terms of section 3.

Certain delegations restricted

7. (1) Where the municipality is a type that is entitled to have an executive committee or an executive mayor, the following powers may, within a policy framework determined by the council, only be delegated to such executive committee or executive mayor, as the case may be -
 - (a) decisions to expropriate immovable property or rights in or to immovable property; and
 - (b) the determination or alteration of the remuneration, benefits or other conditions of service of the municipal manager or managers directly responsible to the municipal manager.
- (2) The accounting officer may not delegate to any political structure or political office bearer any of the powers or duties assigned to the accounting officer in terms of the MFMA.

Referral of matters to delegating authority for decision

8. A political structure, political office bearer, councillor or staff member to whom a power or authority is delegated or sub-delegated a power may, or must, if instructed to do so by the relevant delegating authority, refer a matter to the relevant authority for decision.

Delegations in terms of the MFMA

9. (1) The accounting officer must develop an appropriate system of delegation that will both maximise administrative and operational efficiency and provide adequate checks and balances in the municipality's financial administration.
- (2) No provision contained in this by-law must be construed as limiting or detracting from the powers and duties of the accounting officer and chief financial officer, respectively, with regard to delegations in terms of the MFMA.

Appeals

10. (1) A person whose rights are affected by a decision taken by a political structure, political office bearer, councillor or staff member in terms of a power or duty delegated or sub-delegated by a delegating authority to such political structure, political office bearer, councillor or staff member, may appeal against that decision by giving written notice of appeal and reasons therefore to the municipal manager within 21 (twenty one) days of the date the appellant is notified of such decision.
- (2) The municipal manager must promptly submit the appeal to the appropriate appeal authority mentioned in Subsection 10(4).
- (3) The appeal authority must consider the appeal and confirm, vary or revoke the decision, but no variation or revocation of a decision may detract from any rights that may have accrued to any person as a result of the decision.

- (4) If the appeal is against a decision taken by -
- (a) a staff member other than the municipal manager, then the municipal manager must be the appeal authority;
 - (b) the municipal manager, then the executive committee or executive mayor must be the appeal authority, or if the municipality does not have an executive committee or executive mayor, then the council must be the appeal authority; or
 - (c) a political structure, political office bearer or a councillor -
 - (i) then the municipal council shall be the appeal authority where the council comprises less than 15 (fifteen) councillors; or
 - (ii) a committee of councillors who were not involved in the decision and who are appointed by the municipal council for this purpose must be the appeal authority where the council comprises more than 14 (fourteen) councillors.
- (5) An appeal authority must commence with an appeal hearing within 6 (six) weeks of the appellant's submission of written notice of the appeal and must decide the appeal within a period of 14 (fourteen) days calculated from the date of commencement of the appeal hearing.

Duty to report to delegating authorities

11. A political structure, political office bearer, councillor or staff member, to whom a delegating authority has delegated or sub-delegated a power or duty, must report to the delegating authority at such intervals as the delegating authority may require on decisions taken in terms of that delegated or sub-delegated power or duty.

Withdrawal, amendment or lapsing of delegation or sub-delegation

12. The withdrawal, amendment or lapsing of a delegation or sub-delegation does not invalidate anything done as a consequence of a decision taken in terms of that delegation or sub-delegation.

Review of delegations

13. (1) Whenever it becomes necessary in terms of section 5(5) to review the municipality's delegations, the municipal manager must submit to the council -
- (a) a report on the existing delegations issued in terms of section 3 by the council and other delegating authorities;
 - (b) recommendations on any changes to the existing delegations which the municipal manager may consider necessary.
- (2) If the municipality has an executive committee or executive mayor, then the municipal manager must submit the report and any recommendations in terms of sub-section (1) to the council through the executive committee or executive mayor, as the case may be.

Delegation or sub-delegation to staff member

14. Any delegation or sub-delegation to a staff member of a power conferred on a municipal manager must be approved by the council in accordance with the system of delegation referred to in section 2.

Register of delegations and sub-delegations

15. The municipal manager shall maintain a register detailing all resolutions adopted by the council concerning delegations made in terms of this by-law. Such details shall include the text of the council resolution, the date when such resolution was adopted and the subject matter of such delegation.

Decisions adopted under delegated power

16. (1) Any report containing a recommendation which, if adopted must constitute a council resolution adopted under delegated power, must contain a reference to the authority for such delegated power.
- (2) The authority for a decision adopted as a result of a delegated power must be quoted in any applicable minute or be endorsed on any document containing such decision.

Regulations

17. The municipality may make regulations not inconsistent with this by-law, prescribing -
- (a) any matter that may or must be prescribed in terms of this by-law; and
 - (b) any matter that may facilitate the application of this by-law.

Repeal of by-laws

18. Any by-laws relating to the delegation of powers adopted by the municipality or any municipal council now comprising an administrative unit of the municipality is repealed from the date of promulgation of this by-law.

Short title

19. This by-law is called the Delegation of Powers By-law, 2011.

[NO. 182 OF 2011]

NOTICE IN TERMS OF SECTION 14(2)(a)(i) OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000: PUBLICATION: STANDARD DISTRICT MUNICIPAL ENVIRONMENTAL MANAGEMENT BY-LAW.

I, MG Qabathe, Member of the Executive Council responsible for Cooperative Governance, Traditional Affairs and Human Settlement in the Free State, after consulting the Minister of Cooperative Governance and Traditional Affairs and the South African Local Government Association Free State, do hereby in terms of section 14(2)(a)(i) of the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000), make standard by-laws as set out in the Schedule.

SCHEDULE

Preamble.-WHEREAS many inhabitants of South Africa live in an environment that is harmful to their health and well-being; Everyone has the right to an environment that is not harmful to his or her health or well-being; The Local Government must promote a safe and healthy environment; The Constitution enjoins District Municipalities to respect, protect, promote and fulfil the social, economic and environmental rights of everyone and strive to meet the basic needs of previously disadvantaged communities; Inequality in the distribution of wealth and resources, and the resultant poverty, are among the important causes as well as the results of environmentally harmful practices; Sustainable development requires the integration of social, economic and environmental factors in the planning, implementation and evaluation of decisions to ensure that development serves present and future generations; everyone has the right to have environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that prevent pollution and ecological degradation; promote conservation; and Secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development; The District Municipalities together with local municipalities in their area of jurisdiction and other spheres of government and all organs of state must cooperate with, consult and support one another;

AND WHEREAS it is desirable:

That the law develops a framework for integrating good environmental management into all development activities;
That the law should promote certainty with regard to decision making by organs of state on matters affecting the environment;
That the law should ensure that organs of state maintain the principles guiding the exercise of functions affecting the environment;
That the law should be enforced by the State and that the law should facilitate the enforcement of environmental laws by civil society

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INTERPRETATION AND FUNDAMENTAL PRINCIPLES**

Definitions and interpretation

1. In these By-laws, unless the context otherwise indicates –
 - “**adequate**” when used to describe a standard or manner in which anything required by these By-laws must be done, means the standard or manner that, in the opinion of an environmental health practitioner, is sufficient to safeguard public health, and to achieve the purpose and apply the principles of these By-laws and “adequately” has a corresponding meaning;
 - “**approved**” when used to describe a particular object, measure or material, means an object, measure or material which has been approved in terms of section 12 as being adequate in specified circumstances to prevent, or reduce to a level acceptable to the Council, the risk of any public health hazard or public health nuisance occurring, continuing or recurring;
 - “**authorised official**” means any official of the Council or a delegated person who has been authorised by the Council to administer, implement and enforce the provisions of these By-laws;
 - “**communicable diseases**” means any disease which can be communicated directly or indirectly from any animal or through any agent to any person or from any person suffering there from or who is a carrier thereof, to any other person;
 - “**Council**” means –

- (a) the Fezile Dabi District Municipality established by Provincial Notice No. 185 of 2000 dated 28 September 2000, as amended, exercising its legislative and executive authority through its municipal Council; or
- (b) its successor in title; or
- (c) a structure or person exercising a delegated power or carrying out an instruction, where any power in these By-laws has been delegated or sub-delegated, or an instruction given, as contemplated in section 59 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000); or
- (d) a service provider fulfilling a responsibility under these By-laws, assigned to it in terms of section 81(2) of the Local Government: Municipal Systems Act, or any other law, as the case may be;
- “dwelling”** means any house, room, shed, hut, tent, cave, container, shelter, vehicle, boat or any other structure or place whatsoever, any part of which is used or appears intended for use by any human being for sleeping or in which any human being dwells or sleeps and “room” has a corresponding meaning;
- “environmental health”** the identification, evaluation and control of all those factors in the environment (biological, physical and chemical) that may have a deleterious effect on the health and well-being of people in the municipal area;
- “environmental health practitioner”** means an official appointed by the Council, and who is duly registered as an environmental health practitioner with the Health Professions Council of South Africa in terms of section 33 of the Health Professions Act, 1974 (Act No. 56 of 1974);
- “exemption certificate”** means a certificate issued in terms of section 11;
- “hot water”** means water which has a minimum temperature of 55° C at the point of discharge;
- “municipal area”** means the area under the jurisdiction of the Council;
- “municipal manager”** means a person appointed as such by the Council in terms of section 82 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);
- “National Building Regulations and Building Standards Act”** means the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977);
- “occupier”**, in relation to any premises, means any person –
- (a) occupying the premises;
- (b) leasing the premises;
- (c) who is not occupying the premises but is entitled to do so; or
- (d) who manages the premises or a business on the premises on behalf of a person referred to in paragraph (a), (b) or (c);
- “organ of state”** means an organ of state as defined in section 239 of the Constitution of the Republic of South Africa Act, 1996 (Act No. 108 of 1996);
- “owner”**, in relation to any premises, means –
- (a) the person in whose name the title to the premises is registered, and includes the holder of a stand licence; or
- (b) if the person referred to in paragraph (a) is dead, insolvent, mentally ill, a minor or under any legal incapacity, the executor, guardian or other person who is legally responsible for administering that person’s estate;
- “permit”** means a public health permit issued by the Council in terms of the section 11;
- “person”** means a natural person or a juristic person, and includes an organ of state;
- “pest”** means any animal, reptile, insect or mammal, which may create a public health hazard or public health nuisance if it is present in significant numbers and without limitation, includes rats, mice, flies, mosquitoes, bed bugs, fleas, lice, termites and cockroaches;
- “potable water”** means water that complies with the requirements set out in South African Bureau of Standard 241: Water for Domestic Supplies;
- “premises”** means –
- (a) any land without any buildings or other structures on it;
- (b) any building or other structure and the land on which it is situated;
- (c) any land which adjoins land referred to in paragraph (a) or (b) and any building or other structure on the adjoining land, if that land, building or structure is occupied or used in connection with any activity carried out on the premises referred to in paragraph (a) or (b); or
- (d) any land on which a caravan park or camping ground is situated; or
- (e) any vessel, vehicle or movable structure which is used for a scheduled use;
- “prescribed fee”** means a fee determined by the Council by resolution in terms of section 75A of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) as amended;
- “public health”** means the art and science which aim at preventing disease, prolonging life and promoting health through the organized efforts of society and includes the mental and physical health and well-being of people in the municipal area;
- “public health hazard”** means any actual threat to public health, and without limitation, includes –
- (a) the circumstances referred to in section 5 (3);
- (b) unsanitary conditions;
- (c) circumstances which make it easier for a communicable disease to break out or spread;
- (d) circumstances which make food or drink, including water for domestic consumption, unhygienic or unsafe to eat or drink; and

(e) circumstances which allow pests to infest any place where they may affect public health;

“**public health nuisance**” means the use of any premises or place in a manner which creates conditions that significantly increase the risk of a public health hazard occurring or which compromises any aspect of public health to an extent that is more than trivial or insignificant, and without limitation, includes those circumstances in which a public health nuisance is considered to exist in terms of Schedule 1;

“**public place**” means any road, street, thoroughfare, bridge, overhead bridge, subway, foot pavement, footpath, sidewalk, lane, square, open space, garden park, path, bus or taxi rank, servitude or enclosed space vested in the Council and includes any road, place or thoroughfare which is in the undisturbed use of the public or which the public have the right to use, and includes a public place as defined in the Tobacco Control Amendment Act 12 of 1999.

“**scheduled use**” means a use listed in Schedule 2.

“**Vector**” means any organism, including but not limited to, rats, bats, mice, cockroaches, fleas, flies, mites, mosquitoes and ticks, which is capable of transmitting a pathogen to the people, or capable of causing food to become unclean, unwholesome, spoiled, adulterated, or unsafe for human.

“**vicinity**” the area as seen in the context of the problem which could range from adjacent premises up to an entire neighbourhood.

(2) Unless the context otherwise indicates, any word or expression which is defined in any Chapter, has the same meaning wherever it is used in these By-laws.

(3) If any provision in these By-laws vests or imposes any power, function or duty of the Council in or on an employee of the Council and such power, function or duty has in terms of section 81(2) of the Local Government: Municipal Systems Act, 2000, or any other law, been assigned to a service provider, the reference to such employee must be read as a reference to the service provider or, where applicable, an employee of the service provider authorised by it.

(4) These By-laws are subject to the National Environmental Management Act, 1998 (Act No. 107 of 1998).

Purpose

2. The purpose of these By-laws is to enable the Council to set minimum environmental health standards to prevent disease, prolong life, protect and promote the health and well-being of people in the municipal area by -
 - (a) providing, in conjunction with any other applicable law, an effective legal and administrative framework within which the Council can -
 - (i) manage and regulate activities that have the potential to impact adversely on public health; and
 - (ii) require premises to be properly maintained and managed; and
 - (b) defining the rights and obligations of the Council and the public in relation to this purpose

CHAPTER 2 PUBLIC HEALTH

Part 1: Public health principles

Principles

3. The principles set out in this section apply throughout the Municipal area to the actions of all organs of state that may significantly affect the environment and:
 - (a) Must apply alongside all other appropriate and relevant considerations, including the state's responsibility to respect, protect, promote and fulfil the social and economic rights in chapter 2 of the constitution and in particular the basic needs of categories of persons disadvantaged by unfair discrimination;
 - (b) Serve as guidelines by reference to which any decision in terms of these Bylaws or any statutory provision concerning the protection of the environment;
 - (c) Guide the interpretation, administration and implementation of these Bylaws, and any other law concerned with the protection or management of the environment
 - (d) In the event of any inconsistency between the provision of these bylaws and any other legislation in force when these by-laws takes effect and which regulates any aspects of environmental health in the Municipal area, the provision of section 156(3) of the Constitution of the Republic of South Africa, 1996 applies.

Application of Principles

4. (1) Environmental management must place local people and their needs at the forefront of its concern, and serve their physical, psychological, developmental, cultural and social interests equitably.
- (2) Development must be socially, environmentally and economically sustainable.
 - (a) Sustainable development requires the consideration of all relevant factors including, and not limited to, the following:
 - (i) That the disturbance of ecosystem and of loss of biological diversity are avoided, or, where they cannot be altogether avoided, are minimised and remedied;
 - (ii) That pollution and degradation of the environment are avoided, or, where they cannot be altogether avoided, are minimised and remedied;
 - (iii) That the disturbance of landscapes and sites that constitute the nation's cultural heritage is avoided, or where it cannot be altogether avoided, is minimised, remedied;

- (iv) That waste is avoided, or where it cannot be altogether avoided, minimised and reused or recycled where possible and otherwise disposed of in a responsible manner;
 - (v) That the use and exploitation of non-renewable natural resources is responsible and equitable, and takes into account the consequences of the depletion of the resource;
 - (vi) That the development, use and exploitation of renewable resources and ecosystems of which they are part do not exceed the level beyond which their integrity is jeopardised;
 - (vii) That a risk averse and cautious approach is applied, which takes into account the limits of the current knowledge about the consequences of decisions and actions; and
 - (viii) That negative impacts on the environment and on people's environmental rights be anticipated and prevented, and where they cannot be altogether prevented, are minimised and remedied.
- (b) Environmental management must be integrated, acknowledging that all elements of the environment are linked and interrelated, and it must take into account the effects of decision on all aspects of the environment and all the people in the environment by pursuing the selection of the best practicable environmental option.
 - (c) Environmental justice must be pursued so that adverse environmental impacts must not be distributed in such a manner as to unfairly discriminate against any person, particularly vulnerable and disadvantaged persons.
 - (d) Equitable access to environmental resources, benefits and services to meet basic human needs to ensure human well-being must be pursued and special measures may be taken to ensure access thereto by categories of persons disadvantaged by unfair discrimination.
 - (e) Responsibility for the environmental health and safety consequences of a policy, programme, project, product, process, service or activity exists throughout its life cycle.
 - (f) The participation of all interested and affected parties in environmental governance must be promoted, and all people must have the opportunity to develop the understanding, skills and capacity necessary for achieving equitable and effective participation, and participation by vulnerable and disadvantaged persons must be ensured.
 - (g) Decisions must take into account the interests, needs and values of all interested and affected parties, and this includes recognising all forms of knowledge, including traditional and ordinary knowledge.
 - (h) Community well-being and empowerment must be promoted through environmental education, the raising of environmental awareness, the sharing of knowledge and experience and other appropriate means.
 - (i) The social, economic and environmental impacts of activities, including disadvantages and benefits, must be considered, assessed and evaluated, and decisions must be appropriate in the light of such consideration and assessment.
 - (j) The right of workers to refuse that is harmful to human health or environment and to be informed of dangers must be respected and protected.
 - (k) Decisions must be taken in an open and transparent manner, and access to information must be provided in accordance with the law.
 - (l) There must be intergovernmental coordination and harmonisation of policies, legislation and actions relating to the environment.
 - (m) Actual or potential conflicts of interest between organs of state should be resolved through conflict resolution procedures.
 - (n) Global and international responsibilities relating to the environment must be discharged in the local interest.
 - (o) The environment is held in public trust for the people, the beneficial use of environmental resources must serve the public interest and the environment must be protected as the people's common heritage.
 - (p) The cost of remedying pollution, environmental degradation and consequent adverse health effects and preventing, controlling or minimising further pollution, environmental damage or adverse health effects must be paid for by those responsible for harming the environment.
 - (q) The vital role of women and youth in environmental management and development must be recognised and their full participation therein must be promoted.
 - (r) Sensitive, vulnerable, highly dynamic or stressed ecosystems, such as coastal shores, estuaries, wetlands, and similar systems require specific attention in management and planning procedures, especially where they are subject to significant human resource usage and development pressure.

Part 2: Public health hazards and public health nuisances

Prohibition on causing public health hazards

5. (1) No person may create a public health hazard anywhere in the municipal area.
- (2) Every owner or occupier of premises must ensure that a public health hazard does not occur on those premises.
- (3) An owner or occupier of premises creates a public health hazard if –
 - (a) the premises are infested with pests or pests are breeding on the premises;
 - (b) there are conditions on the premises which are conducive to the spread of a communicable disease or which may cause a non-communicable disease;
 - (c) there is any unsanitary condition in any part of the premises; or
 - (d) any water supply for domestic consumption on the premises is unsafe for human consumption.

Camping permits

6. No person must, without the written permission of Council, occupy or permit to be occupied for human habitation a caravan, tent or other shelter of any description on un-serviced land except on an authorised camping or caravan site.

Duty to report public health hazards

7. The owner or occupier of premises who knows or who is reasonably expected to know of a public health hazard on those premises must within 24 hours of becoming aware of its existence –
- (a) eliminate the public health hazard; or
 - (b) if the owner or occupier is unable to comply with paragraph (a), take reasonable steps to reduce the risk to public health and forthwith report the existence of the public health hazard to the Environmental Development Department in writing.

Prohibition on causing public health nuisances

8. (1) No person may cause a public health nuisance anywhere in the municipal area.
 (2) Every owner or occupier of premises must ensure that a public health nuisance does not arise on those premises.

CHAPTER 3**POTENTIALLY HAZARDOUS USES OF PREMISES AND ENFORCEMENT****Part 1: Potentially hazardous uses****Duty to list potentially hazardous uses**

9. If the Council reasonably believes that any premises have been, or are likely to be, used for a purpose or in a manner that has caused, or is likely to cause, a public health hazard or to create a public health nuisance unless reasonable measures are taken to avoid the risk or to reduce it to an acceptable level, the Council must list the activity concerned in Schedule 2 by notice in the Provincial Gazette and must prescribe measures that must be taken to avoid the risk or reduce it to a level acceptable to the Council.

Scheduled uses

10. (1) Any person who uses premises in a manner or for a purpose listed in Schedule 2 must comply with every provision specified in the Chapter of these By-laws relating to that use, unless that person has been granted an exemption in terms of section 11 from complying with any such provision.
 (2) Any person who uses premises in a manner or for a purpose that is listed in Part A of Schedule 2, must obtain a permit in terms of section 12 before commencing that use and must comply with the terms and conditions of that permit.

Exemption certificates

11. (1) Any person who wants to undertake a scheduled use on any premises but wishes to be exempted from complying with any requirement of these By-laws relating to the use concerned, must apply to the Council in accordance with section 14 for an exemption certificate.
 (2) The Environmental Development Department may grant an exemption certificate, subject to such conditions as it may impose, if an environmental health practitioner is satisfied that –
- (a) the measures taken to avoid or reduce the risk to public health arising from the scheduled use are equivalent to or better than the measures required by the relevant requirement of these By-laws; and
 - (b) the scheduled use in respect of which the exemption is required, is not likely to cause a public health hazard or a public health nuisance.

Public health permits

12. (1) Any person who wants to undertake a scheduled use that is listed in Part A of Schedule 2, must apply to the Council's Environmental Development Department in accordance with section 14 for a public health permit.
 (2) The Council may issue a public health permit to the owner or occupier of any premises, if an environmental health practitioner is satisfied that the use for which the permit is required is not likely to cause a public health hazard or a public health nuisance.
 (3) A public health permit –
- (a) must be issued subject to conditions aimed at reducing the risk to public health created by the scheduled use, to a level acceptable to the Council;
 - (b) may exempt the permit holder from complying with any relevant provision of these By-laws, if the Council reasonably believes that the permit requires the permit holder to take measures to avoid or reduce the risk to public health arising from the activity that are equivalent to, or better than, the measures required by the relevant provision of these By-laws; and
 - (c) may approve any activity authorised by the permit approved in terms of these By-laws.

Approval of measures, objects and materials

13. (1) The Council may approve, provided that the said approval is not in conflict with any other legal requirement and /or public interest, any object or material used, or any measure taken, in specified circumstances as being adequate to eliminate the risk of any public health hazard or public health nuisance occurring, continuing or recurring, or to reduce that risk to a level acceptable to the Council.
- (2) An object, material or measure referred to in subsection (1) may be approved by the Council in –
 - (a) a public health permit; or
 - (b) guidelines prescribed by the Council in terms of subsection (3).
- (3) The Council may publish guidelines in the Provincial Gazette which describe –
 - (a) appropriate measures that can be taken and objects and materials that can be used, to eliminate the risk of any public health hazard or public health nuisance occurring, continuing or recurring, or to reduce that risk to a level acceptable to the Council; and
 - (b) the circumstances in which taking these measures or using these objects or materials are acceptable to the Council.

Application procedure

14. (1) Any person who wants to obtain an exemption certificate or a permit must apply to the Council's Environmental Development Department in writing in prior to undertaking the scheduled use concerned.
- (2) When the Council receives an application contemplated in subsection (1), it must ensure that the relevant premises concerned are inspected by an environmental health practitioner as soon as reasonably possible.
- (3) Before deciding whether or not to approve an application contemplated in subsection (1), the Council –
 - (a) must ensure that any persons in the vicinity of the premises whose health or well-being may be affected if the premises are to be/ or used for the scheduled use concerned, have been consulted and have had an opportunity to make representations; and
 - (b) may require the applicant to provide any further information which the Council considers relevant to enable it to make an informed decision.
- (4) In deciding whether or not to issue an exemption certificate or a permit, and what terms and conditions, if any, to include in it, the Council must apply the public health principles set out in Part 1 of chapter 2

General terms applicable to certificates and permits

15. (1) An exemption certificate or a permit–
 - (a) is not transferable from one person to another; and
 - (b) applies only to the premises specified in that certificate or permit.
- (2) Every exemption certificate or permit must–
 - (a) specify the address and other relevant details regarding the location of the premises concerned;
 - (b) describe the premises concerned;
 - (c) describe the activity concerned;
 - (d) specify terms and conditions imposed, if any;
 - (e) indicate the expiry date; and
 - (f) any other term or condition that the Council may deem fit.
- (3) An applicant must pay a prescribed fee, if so determined by the Council, in respect of an application for a permit or exemption certificate and such fee must accompany the application.
- (4) The Council may refuse to consider an application until it has been provided with the information that it reasonably requires to make an informed decision and until the prescribed fee has been paid.

Suspension, cancellation and amendment of exemption certificates and permits

16. (1) Council may by written notice to the holder of an exemption certificate or permit, suspend, amend or cancel that certificate or permit, after having informed such holder of the reasons for such an exemption certificate and permit being cancelled or suspended.
- (2) Council may suspend or cancel an exemption certificate or permit with immediate effect if –
 - (a) the Council reasonably believes that it is urgently necessary to do so to eliminate or to reduce a significant risk to public health posed by a public health hazard or a public health nuisance; or
 - (b) the holder of such certificate or permit fails to comply with a compliance notice contemplated in section 32 of the Rationalisation of Local Government Affairs Act, in which is stated that such certificate or permit may be suspended or cancelled without further notice if the holder fails to comply with that notice.
- (3) Council may suspend or cancel an exemption certificate or permit after having given the holder thereof a reasonable opportunity of making representations as to why the permit or exemption certificate should not be suspended or cancelled if:–
 - (a) the environmental health practitioner reasonably believes that it is desirable to do so to eliminate or reduce the risk to public health posed by a public health hazard or a public health nuisance; or
 - (b) the holder of such certificate or permit contravenes or fails to comply with any relevant provision of these By-laws.
- (4) Council may amend an exemption certificate or permit by endorsing such certificate or permit or by written notice to the holder thereof, if the environmental health practitioner reasonably believes that it is necessary to do so to protect public health or to take account of changed circumstances since the exemption certificate or permit concerned was issued.

Part 2: Enforcement, remedial work and costs

Demolition orders

17. (1) If the Council believes that a public health hazard would be eliminated or a public health nuisance would be significantly reduced by demolishing a building or other structure, it may, subject to the provisions of any other relevant law, apply to any court having jurisdiction for an order directing any person to demolish the building or structure or authorising the Council to do so and to recover the costs of doing so from the owner or the occupier of the premises concerned, or from both.
- (2) The Council may not apply to court in terms of subsection (1) unless it has given the owner and the occupier of the premises not less than 14 days' notice in writing of its intention to make the application and has considered any representations made within that period.

Right of entry and remedial work

18. The Council may, subject to the provisions of any other law, enter any premises and do anything, excluding demolition of buildings and structures, on the premises that it reasonably considers necessary –
- (a) to ensure compliance with these By-laws.
- (b) to reduce, remove or minimise any significant public health hazard; or
- (c) to reduce, remove or minimise any public health nuisance.

Cost orders

19. (1) The Council may recover any costs reasonably incurred by it in taking measures contemplated in section 18 from any person who was under a legal obligation to take those measures, including –
- (a) a person on whom a compliance notice referred to in section 18(a) that required those steps to be taken, was served;
- (b) the owner or occupier of the premises concerned; or
- (c) any person responsible for creating a public health hazard or a public health nuisance.
- (2) The municipal manager or delegated official may issue a cost order requiring a person who is liable to pay costs incurred by the Council in terms of subsection (1), to pay those costs by a date specified in the order and such order constitutes prima facie evidence of the amount due.

**CHAPTER 4
SANITARY SERVICES**

Compulsory connection to municipal sewerage system

20. Every owner of premises to which a municipal sewage service is available, must ensure that all waste water drainage pipes from any bath, wash-hand basin, toilet, shower, kitchen sink, washing machines and dish washers are connected to the municipal sewer in a manner approved by a local municipality.

Prohibition against obstruction of sanitary services

21. No person may prevent, obstruct or interfere with any sanitary service provided by the Council.

Requirements in respect of toilet facilities

22. Every owner of premises must ensure that the number of toilets provided on those premises comply with the provisions of the National Building Regulations and Building Standards Act or any other applicable legislation.

Toilets for workers

23. (1) Every contractor must provide his or her workers with toilet facilities as prescribed by the National Building Regulations and Building Standards Act.
- (2) No temporary toilet may be erected or placed on any pavement or other public place without the written approval of Council.

Prohibition against use of a bucket toilet under the same roof as a dwelling

24. No person may provide, erect, retain or use any bucket toilet inside or under the same roof, as a dwelling.

Condition of toilets, urinals, backyards and refuse areas

25. Every owner or occupier of any premises must keep every backyard refuse area, toilet, and urinal in a sanitary condition and good state of repair, in the opinion of the Council.

Separate storage of urine

26. (1) Any owner or occupier required by the Council to provide for the separate storage of urine, due to the size, extent of occupation or use of any premises, must comply with any notice issued by the Council calling on him or her to provide an adequate urine tank or an adequate number of urine buckets on the premises.
- (2) Every owner or occupier referred to in subsection (1) must use the urine tank or urine bucket exclusively for the reception of urine.

Provision of tank for waste liquids in areas without sewers

27. (1) Any owner of premises not connected to a public sewer or not provided with other adequate measures for the disposal of waste liquid, must provide the premises with a tank big enough to contain the slops, bath water or other waste water produced on the premises during a period of 48 hours.
- (2) Subject to the provisions of subsection (3), premises referred to in subsection (1), must be equipped either with –
- (a) an overhead tank placed in a way that its contents can be gravity fed into the Council's or other approved waste removal vehicles; or
 - (b) an adequate filter, pump and indicator, with outlet pipes constructed and placed in a way that the tank may be easily emptied and cleansed.
- (3) The provisions of subsection (2) do not apply if –
- (a) adequate arrangements have been made for dispersing waste water produced on the premises, other than urine, over land associated with the premises concerned; and
 - (b) the waste water is dispersed in a way that will not create a public health nuisance.

Pumping of contents of underground tank to surface tank

28. Any occupier of premises on which both underground and overhead tanks are provided for the storage of waste water, must pump the contents of the underground tank to the overhead tank immediately prior to the overhead tank being emptied by the Council.

Blocked or defective outlet pipes

29. Every owner or occupier of premises must keep any drainage system free from obstruction and in a good state of repair, in the opinion of Council.

Prohibition against urine in slops tanks

30. No person may discharge or allow any urine or excrement to be discharged into a slops tank situated on any premises.

CHAPTER 5 PRIVATE SEWERAGE WORKS

Permit for provision of service for the removal of human excrement or urine

31. No person may provide any service for the removal or disposal of human excrement and urine on any premises except in terms of a permit authorising that service.

Permit for installation of sewerage works

32. No person may, on any private premises, install, alter, re-site, operate or maintain any septic tank, filter installation or other works for the disposal of sewage, except in terms of a permit authorising that activity.

Maintenance of sewerage works

33. **Any person operating sewerage works must ensure that it is maintained in a sanitary condition and good state of repair at all times, in the opinion of Council.**

Disposal of sewerage, sewerage effluent and wastewater without causing a public health nuisance and/or hazard

34. No person may dispose of sewerage or waste water from any bath, wash-hand basin, toilet, shower, kitchen sink, swimming pool, washing machines, dish washers and refuse receptacles in a way or in a location that may –
- (a) cause dampness in or on any premises;
 - (b) endanger the quality of any water supply, surface water, stream or river; or
 - (c) create a public health nuisance and/or hazard.

Compulsory use of Council's sewage removal service

35. Every occupier of premises must use the sewage removal service prescribed by the Council for those premises.

CHAPTER 6 WATER

Definitions

36. In this Chapter, unless the context otherwise indicates –
- “domestic consumption” in relation to water, means the use of water for –
- (a) human consumption;
 - (b) preparing or manufacturing food or drink for human consumption;
 - (c) cleaning vessels or utensils used in the preparation or manufacture of food or drink for human consumption; or
 - (d) any other domestic purpose.
- “effluent” means any waste water which may be generated as a result of undertaking any scheduled use or an activity which is likely to cause a public health nuisance.

Pollution of sources of water supply

37. No person may pollute or contaminate any catchment area, river, canal, well, reservoir, filter bed, water purification or pumping works, tank, cistern or other source of water supply or storage in a way that creates a public health nuisance or a public health hazard.

Dangerous wells, boreholes and excavations

38. Every owner or occupier of premises must ensure that any well, borehole or other excavation located on his or her premises –
- (a) is fenced, filled in or covered over in a way that adequately safeguards it from creating a public health nuisance or public health hazard; and
 - (b) is not filled in a way, or with material, that may cause any adjacent well, borehole or underground water source to be polluted or contaminated to an extent that may create a public health nuisance or a public health hazard.

Provision of adequate water supply

39. Every owner of premises must provide every resident on the premises with an adequate and readily available potable water supply at all times.

Use of water from sources other than the municipal supply

40. No person may use, or permit to be used, any water obtained from a source other than the municipal water supply for domestic consumption, unless the water concerned has been approved for that purpose and complies with standards of potable water.

Furnishing of particulars of the source of water

41. (1) Any owner or occupier of premises on which a well, borehole, spring, dam, river or other water source is located, the water of which is used for domestic consumption, must within 14 days of receiving a notice from the Council calling on him or her to do so, provide the Council with all particulars of the water source reasonably available to the owner or occupier.
- (2) An owner or occupier of premises contemplated in subsection (1), must, if requested to do so by the Council, and at his or her own cost, furnish to the Council a certificate of chemical analysis and bacteriological investigation issued by an analyst, contemplated in section 12 of the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972), in respect of any water supply on that premises used for domestic consumption.
- (3) If water from a borehole is used for domestic consumption, a certificate of analysis as contemplated in subsection (2) must be submitted to Council annually or at any time on request of an environmental health practitioner.

Notice of the sinking or digging of boreholes or wells

42. (1) No person may sink or dig, or cause or permit to be sunk or dug, a well or borehole, to obtain water, unless –
- (a) it is done so in accordance with any relevant law; and
 - (b) he or she has given the Environmental Health Division at least 14 days' written notice of his or her intention to do so.
- (2) The notice referred to in subsection (1)(b), must state the proposed location and the purpose for which the water is to be used.

Storm water runoff from premises which may impact on public health

43. (1) Every owner or occupier of premises must erect adequately designed, constructed and maintained hydraulic and hydrological structures on those premises –
- (a) to divert the maximum storm water runoff, which could be expected within a period of 24 hours with an average frequency of recurrence of once in 100 years, from any part of the premises on which any waste, likely to create a public health nuisance, is or was handled, produced, stored, dumped or spilled;
 - (b) to collect all polluted runoff water from any part of the premises on which waste, likely to create a public health nuisance is or was handled, produced, stored, dumped or spilled, for reuse, treatment or purification;
 - (c) to separate all effluent from storm water systems;
 - (d) to prevent the erosion or leaching of material from any slimes dam, ash dam and any dump or stock-pile on the premises, and to contain any eroded or leached material in the area where it originated;
 - (e) to prevent any waste or waste water from entering any borehole, well, spring, vlei or water course; and
 - (f) to prevent any adverse impact on the quality of surface and ground water occurring, due to the location of any dump, stock-pile, dam, drain, canal, conduit, sewer or any other structure on the premises.
- (2) An owner or occupier of premises –
- (a) must keep all water passages open and free of obstruction from matter which may impede the flow of water or effluent;
 - (b) may not locate any dump within the one hundred year flood line of any water resource;
 - (c) may not use coal, coal discard, carbonaceous material or any other material for the construction of any slurry, evaporation or catchment dam, or any embankment, road or railway in a way likely to create a public health nuisance;
 - (d) must construct bund walls around any tank, or group of tanks, containing any substance that can create a public health nuisance, of a size that is capable of containing the volume of the largest tank plus an additional 10% in the event of any unlawful or accidental discharge from the tank or group of tanks; and
 - (e) must clean any industrial surface area so as to prevent the pollution of storm water which may result in an adverse impact on the quality of any surface or ground water.

Containment of waste water

44. Any dam, conduit or channel used for the containment of waste water must have a free board of at least 0.5 metres above the highest level of precipitation which could be expected within a period of 24 hours with an average frequency of recurrence of once in 100 years.

**CHAPTER 7
OFFENSIVE TRADES**

Definitions

45. In this Chapter, unless the context otherwise indicates -

“**effluent**” means any waste water which may be generated as a result of undertaking any scheduled use or an activity which is likely to cause a public health nuisance;

“**offensive trade**” means any business listed below or business which involves an activity listed below:

- (a) Panel beating or spray painting;
- (b) operating a waste recycling plant including oil and petroleum product recycling;
- (c) scrap yard or scrap metal dealing;
- (d) blood boiling, bone boiling, tallow melting, fat melting or fat extracting, soap boiling, tripe boiling or cleaning, skin storing, bone storing, hide boiling, skin curing, blood drying, gut scraping, leather dressing, tanning or glue or size making;
- (e) charcoal burning, brick burning, lime burning;
- (f) manure making or storing or compost making;
- (g) parchment making;
- (h) manufacturing malt or yeast;
- (i) cement works, coke-ovens or salt glazing works;
- (j) sintering of sulphurous materials;
- (k) viscose works;
- (l) ore or mineral smelting, calcining, puddling or rolling of iron or other metal, conversion of pig iron into cast iron, reheating, tempering, hardening, forging, conversion or compounding of carbon with iron or other metals;
- (m) Work of a knacker.
- (n) Slaughter of animals.
- (o) Fish mongering and fish frying.
- (p) Manufacture of flock and rags.
- (q) Animal bristle and hair storing and sterilizing.
- (r) Manufacture of chemicals.
- (s) Fell-mongering
- (t) Storage of rags.
- (u) Wood saw-dust.
- (v) Iodoform.
- (w) works for the production of carbon bisulphide, cellulose lacquer, cyan or its compounds, hot pitch or bitumen, pulverized fuel, peridine, liquid or gaseous sulphur dioxide or sulphur chlorides;
- (x) works for the production of amyl acetate, aromatic ethers, butyric acid, caramel, enamelled wire, glass, hexamine, lampblack, B-naphthol, resin products, salicylic acid, sulphated organic compounds, sulphurous paints, ultramarine, zinc chloride or zinc oxide; or
- (y) the refining or processing of petrol, oil or their products;
- (z) Any other work or trade of an offensive nature which, with the sanction of the Council may add to the list.

“**offensive trader**” means any person who owns, conducts or carries on an offensive trade.

Permit requirement

46. No person may conduct an offensive trade in or on any premises, except in terms of a permit authorising such trade.

Requirements for premises

47. No person may conduct an offensive trade in or on any premises unless -

- (a) the floors of the premises are constructed of cement concrete or a similar impervious material, brought to a smooth finish;
- (b) the floors of the premises are adequately graded and drained for the disposal of effluent to an approved disposal system;
- (c) the inside walls, except where glazed or glass brick or glazed tiles are used, are plastered, brought to a smooth finish and painted with a light-coloured, washable paint;
- (d) the surface of any backyard or open space is paved with concrete or similar impervious material, brought to a smooth finish;
- (e) the premises are provided with adequate light and ventilation as prescribed in the National Building Regulations and Building Standards Act;
- (f) an adequate supply of running potable water is provided;
- (g) an adequate number of portable containers constructed of iron or another non-absorbent material, equipped with closely fitting lids, are provided for the removal of all waste and waste water from the premises;
- (h) adequate means are provided for the disposal of all effluent arising from the manufacturing or other process performed on the premises;

- (i) adequate accommodation is provided for the storage of all finished products, articles or materials which are used in the manufacturing or other process and which may –
 - (i) discharge offensive or injurious effluent or liquid; or
 - (ii) decompose in the course of the work or trade;
- (j) adequate means are provided to control the discharge in the open air of any noxious, injurious or offensive gas, fume, vapour or dust produced during any handling, preparation, drying, melting, rendering, boiling or grinding process or storage of material;
- (k) adequate sanitary fixtures are provided as prescribed in the National Building Regulations and Building Standards Act;
- (l) a perimeter wall made of brick or some other impervious material, with a minimum height of 2 metres, is constructed around the premises;
- (m) all gates to the premises are of solid construction with a minimum height of 2 metres;
- (n) all perimeter walls and gates adequately screen activities on the premises from public view; and
- (o) all materials are stacked or stored on the premises below the height of the perimeter screening;
- (p) adequate separate change-rooms for male and female employees must be provided containing –
 - (i) an adequate metal locker for every employee;
 - (ii) a wash-hand basin provided with a supply of running hot and cold potable water; and
 - (iii) an adequate supply of soap and disposable towels at every wash hand basin;
- (q) if no change-room has been provided in terms of paragraph (p) –
 - (i) a wash hand basin with a supply of running hot and cold potable water, must be provided in an accessible position; and
 - (ii) an adequate metal locker must be provided for every employee in the work area.

Duties of offensive traders- Every offensive trader must

- 48.
- (a) maintain the premises in a clean, hygienic and good condition at all times;
 - (b) maintain all walls and floors of the premises in a manner and condition that prevents the absorption of any waste or waste water;
 - (c) maintain all machinery, plant, apparatus, furniture, fittings, tools, implements, vessels, containers, receptacles and vehicles in a clean, hygienic and good condition at all times;
 - (d) prevent any waste accumulating on the premises and provide proof when required of safe disposal of recycled or hazardous related waste materials;
 - (e) prevent the emission of noxious, injurious or offensive gases, fumes, vapours or dust generated during any handling, preparation, drying, melting, rendering, boiling or grinding process or storage of any material on the premises;
 - (f) provide and maintain effective measures to preclude the open attraction of pest and to prevent the breeding thereof, and
 - (g) provide for approved personal protective clothing for the safety of his or her employees

Liquid refuse from bone and tripe boiling

- 49.
- (1) Every bone boiler and every tripe boiler must adequately cool all waste water before it is discharged into any sewer or other receptacle.
 - (2) The cooling process referred to in subsection (1), must take place in a manner that prevents the generation of any noxious and injurious effluent.

Liquids, tanks and tubs in leather making

50. Every fell-monger, leather dresser or tanner must -
- (a) renew and dispose of the liquid from every tank or other receptacle used on the premises to wash or soak any skin or hide, other than a lime pit, at adequate intervals and in an adequate manner;
 - (b) clean the entire tank or other receptacle every time it is emptied;
 - (c) clean every tub or other receptacle used to contain a solution of the material known as "puer".

Storage of rags, bones and waste

51. No trader in rags, bones or waste may place or store, or cause or permit to be stored, rags, bones or waste in any part of the premises concerned which is –
- (a) inhabited by people; or
 - (b) not adequately ventilated.

CHAPTER 8 HAIRDRESSING, BEAUTY AND COSMETOLOGY SERVICES

Definition

52. In this Chapter, unless the context otherwise indicates -
- “**body piercing**” means the piercing of the skin for the purpose of inserting any foreign object;
 - “**cosmetology or beauty service**” includes, but is not limited to, any one or more of the following services:

- (a) Manicure, pedicure, nail technology, or the application of artificial nails or nail extensions, whatever the substance used;
- (b) eyebrow shaping and plucking including the application of false or artificial eyebrows or eyelashes and tinting of eyelashes;
- (c) cosmetic and camouflage makeup of the face and its features, whether by permanent, semi permanent or temporary means;
- (d) facial skin care;
- (e) removal of unwanted or superfluous hair from any part of the body by any means, other than shaving, including by means of waxing, chemical depilatories, electrical or mechanical means, whether or not any apparatus, appliance, heat, preparation or substance is used in any of these operations;
- (f) body piercing and tattooing for cosmetic purposes;
- (g) massaging;
- (h) body bronzing by means of ultraviolet radiation or any similar method; or
- (i) body contouring including all forms of slimming;

“hairstyling” includes, but is not limited to, any one or more of the following services:

- (a) Shampooing and cleansing, conditioning and treating hair;
- (b) chemical reformation of the hair including permanent waving, relaxing and straightening of the hair;
- (c) hair colouring, including tinting, dyeing and colouring by means of permanent, semi-permanent or temporary means, including the use of colour rinses, shampoos, gels or mousses and lightening by means of tints, bleaches, highlights or high lifting tints or toners;
- (d) hair cutting and shaping;
- (e) barbering services including shaving and singeing of hair; or
- (f) the adding to hair of natural and artificial hair and hair extensions, board work, pastiche, wig-making or the performing of any operation specified in paragraphs (a) to (e) on a wig or hairpiece to be worn by any person; or
- (g) trichology and trichological treatment of the hair including the treatment of abnormalities and disorders of the hair;

“salon” means any place where any or more of the following services are performed for gain:

- (a) hairstyling service;
- (b) cosmetology or beauty service;
- (c) body piercing and tattooing; or
- (d) massaging service;

“salon service” means any one or more or a combination of the practices or services generally and usually performed by a person rendering service in the hairstyling, cosmetology or beauty service industry including any massage, body piercing and tattooing service.

Permit requirement

53. No person may operate a salon except in terms of a permit authorising that activity.

Requirements for premises

54. No person may operate a salon on any premises which do not comply with the following requirements:

- (a) adequate lighting and ventilation, as prescribed in the National Building Regulations and Buildings Standards Act, must be provided;
- (b) all shelves, fixtures and table tops on which instruments are placed must be constructed of an approved material that is durable, non-absorbent, and easy to clean;
- (c) water and toilet facilities must be provided as prescribed in the National Building Regulations and Building Standards Act;
- (d) adequate, separate facilities, with a supply of running potable water, must be available for the washing of hair and hands;
- (e) an approved system for the disposal of waste water must be provided; (f) adequate storage facilities must be provided;
- (g) the walls and floors must be constructed of a material that is easy to clean and which prevents cut hair from being dispersed;
- (h) the premises may not be used for the storage and preparation of food or for sleeping unless any area for that purpose is clearly demarcated /separated by an impervious wall,
- (i) adequate separate change-rooms for males and females, where five or more persons of the same sex are employed, must be provided containing–
 - (i) an adequate metal locker for every employee;
 - (ii) a wash-hand basin provided with a supply of running hot and cold potable water; and
 - (iii) an adequate supply of soap and disposable towels at every wash hand basin; and
- (j) if no change-room has been provided in terms of paragraph (i) –
 - (i) a wash hand basin with a supply of running hot and cold potable water, must be provided in an accessible position; and
 - (ii) an adequate metal locker must be provided for every employee in the work area.

Duties of salon operators

55. Any person operating a salon must:
- (a) maintain the premises, tools, equipment and clothing in a hygienic and good condition at all times;
 - (b) equip the premises with an adequate means to disinfect and sterilise instruments and equipment that may come into direct contact with any customer's hair or skin;
 - (c) provide employees on the premises with approved personal protective clothing and equipment;
 - (d) collect all hair clippings and other waste in an approved container after every service;
 - (e) store or dispose of waste in an approved manner;
 - (f) adequately train any person working on the premises on health and hygiene matters;
 - (g) not permit any animal on the premises unless it is a guide dog accompanying a blind person;
 - (i) ensure that any employee working with the public with a open wound on their hands or with a communicable skin condition to take the necessary precautions; and
 - (j) ensure that every person working in the salon complies with the requirements of this section and sections 55 and 56.

Required minimum health standards for the operation of a salon

56. Any person operating or employed in, a salon must take the following measures:
- (a) adequately disinfect the all instruments after each use;
 - (b) adequately sterilise the following instruments after each use:
 - (i) any instrument used for body piercing or tattooing;
 - (ii) any instrument which has come in contact with blood or any other body fluid;
 - (c) wash and clean all plastic and cloth towels after each use;
 - (d) dispose of all disposable gloves or other disposable material after each use;
 - (e) wash all aprons and caps daily;
 - (f) wash his or her hands with soap and water or disinfectant before and after rendering each service to a client;
 - (g) wear approved disposable personal protective clothing when providing one of the following salon services:
 - (i) any chemical service;
 - (ii) any hair implant;
 - (iii) body piercing; and
 - (iv) tattooing;
 - (h) wash all walls, floors, chairs and other surfaces in the premises at least once a day with a disinfectant or household detergent;
 - (i) dispose of all waste water, sharp instruments, bloodied and otherwise contaminated towels and towelling paper in an approved manner;
 - (j) store razors, blades, needles and other sharp instruments separately in a "sharp instrument" container;
 - (k) adequately treat any injury or wound which may occur on the premises;
 - (l) clean and disinfect all surfaces that have been contaminated by blood after each service;
 - (m) keep an approved first aid kit on the premises at all times as prescribed by the Occupational Health and Safety Act 1993 (Act No. 85 of 1993);
 - (n) All tubes and needles must be stored in single service, sterile, sealed autoclave bags that must be opened in the present of the client.

Prohibition against the use of salon premises for other purposes

57. (1) Any person operating a salon must ensure that the premises are used exclusively for that purpose.
- (2) Any person who wants to prepare any beverage for customers on the premises of a salon, must provide a separate area, equipped with a facility for cleaning crockery and utensils, for that purpose.

CHAPTER 9 SECOND-HAND GOODS

Definitions

58. In this Chapter, unless the context otherwise indicates –
- "second-hand goods business"** means any business in which used goods and materials are sold, including, clothing, furniture, scrapped motor vehicles, footwear, timber, building bricks or blocks, building material or fittings, machinery, drums, tins, bottles, packing cases, boxes, crates or other containers, metal, rags, plastic bags, paper or any other material, which has previously been used, and bones or tallow.

Requirements for premises

59. No person may operate a second-hand goods business in or on any premises which do not comply with the following requirements:
- (a) any section of the premises where second-hand goods are stored and handled must be enclosed/demarcated by walls constructed of brick, rock or concrete, with a minimum height of two metres;
 - (b) all gates to the premises must be of solid construction with a minimum height of two metres;
 - (c) all materials must be stacked or stored below the height of the perimeter screening;
 - (d) adequate lighting and ventilation, as prescribed in the National Building Regulations and Building Standards Act must be provided;
 - (e) all storage areas must be paved with cement, concrete or other approved impervious material;
 - (f) all backyard surfaces and open spaces of the premises must be graded and drained to allow for the effective run-off of all precipitation;
 - (g) adequate sanitary facility and fixtures for both sexes employed on the premises must be provided, as prescribed in the National Building Regulations and Building Standard Act;
 - (h) an adequate number of refuse containers must be provided;
 - (i) adequate separate change-rooms for males and females, where five or more persons of the same sex are employed, must be provided containing -
 - (i) an adequate metal locker for every employee;
 - (ii) a wash-hand basin provided with a supply of running hot and cold potable water; and
 - (iii) an adequate supply of soap and disposable towels at every wash hand basin; and
 - (j) if no change-room has been provided in terms of paragraph (i) –
 - (i) a wash hand basin with a supply of running hot and cold potable water, must be provided in an accessible position; and
 - (ii) an adequate metal locker must be provided for every employee in the work area.

Duties of second-hand goods traders

60. Any person who conducts a second-hand goods business must -
- (a) store second-hand goods in a backyard, building or open space that is constructed of an approved material in such a manner as to prevent the harbourage of rodents or other vermin and pests;
 - (b) ensure that no water accumulates in any article stored on the premises;
 - (c) ensure that goods are stored in such a manner as to prevent the pollution of the surrounding environment which includes but is not limited to air, water or soil.
 - (d) keep the premises in a clean, neat and sanitary condition at all times;
 - (e) immediately on receipt, disinfect all furniture, soft furnishings, clothing, bedding or other fabrics in an adequate manner;
 - (f) keep any other articles separate from articles which have been disinfected
 - (g) label all articles which have been disinfected in a conspicuous place on each article; and
 - (h) provide personal protective clothing for personnel employed in his or her premises

CHAPTER 10 ACCOMMODATION ESTABLISHMENTS

Definitions

61. In this Chapter, unless the context otherwise indicates –
- “**accommodation establishment**” means any place in which accommodation is provided for gain to four or more people, with or without meals;
- “**dormitory**” means a sleeping room in which sleeping accommodation is provided for four or more persons.

Permit requirement

62. No person may operate an accommodation establishment except in terms of a permit authorising that activity.

Requirements for premises of accommodation establishments

63. No person may operate an accommodation establishment on premises which do not comply with the following requirements:
- (a) No room wholly or partly used by persons for sleeping in may be occupied by a greater number of persons than will allow-
 - (i) less than 11,3 m³ of free air space and 3,7 m² of floor space for each person over the age of 10 years; and
 - (ii) less than 5,7 m³ of free air space and 1,9 m² of floor space for each person under the age of 10 years;
 - (b) no latrine, passage, staircase, landing, bathroom, cupboard, outbuilding, garage, stable, tent, storeroom, lean-to, shed, kitchen, dining room, food preparation area, cellar or loft may be used as sleeping accommodation;
 - (c) if a dormitory is provided on the premises –
 - (i) a single bed, manufactured of metal or some other durable material and equipped with a mattress, must be provided for every person housed in the dormitory;
 - (ii) a separate locker must be provided for every person making use of the dormitory for safeguarding the person's clothing and other possessions;
 - (iii) every bed in a dormitory must be so placed that its sides are at least one metre away from any part of any other bed;

- (d) an accommodation establishment must be provided with –
 - (i) an area for the preparation and cooking of food, adequate for the use of and easily accessible to any occupier residing in the accommodation establishment;
 - (ii) adequate separate wash-up facilities; and
 - (iii) where meals are provided to persons housed in the accommodation establishment, a dining-room or adequate dining area with tables and chairs or benches and unobstructed floor area, including the area occupied by tables, chairs and benches, of at least 1,2 m² for every seat provided for dining purposes; Such establishment to comply with the provisions of General Hygiene Requirements for Food Premises and the transport of Food (GN R918 in GG 20318 of 30 July 1999) and the National Building Regulations and Building Standards Act.
- (e) (i) an accommodation establishment must be provided with one or more showers, each suitably placed in a separate compartment, easily accessible to every occupier, and fitted with waste pipes which comply with the provisions of the National Building Regulations and Building Standards Act.
- (ii) a bath fitted with a waste pipe may be substituted for each shower referred to in subparagraph (i).
- (iii) the facilities referred to in subparagraphs (i) and (ii) must be designated for the different sexes;
- (f) an accommodation establishment must be provided with sanitary fixtures as prescribed in the National Building Regulations and Building Standards Act and such fixtures must be designated for the different sexes;
- (g) an accommodation establishment must be provided with an adequate supply of hot and cold running potable water;
- (h) all rooms and passages must be provided with adequate ventilation and lighting as prescribed in the National Building Regulations and Building Standards Act;
- (i) openings such as doors, windows or fanlights may not be obstructed in a manner that interferes with the lighting or cross ventilation they provide;
 - (i) a separate room with approved containers must be provided for the storage of dirty articles used in connection with an accommodation establishment, pending removal to be laundered; and
 - (ii) if articles used in connection with an accommodation establishment are laundered on the premises, a separate approved washing, drying and ironing area equipped with the necessary facilities for this purpose must be provided.
- (j) a store-room for the storage of furniture and equipment and a separate linen room with cupboards or shelves for the storage of clean bed and other linen, towels, blankets, pillows – and other articles used in connection with an accommodation establishment, must be provided;
 - (i) all walls and ceilings must have a smooth finish and be painted with a light-coloured washable paint, or have some other approved finish;
 - (ii) the floor surface of every kitchen, scullery, laundry, bathroom, shower, ablution room, toilet and sluice room must be constructed of concrete or some other durable, impervious material brought to a smooth finish; and
 - (iii) the floor surface of every habitable room must be constructed of an approved material;
- (k) the following facilities must be provided for people who are employed and also reside on the premises:
 - (i) Sleeping quarters equipped with a bed, mattress and locker which comply with the provisions of paragraphs (a), (b) and (c) for each employee; and
 - (ii) if employees are not provided with meals in the accommodation establishment, food preparation and dining facilities that comply with the provisions of paragraph (d).
- (l) adequate changing facilities must be provided for non-resident employees;
- (m) adequate ablution and sanitary facilities, which comply with the provisions of paragraphs (e) and (f), must be provided for resident and non-resident employees;
- (n) an adequate refuse holding area must be provided and an approved refuse removal system must be maintained;
- (o) all walls, floors and roofs must be constructed in a manner which prevents wind or rain entering an accommodation establishment or dampness entering the interior surfaces of any wall or floor;
- (p) All accesses to an accommodation establishment must have a door which when closed, prevents the wind or rain entering the premises; and
- (q) All windows must be constructed in a manner that prevents rain entering the accommodation establishment when the windows are closed.

Duties of operators of accommodation establishments

64. Every person who conducts an accommodation establishment must –
- (a) keep the premises and all furniture, fittings, appliances, equipment, containers, curtains, covers, hangings and other soft furnishings, table linen, bed linen, and other bedding, towels and cloths of whatever nature used in connection with the accommodation establishment, in a clean, hygienic and good condition at all times;
 - (b) clean and wash any bed linen, towel, bath mat or face cloth after each use by a different person;
 - (c) take adequate measures to eradicate pests on the premises;
 - (d) provide a container made of a durable and impervious material, equipped with a close-fitting lid, in every toilet used by females;
 - (e) provide towel rails or hooks in every bathroom and in every room in which there is a wash-hand basin or shower;
 - (f) store all dirty linen, blankets, clothing, curtains and other articles used in connection with an accommodation establishment in the manner provided in section 62(i);
 - (g) store all clean linen, towels, blankets, pillows and other articles used in connection with the accommodation establishment in the manner provided in section 62(j);

- (h) keep all sanitary, ablution and water supply fittings in good working order;
- (i) keep every wall, surface and ceiling, unless constructed of materials not intended to be painted, painted at the intervals to ensure that the area painted, remains clean and in a good state of repair;
- (j) handle refuse in the manner provided in section 62(n); and
- (k) must ensure compliance with General Hygiene Requirements for Food Premises and the transport of Food (GN R918 in GG 20318 of 30 July 1999) if food is provided to the occupants.

CHAPTER 11 DRY-CLEANING AND LAUNDRY ESTABLISHMENTS

Definitions

65. In this Chapter, unless the context otherwise indicates –

“dry-cleaning or laundry business” means any business in which clothes or other fabrics are cleaned with water or other solvents, or clothes or fabrics are ironed;

“dry-cleaning or laundry receiving depot” means premises used for the receipt, storage and dispatch of clothes or other fabrics in connection with a dry cleaning or laundry business.

Premises for dry-cleaning or laundry businesses

66. No person may conduct a dry-cleaning or laundry business on premises which do not comply with the following requirements:

- (a) a work-room or area used for housing dry-cleaning machines, washing machines, ironing boards, presses and other fixed or movable equipment, with a minimum unobstructed floor area of 2,5 m² per person employed on the premises, must be provided;
- (b) adequate separate areas for marking clean and dirty articles must be provided with –
 - (i) tables with an impervious surface;
 - (ii) adequate washable containers for dirty articles; and
 - (iii) hanging rails and shelves constructed of an impervious material in the area for marking clean articles;
- (c) a separate room or area with separate designated counters, with impervious surfaces, must be provided for the receipt and dispatch of articles;
- (d) a store-room or facility for the storage of packing material and other articles must be provided and equipped with adequate packing shelves of which the lowest shelf must be at least 250 mm above floor level;
- (e) adequate separate change-rooms for males and females, where five or more persons of the same sex are employed, must be provided containing –
 - (i) an adequate metal locker for every employee;
 - (ii) a wash-hand basin provided with a supply of running hot and cold potable water; and
 - (iii) an adequate supply of soap and disposable towels at every wash-hand basin;
- (f) if no change-room has been provided in terms of paragraph (e) –
 - (i) a wash hand basin with a supply of running hot and cold potable water, must be provided in an accessible position; and
 - (ii) an adequate metal locker must be provided for every employee in the work area;
- (g) a tea kitchen with a single-basin stainless steel sink, with a supply of running hot and cold potable water, must be provided;
- (h) separate toilets for males and females must be provided which comply with the provisions of the National Building Regulations and Building Standards Act;
 - (i) every toilet and change-room must be clearly gender designated;
 - (j) all internal walls must be constructed of an impervious material, brought to a smooth finish and painted with a light-coloured washable paint;
 - (k) all ceilings must be dust-proof, smoothly finished, and painted with a light-coloured washable paint;
 - (l) all floor surfaces must be constructed of cement or some other adequate impervious material, brought to a smooth finish and properly drained;
 - (m) the minimum height from floor to ceiling of any room or area must be 2,4 metres;
 - (n) adequate lighting and ventilation, as prescribed by the National Building Regulations and Building Standards Act must be provided;
 - (o) all machinery and equipment must be equipped with adequate suction fans to remove any noxious gas, steam and hot air from any room and to release it in the open air in an adequate manner;
 - (p) all machinery and equipment must be placed so that there is free access to all areas around and underneath each machine or item of equipment, to enable those areas to be adequately cleansed; and
 - (q) a separate pre-rinsing area must be provided on any premises where nappies are laundered.

Premises for dry-cleaning or laundry receiving depots

67. No person may operate a dry-cleaning or laundry receiving depot on premises which do not comply with the following requirements:
- (a) A separate room or area with a minimum width of two metres must be provided for the receipt and dispatch of articles;
 - (b) fifty percent of the floor space of the room referred to in paragraph (a) must be unobstructed;
 - (c) a wash-hand basin with a supply of running potable water must be provided;
 - (d) an adequate supply of soap and disposable towels must be provided at every wash-hand basin;
 - (e) all internal wall and ceiling surfaces must be constructed of an impervious material, brought to a smooth finish and painted with a light-coloured washable paint;
 - (f) all floor surfaces must be constructed of cement or other impervious material, brought to a smooth finish;
 - (g) lighting and cross-ventilation, as prescribed by the National Building Regulations and Building Standards Act, must be provided;
 - (h) adequate washable containers for storing dirty articles must be provided;
 - (i) adequate quantities of hanging rails or impervious shelves for the storage of clean articles must be provided;
 - (j) adequate designated counters, with impervious surfaces, must be provided separately for the receipt and dispatch of dirty and clean articles; and
 - (k) an adequate metal locker must be provided for every person employed in the receiving depot.

Premises for coin-operated laundries

68. No person may operate a coin operated laundry on premises which do not comply with the following requirements:
- (a) separate toilet and hand washing facilities for the different sexes, as prescribed in the National Building Regulations and Building Standards Act, must be provided;
 - (b) an adequate area must be provided where ironing is done on the premises; and
 - (c) any machine on the premises must be installed in accordance with any applicable law.

General requirements for dry-cleaning and laundry businesses

69. Any person conducting a dry-cleaning or laundry business or in charge of premises on which a dry-cleaning, laundry or receiving depot exists, must –
- (a) keep the premises, all fittings, equipment, appliances, machinery, containers and business vehicles in a clean, hygienic and good condition at all times;
 - (b) separate dirty articles from clean articles at all times, including when in transit;
 - (c) use a change-room solely for changing;
 - (d) ensure that every person who handles clean or dirty articles wears adequate protective clothing at all times;
 - (e) keep protective clothing in a clean and sound condition at all times;
 - (f) store protective clothing in a locker when it is not being worn;
 - (g) affix the name and business address, in clear lettering, to the outside of any business vehicle;
 - (h) ensure that the premises are not directly connected to any food premises, new clothing shop, hairdresser or any other area from which contamination might occur;
 - (i) comply with the requirements of the following legislation at all times:
 - (i) the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993);
 - (ii) the National Environment Management: Air Quality Act, 2004 (Act 39 of 2004)
 - (j) place all piping in the building, not chased into the walls, at least 100 mm away from all walls or floors and comply with the provisions of the National Building Regulations and Building Standards Act;
 - (k) insulate all steam piping with an adequate material; and
 - (l) dispose of all waste water in an approved manner.

CHAPTER 12 SWIMMING POOLS AND SPA-BATHS

Definitions

70. In this Chapter, unless the context otherwise indicates –
- “**spa-bath**” means a structure constructed of an approved material, provided with a controlled circulating water supply and used for bathing, excluding a spa bath situated at a private home which is not used for commercial purposes;
- “**spa-bath keeper**” means any person who owns or controls the operation of a spa-bath;
- “**swimming pool**” means a structure with a controlled water supply used for swimming or bathing, including a children’s swimming and paddling pool, but excluding a swimming pool at a private home which is not used for commercial purposes;
- “**swimming pool keeper**” means any person who owns or controls the operation of a swimming pool.

Requirements for premises

71. No person may operate a swimming pool or spa bath in or on any premises which do not comply with the following requirements:
- (a) readily accessible change-rooms, showers and toilet facilities must be provided separate for each sex in compliance with the National Building Regulations and Building Standards Act;
 - (b) every swimming-pool must be surrounded by a wall or fence as prescribed by the National Building Regulations and Building Standards Act;
 - (c) the surface of the floor area surrounding any spa-bath or swimming-pool must be constructed of an impervious, non-slip material;
 - (d) an approved chemical gas mask must be provided at the chlorinator installation;
 - (e) if so instructed in writing by Council or authorised person, an oxygen or air breathing apparatus must be provided; and
 - (f) an adequate number of refuse receptacles must be provided on the premises.

Duties of spa-bath keepers

72. Every spa-bath keeper must –
- (a) keep the premises in a safe, clean and sanitary condition and in good repair at all times;
 - (b) provide a properly maintained approved first-aid kit in a prominent, easily accessible and protected position;
 - (c) purify, treat and maintain the spa-bath water to an adequate quality level at all times;
 - (d) provide and maintain, in good working order, equipment for testing the quality of the spa-bath water;
 - (e) be capable of undertaking routine tests on the water quality in the spa-bath and interpreting the tests results; and
 - (f) maintain a daily record of the spa-bath water quality.

Duties of swimming pool keepers

73. Every swimming pool keeper must –
- (a) keep the premises in a safe, clean and sanitary condition at all times;
 - (b) provide a properly maintained approved first-aid kit in a prominent, easily accessible and protected position;
 - (c) be qualified and proficient in life saving, rendering first aid, use of a resuscitation appliance, the operation of the swimming pool and testing and maintaining the safety of the swimming pool water;
 - (d) ensure that the swimming pool water is purified, treated and maintained to an adequate quality at all times;
 - (e) provide and maintain, in proper working order, equipment for testing the quality of the swimming pool water;
 - (f) be capable of undertaking routine tests on the water quality in the swimming pool and interpreting the tests results; and
 - (g) maintain a daily record of the swimming pool water quality.

Water supply

74. (1) Unless the prior written approval of Council or authorised personnel has been obtained, no person operating a spa-bath or swimming pool may use water from a source other than a municipal supply to clean, fill or maintain the water level in a swimming pool or spa-bath.
- (2) Council or authorised person must –
- (a) take samples of a swimming pool or spa-bath water, at intervals which it or he or she considers appropriate for the purpose of a chemical analysis or bacteriological examination of that water;
 - (b) submit the samples to an analyst authorised in terms of section 12 of the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972) to conduct an analysis.

Safety of water

75. Every spa-bath keeper and swimming pool keeper must ensure that the water in the spa-bath or swimming pool complies with the following requirements:
- (a) it must be free from floating, suspended or settled debris or swimming organisms and the walls, floor, access ladders or steps and gutters must be free from slime and algae;
 - (b) the pH value of the water must be not less than 7 and not greater than 8;
 - (c) where chlorine based disinfectants are used, a minimum free available chlorine residual of 0,5 mg/l, with a maximum free available chlorine residual of 3 mg/l, must be maintained;
 - (d) if a disinfectant other than chlorine is used, the residual level must be equivalent in effect to the requirements of paragraph (c);
 - (e) the total viable bacteriological count of any sample submitted for analysis, must not exceed 100 organisms per ml of water; and
 - (f) *Escherichia coli* type 1 bacteria must not be present in any 100 ml of water.

Order and behaviour

76. No person may –
- (a) interfere with a spa-bath keeper or swimming pool keeper in the execution of his or her duties;
 - (b) allow any dog or other pet belonging to him or her or under his or her care to enter or to remain within the premises of a spa-bath or swimming pool, unless it is a guide dog accompanying a blind person;
 - (c) enter or remain in any premises of a spa-bath or swimming pool if he or she knows or suspects that he or she may be suffering from any communicable or contagious disease; and
 - (d) urinate, defecate, spit or blow his or her nose in a spa-bath or swimming pool.

**CHAPTER 13
CHILD - CARE SERVICES**

Definitions

77. In this Chapter, unless the context otherwise indicates –
- “**adequate**” and “**suitable**” means adequate or suitable as the case may be, in the opinion of the Head of Health or an Environmental Health Practitioner.
- “**approved**” means approved by the Head of Health Services in a municipality or an Environmental Health Practitioner, regard being had to the reasonable public health requirements of the particular case, or to the physical and mental health of the children, as the case may be.
- “**best available method**” means the method available that will best prevent diseases.
- “**child**” means a child admitted to a pre-school institution in terms of these By-laws.
- “**domestic staff**” or “**general worker**” means staff employed in a pre-school institution for cleaning, cooking and other related work.
- “**head of municipal health services**” means the person appointed by the council as such.
- “**health certificate**” means a health certificate issued in terms of these By-Laws.
- “**health certificate holder**” means a natural person or a partnership, or an association of persons, to whom a health certificate has been issued in terms of section 3 of these By- Laws.
- “**municipal health service**” means services as defined in section of the Health Act. 61 of 2003
- “**municipality or council**” means a District Municipality or a Local Municipality as defined in section 155 of the Constitution of RSA Act 108 of 1996, or as defined in Municipal Structures Act No. 117 of 1998.
- “**pre-school institution**” means any undertaking or institution involving the custody, care or tuition or any combination of these functions, during the whole or part of the day on all or any of the days of the week of children under the age of seven years, or the building or the premises maintained or used for the purpose of conducting such undertaking.
- “**registered Body**” means the state Department or municipality authorised to issue a registration certificate.
- “**registration certificate**” means a certificate issued by the authorised state department.

Application of this chapter

78. (1) These by-laws must apply to all pre-school institutions.
- (2) The Head of Municipal Health Services or an Environmental Health Practitioner when implementing these guidelines must apply the principle of best available method.

Health Certificate

79. (a) No person or body of persons must conduct a pre-school institution unless such person or body of persons is in possession of a health certificate to the effect that the premises, general health facilities and services to which such health certificate relates, comply with these By- Laws, such certificate must state:
- (i) the number and both minimum and maximum age of the children permitted to be kept on such premises.
- (ii) the hours during which such pre-school institution may operate.
- (iii) Health conditions under which a pre-school institution should operate.
- (b) The Head of Municipal Health Services must issue the Health certificate contemplated in paragraph (a) if he/she is satisfied that these by-laws are complied with.
- (c) A health certificate issued is not transferable.

Requirements of Premises for Accommodation of Children between three and seven years.

80. (1) General
- (a) (i) A room adequate in size to be used for the purpose of isolating a sick child must be provided.
- (ii) Such room must have a minimum area of 6m² and where more than 50 children are cared for this room must be a minimum of 12m² to be used as an office as well.
- (iii) Such room be provided with a wash hand basin and at least one 25 litter closed container with potable water.
- (iv) An approved first aid kit must be provided.
- (v) A bed or stretcher or other approved sleeping equipment must be provided.
- (b) Adequate storage facilities for food, stretchers, sleeping mats, bedding, linen, indoor and outdoor play equipment must be provided.
- (c) Separate storage facilities for the personal belongings of each child and staff member must be provided.
- (d) Sanitary and ablution facilities for children must have -
- (i) Ready access between the outdoor play area and the toilet facilities.
- (ii) There must be one toilet pan or bucket for every twenty children which must be provided with a lid to be kept closed at all times except for the time it is being used.
- (iii) Each toilet pan or bucket must be emptied and sanitized after each use thereof.
- (iv) The toilet pan or bucket must be emptied into an approved toilet which is either a pit latrine or other approved closet.
- (v) There must be hand washing facilities with water next to the toilets pans or bucket.
- (vi) There must be one wash hand basin for every 20 (twenty) children.

- (vii) The wash hand basin and buckets for the toilets must be of a suitable size and height for the children.
- (viii) The toilet pan/bucket must be placed in such a way as to be enclosed and screened from the public.
- (ix) An adequate number of bins with self closing lids for disposal of paper, towels, tissues and other waste articles must be provided.
- (x) A minimum of one towel for each child's individual use towel must be provided unless the Head of Health Services or an Environmental Health Practitioner permits the use of disposable paper.
- (xi) Individual pegs or nodes for each child's towel which must be placed 225mm apart and within child's reach and marked in such a manner as to be easily recognized by each child must be provided.
- (xii) A reasonable supply of toilet paper, tissue and soap available and accessible to the children must be provided.
- (xiii) There must be a supply of about 25l of portable water in the toilet and hand washers.
- (e) Sanitary and ablution facilities for staff:
 - (i) Must have one toilet and one wash hand basin for every 15 persons or part thereof.
 - (ii) Must have 25l of water supply, soap, toilet paper and clean towel.
 - (iii) Must have a bin with self closing lid or other approved disposal unit installed in each closet intended to be used by females.
- (f) Separate approved laundry facilities on the premises, unless laundering is done on other approved premises must be provided.
- (g) Indoor Play Area
 Child care premises on which children under school going age are cared for, must be provided with an indoor play area as follows: -
 - (i) The building or structure may be of wood and iron and be constructed to be securely placed and be able to provide protection from the weather such as strong winds, rain and other conditions.
 - (ii) The interior walls must be brought to a smooth finish and insulated with approved material.
 - (iii) No plastic or cardboard may be used in the construction of the structure.
 - (iv) The floor surface must be constructed of an impervious material such as concrete and brought to a smooth finish.
 - (v) The structure must be rodent proof.
 - (vi) The windows and doors must be positioned to be able to provide cross ventilation and natural lighting.
 - (vii) The windows of all playrooms and isolation areas must be so designed and installed as not to constitute a danger to the children when open and so that the lower level is not more than 750mm from the ground.
 - (viii) The indoor play area must provide at least 1,5m² of free floor space per child.
 - a) separate indoor play areas must be provided for the following age groups: Under 3yrs, 3-7yrs and after school children.
 - (ix) The interior part of the roof must be provided with insulating material.
- (h) Outdoor Play Area.
 - (i) An outdoor play area which is free of any excavations, projection, levels or any surface which is dangerous or may constitute a safety hazard must be provided.
 - (ii) A minimum outdoor play area of 2m² per child must be provided.
 - (iii) If no outdoor area is available an approved additional indoor area of 1,5m² per child must be provided.
 - (iv) The premises must have an approved fence and lockable gates to prevent a child leaving the premises on its own and to prevent the entrance of animals or unauthorised persons.
 - (v) Separate outdoor play area should be provided for the following different age groups: Under 3yrs, 3-7yrs and after school children.
- (2) Premises for Children under two years must meet the following requirements -
 - (a) Indoor area
 - (i) A nursery for playing, eating and sleeping purposes where a minimum Indoor area of 1, 5m² per child is provided.
 - (ii) Cots must be arranged so that there must be a minimum space of 500mm between cots.
 - (iii) Adequate heating facilities to be provided in the in door area.
 - (iv) If children aged two years and over are accommodated a separate indoor area must be provided for this group that is able to provide 1,5m² per child of available floor space.
 - (b) Outdoor area
 - (i) The outdoor area for children under two years must be a minimum of 2m² per child for the use of perambulator play pens and outdoor activities.
 - (ii) In high density areas where the pre-school is situated in a building, the outdoor area of 1, 5m² per child must be provided.
 - (iii) If a nursery school which has been registered is conducted on the same premises as a pre-school institution for ages 3-7 years, the nursery and the pre-school institution must be separated.
 - (iv) An after school care centre must not be permitted on the same premises as a pre-school institution, unless in completely separate facilities or unless conducted at different times.
 - (c) Kitchen
 - (i) In addition to the requirements for the kitchen referred to in R918 of 30 July 1999 if bottles and teats are used for feeding of children the kitchen must be increased if in the opinion of the Environmental Health Practitioner it is necessary to have a separate area for milk kitchen purposes.

- (ii) The milk kitchen must have the following:
 - (a) Approved containers for washing bottles and the other for rinsing with adequate, portable water.
 - (b) A separate cooling facility for the storage of milk and milk bottles.
- (iii) There must be adequate storage facilities for food linen perambulators and other equipment.
- (iv) Separate storage facilities for the personal belongings of each child and staff members.
- (vi) Sanitary ablution facilities for children under two years must have the following:
 - (a) Ready access to the Nursery school or indoor play area of the nursery.
 - (b) A separate sluice area with a minimum size of 3m² and which must have a container with a tight fitting lid for soiled nappies.
 - (i) The sluice area must have a hand washing facility provided with water in a 25l container
 - (ii) Approved chamber pots which can be emptied in an approved toilet must be provided which are accessible and suitable for use by children.
 - (iii) There must be one chamber pot for every five (1:5) children.
 - (iv) Disposable and approved material for cleaning of children wearing nappies must be provided.
 - (v) A minimum of one towel and one face cloth for each child's use must be provided.
 - (vi) Individual pegs or hooks placed at 225mm apart individually marked must be provided for each child.
 - (vii) There must be an adequate number of bins with self closing lids for disposal of paper, paper towels, tissues and other waste.

After school care facilities

81. An after school care centre must not be permitted on the same premises as a pre-school institutions, unless in completely separate facilities or unless conducted at different times to those of the pre-school

General duties and liabilities for compliance with regulations

82. The health certificate holder must ensure that the children are at all times properly cared for and supervised and must:
- (i) Maintain every part of the child care service, including any outdoor area and all structures and equipment in good repair and in a clean and hygienic condition at all times.
 - (ii) Ensure that all persons on or in the premises are clean in person and clothing and are in good state of health.
 - (iii) Ensure that no person smokes or use any tobacco product in the presence of children.
 - (iv) Ensure the toys, books and other indoor play materials intended for day-today use are available in the indoor play areas and suitably stored so as to be within easy reach of the children.
 - (v) Ensure that the children are at all times under the direct supervision of the specified number of adults in the following ratio:
 - (a) One adult supervisor for every 6 babies between 0-18 months.
 - (b) One adult supervisor for every 12 children between 18 months and 3 yrs.
 - (c) One adult supervisor for every 20 children between 3 and 5 yrs.
 - (d) One adult supervisor for every 30 children between 5 and 6 yrs.
 - (e) One adult supervisor for every 35 children of school going age.
 - (vi) If transport to or from a child care service is provided, the Health Certificate holder must ensure that:
 - (a) The children are supervised by at least one adult apart from the driver during transport.
 - (b) The doors of the vehicle are lockable and cannot be opened from the inside by the children.
 - (c) No children are transported in the front seat of the vehicle.
 - (d) No babies are placed under the seat of a vehicle.
 - (e) The vehicle is not overloaded in terms of any applicable law.
 - (f) The transport of children are not allowed in the boot of any vehicle.
 - (g) The driver of the vehicle is licensed to transport passengers as stipulated in the National Road Traffic Act,1996 (Act No. 93 of 1996).
 - (h) The vehicle is licensed and is in a road worthy condition.
 - (i) That when children are transported in the back of an enclosed light commercial vehicle, care must be taken to ensure that no exhaust fumes enter the enclosed area, and that the said enclosed area is sufficiently ventilated.
 - (j) If meals are provided a nutritionally two weekly menu is displayed at a place visible to the parents.
 - (k) Meals provided must be nutritionally balanced and of adequate volume to satisfy the energy needs of the children in each age group.
 - (l) Ensure that all perishable foodstuffs, other than unfrozen fruit and vegetables are stored in cooling facilities able to maintain 00C or 70C for milk.

Resting and Play Equipment

83. (1) Suitable juvenile seating accommodation and tables must be provided for each child.
- (2) Adequate and approved individual resting or sleeping equipment must be provided for the separate use of each child.
 - (3) An approved blanket for the individual use of each child must be provided.
 - (4) Adequate, approved and safe indoor and outdoor play equipment must be provided for the children's use.

Medical Care for Children

84. (1) The parent or guardian of the child who becomes ill or has suffered an injury requiring medical attention must be notified as soon as possible.
- (2) Whenever a child becomes ill or has suffered an injury requiring medical attention, medical assistance must be summoned for which purpose a telephone must be easily available.
- (3) Any child who falls ill or has suffered any injury must receive the necessary care and treatment in the sick bay area, so designated.
- (4) In the event of a communicable disease, the municipality must be notified immediately.
- (5) The child-care provider must ensure that all children have completed basic immunization schedules as deemed necessary.
- (6) The provisions of the Regulations Relating to Communicable Diseases R287 of 13 April 2010, applies to child care services.
- (7) All child-care service providers must be trained in basic first aid.

Safety Measures

85. The following measures must be taken on premises on which child-care services are conducted:
- (a) Children must be adequately protected against fires, hot water installations electrical fittings and appliances, heating appliances and any other article or substances which may be dangerous or cause harm to any child.
- (b) Any slats or rails forming part of an enclosure, security gate, play pen, bed, cot or any other object or structure whatsoever, must not be more than 75mm apart and must be suitably installed and maintained in a good state of repair and if painted only non-toxic paint must be used.
- (c) All medicines, pesticides, detergents and other harmful substances must be stored so as not to be accessible to any child and be under lock and key at all times.
- (d) No noxious or poisonous or dangerous plant or shrub must be permitted on the premises and no animals or birds be kept on the premises without the approval of the Environmental Health Practitioner.
- (e) No person known or suspected to be suffering from infections or contagious disease and no person so suffering, must be allowed on the premises while in the opinion of the Environmental Health Practitioner or medically trained person, such person is capable of communicating such infectious or contagious disease.
- (f) No paddling pool, swimming pool or other structure must be permitted in any child-care service without an approved fencing and safety net.
- (g) The sandpit must be covered with an approved covering material when not in use.
- (h) The provisions of the Regulation regarding the exclusion of children from day-care services on account of infectious diseases made in terms of the Health Act as amended must apply to all child-care services.
- (i) Any other reasonable measures that may in the opinion of the Environmental Health Practitioner be necessary to protect the children from any physical danger must be taken by the child-care service on instruction of the Environmental Health Practitioner.
- (j) The premises must comply with fire regulations by providing at least two doors on opposite sides.

Application for admission

86. (1) The health certificate holder must ensure that an application form containing the following information is completed by the parent or guardian of a child on admission to child care service:
- (a) The child's name and date of birth.
- (b) Name, address and telephone number of the parent or guardian.
- (c) Place of employment and telephone number of the parent or guardian.
- (d) Name address and telephone number of a responsible person other than the parent or guardian who may be consulted in emergencies.
- (e) Name, address and telephone number of the child's doctor and permission to consult him.
- (2) The relevant date of admission and discharge of the child referred to, in such form, must be entered thereon.
- (3) All application forms must be retained for a minimum of 3 years.

Registers

87. (i) An admission and discharge register of all children admitted to and discharged from the child care service must be kept.
- (ii) A register of attendance must be kept in which the presence or absence of children must be noted daily.
- (iii) Such attendance register must include the children's respective dates of birth.

Medical Report

88. A report containing the following health data must be obtained from the parent or guardian in respect of each child admitted and cared for;
- (i) Information concerning the child's general state of health and physical condition.
- (ii) Operations, illnesses and any communicable disease which the child has suffered and the relevant dates.
- (iii) Details of required immunizations.
- (iv) Details of allergies and any medical treatment such child may be undergoing.

Food Preparation.

89. (i) An area adequate in size and separate from indoor play area where food is to be handled, prepared, stored or provided to children or for any other purpose must be provided.
 (ii) Such area must comply with the provisions of the General Hygiene Requirements for Food Premises and The Transport of Food (GN R918 in GG 20318 of 30 July 1999).

Right of entry and inspection of premises and records

90. Any duly authorised officer of the council may for any purpose connected with the application of these by-laws at all reasonable times and without notice, enter any premises upon which a pre-school institution is conducted or upon which such officer has reasonable grounds for suspecting the existence of such pre-school institution and make such examination, enquiry and inspection thereon as he may deem necessary.

Journal

91. Any person who provides a child-care service must keep a journal, in which any important or outstanding event, including any accident on the premises or during transportation of children, and any explanation is recorded.

Suspension or termination of operations

92. The health certificate holder must notify the council of the suspension or termination of the operations of the preschool institution to which such health certificate relates or in the event of any occurrence as specified in section 3(2).

Offences

93. (1) Any person who fails to give, or refuses access to any official of the council duly authorised by these by-laws or by the council to enter upon and inspect any premises, if the official requests entrance to such premises, or obstructs or hinders such official in the execution of his/her duties in terms of these by-laws, or who fails or refuses to give information that he/she may lawfully be required to give to such official, or who gives to such official false or misleading information, knowing it to be false or misleading, or who unlawfully prevents any other person from entering upon such premises, must be guilty of an offence.
 Any person who –
 (a) fails or refuses to comply with any provision of these by-laws or any conditions imposed by the Head of Health Services in terms of section 2;
 (b) being a health certificate holder, allows –
 (i) a greater number of children than the number stated on the health certificate to be enrolled or to be present in the pre-school institution to which the health certificate relates;
 (ii) any child whose age is more or less than the maximum or minimum ages of the children who may be kept on the premises concerned, in terms of the health certificate, to be enrolled at or to be present in such pre-school institution; or
 (iii) such pre-school institution to be operated during hours not stated on such health certificate, must be guilty of an offence and liable, on conviction, to a fine not exceeding R500 or imprisonment for a period not exceeding 12 months, or both, and in the event of a continuing offence must be guilty of a separate offence and liable as aforesaid for every day or part of a day during which the offence continues.
2. Presumptions- If at any prosecution in terms of these by-laws, it is alleged-
 (a) that the owner, lessee or occupier of the premises conducts a pre-school institution at such premises, he/she must prima facie be deemed to have conducted a pre-school institution at the said premises, unless the contrary is proved; or
 (b) that any child was of a certain age, such child must be deemed, prima facie, to have been that age, unless the contrary is proved.

Withdrawal of health certificate

94. The Council may at its discretion withdraw a health certificate issued in terms of these by-laws, should such health certificate holder be convicted of a breach of the provisions of these by-laws.

**CHAPTER 14
 KEEPING OF ANIMALS**

Definitions

95. In this Chapter, unless the context otherwise indicates -
 “**agricultural holding**” means the same as defined in the applicable Town Planning Scheme;
 “**animal**” means any cattle, sheep, goat, horse, mule, donkey, pig, rabbit, reptile, insects and wild animal;
 “**aviary**” means an enclosure used for the keeping of birds, other than poultry but does not include a portable cage;
 “**battery system**” means the method of keeping poultry or rabbits in cages in either single rows or tier formation within a building or structure;

“**cattery**” means premises in or upon which –

- (a) boarding facilities for cats are provided; or
- (b) cats are bred for commercial purposes;

“**enclosure**” in relation to an animal, means any kraal, pen, paddock, cage or other fenced or enclosed area erected to confine an animal from escaping or roaming freely on the remainder of the premises;

“**keeper**” means –

- (a) in relation to any animal, the owner of the animal or any other person responsible for feeding and caring for the animal;
- (b) in relation to a battery system, cattery, kennels, pet parlour or pet shop means the person who owns the business of which it forms part of and the person in charge of the premises in which the animals are kept;

“**kennels**” means premises in or upon which –

- (a) boarding facilities for dogs are provided;
- (b) dogs are bred for commercial purposes;
- (c) dogs are kept for the purposes of being trained or hired out with or without handlers; or
- (d) dogs are kept for commercial security purposes;

“**livestock**” means horses, cattle, sheep, goats, pigs, mules, donkeys and poultry;

“**pet**” means a domestic animal, reptile, insect, bird or poultry kept in a household for companionship or amusement;

“**pet parlour**” means any premises where beauty treatment is given to pets by washing, drying, brushing, clipping, trimming or by attending to their nails or teeth;

“**pet shop**” means the premises on which the business of keeping and selling of pets is carried out;

“**poultry**” means fowls, ducks, muscovy ducks, geese, turkeys, pigeons, peacocks and domestic guinea-fowls;

“**poultry house**” means any roofed-over building or structure in which poultry is kept, other than one in which a battery system is operated;

“**poultry run**” means any unroofed wire mesh or other enclosure in which poultry is kept, whether or not it is attached to a poultry house;

“**rabbit hutch**” means any roofed-over building or structure in which rabbits are kept, other than one in which a battery system is operated;

“**rabbit run**” means any unroofed wire mesh or other enclosure in which rabbits are kept, whether or not it is attached to a rabbit hutch;

“**stable**” means any building or structure used to accommodate livestock other than poultry;

“**wild animal**” means an animal of a species that is not generally domesticated and without limitation includes all animals indigenous to South Africa other than domesticated guinea-fowls.

Part 1: General provisions relating to the keeping of animals

Application of Chapter

96. (1) Subject to the provisions of subsection (2), the provisions of this Chapter do not apply to -
- (a) any agricultural show where animals are kept on a temporary basis; and
 - (b) any laboratory where animals are kept for research purposes.
- (2) The provisions of these By-laws apply to the keeping of animals at any agricultural show and at research laboratory.
- (3) No person may, keep or allow to be kept, any animal other than an approved pet on an erf in a proclaimed township, provided the keeping of such pet does not create or constitute a nuisance
- (4) If at any time it appears to an authorised official that the keeping of poultry or rabbits on an erf or agricultural holding, in respect of which a permit has been granted, is likely to constitute a nuisance or danger to the public health, that official may -
- (a) cancel the permit; or
 - (b) prohibit the keeping of such poultry or rabbits,
- provided Council has given the holder of such permit and the occupier of the premises not less than 14 days’ notice in writing of its intention to cancel the permit or prohibit keeping of such poultry or rabbits has considered any representations made within that period.
- (5) Council must serve a notice on the permit holder or the owner of the erf or agricultural holding concerned, informing him or her of a decision in terms of subsection (4) and instruct the owner to comply with the requirements within the period stated in such notice, which must be at least 48 hours.
- (6) Council must as soon as a permit has been cancelled, notify the permit holder of that fact in writing.
- (7) Council may, subject to the foregoing provisions of this section, issue a new permit if he is satisfied that the reason for the cancellation no longer exists or that there is no reason why a new permit should not be issued.

Part 2: Keeping of cattle, horses, mules and donkeys**Requirements for premises**

97. (1) No person may keep any cattle, horse, mule or donkey in a stable or enclosure that does not comply with the following requirements:
- (a) Every wall and partition of the stable must be constructed of brick, stone, concrete or other durable material;
 - (b) the internal wall surfaces of the stable must be constructed of smooth brick or other durable surface brought to a smooth finish;
 - (c) the height of the walls to the wall plates of the stable must –
 - (i) if the roof is a pitched roof be 2,4 metres;
 - (ii) if the roof is a flat roof be 2,7 metres;
 - (iii) if the roof is a lean to roof be a mean height of 3 metres with a minimum of 2,4 metres on the lowest side;
 - (iv) in the case of a stable which has an opening along the entire length of one of its long sides be not less than 2 metres;
 - (d) the stable must have a floor area of at least 9 m² for each head of cattle, horse, mule or donkey accommodated in it;
 - (e) lighting and ventilation must be provided by openings or glazed opening windows or louvers totalling at least 0,3 m² for each animal to be accommodated in it except in the case of a stable open along the entire length of one of its long sides;
 - (f) the lowest point of every opening, window or louvers must be at least 1,8 metres above floor level;
 - (g) the floor of the stable must be constructed of concrete or other durable and impervious material brought to a smooth finish graded to a channel and drained in terms of section 122;
 - (h) any enclosure must have an area of at least 10 m² for each head of cattle, horse, mule or donkey accommodated in it and the fencing must be strong enough to prevent the animals from breaking out;
 - (i) no enclosure or stable may be situated within –
 - (i) 15 metres of the boundary of any land, property, dwelling or other structure used for human habitation; or
 - (ii) 50 metres of any water resource or water supply intended or used for human consumption; and
 - (j) there must be a water supply adequate for drinking and cleaning purposes next to every stable or enclosure.

Duties of keeper of cattle, horses, mules and donkeys

98. Any person who keeps any cattle, horse, mule or donkey must -
- (a) maintain the premises, and any equipment, apparatus, container or receptacle used in connection with keeping the animal, in a clean and sanitary condition and in good repair;
 - (b) provide portable manure storage receptacles of an impervious material and with close fitting lids;
 - (c) keep every manure storage receptacle on a platform constructed of concrete or other durable and impervious material near the stable or enclosure;
 - (d) if there is so much manure and bedding that storage receptacles are impractical, provide a manure container or area complying with the following requirements:
 - (i) the manure container or area must be roofed and enclosed by three walls constructed of brick, concrete or other durable material plastered to a smooth finish; and
 - (ii) the floor must be of smoothly finished concrete that is inclined so that it drains to a water channel along the full length of the open side, which is at least 150mm in diameter and is kept filled with water;
 - (e) remove all the manure from the stable and enclosure at least once every 24 hours and place it in the manure storage receptacles or manure container or area until it is removed from the premises;
 - (f) remove the contents of the manure storage receptacles or manure container or area from the premises at least once every second day and dispose of the manure in a way which will not create a public health nuisance;
 - (g) remove all bedding from the stable at least once a week and store it in the manure receptacles or manure container or area until it is removed from the premises;
 - (h) store all saddles, bridles, harnesses and other equipment or articles used in connection with the keeping of the animals, in a storeroom or other adequate storage facility;
 - (i) store all feed in a rodent-proof storeroom and all loose feed in rodent-proof receptacles with close fitting lids; and
 - (j) take adequate measures to keep the premises free of pests and to prevent offensive odours arising from the keeping of cattle, horses, mules and donkeys.

Part 3: Keeping of goats and sheep**Application**

99. The provisions of section 100 also apply to the temporary keeping of a goat on any premises for the provision of milk for medical reasons.

Requirements for premises

100. (1) No person may keep goats or sheep in –
- (a) an enclosure which does not comply with the following requirements:
 - (i) the minimum overall floor area must be 30 m²; and
 - (ii) at least 1,5 m² of floor space must be provided for every goat or sheep accommodated in it; or
 - (b) a stable which does not comply with the following requirements:
 - (i) every wall must be constructed of brick, stone, concrete or other durable material;
 - (ii) every wall must be at least 2 metres in height and have a smooth internal finish;
 - (iii) the floor must be constructed of concrete or other durable and impervious material brought to a smooth finish and graded to a channel drained in terms of section 122;
 - (iv) at least 1,5 m² of floor space must be provided for every goat or sheep accommodated in it with an overall minimum floor area of 6 m²; and
 - (v) lighting and ventilation openings totalling at least 0,15 m² per goat or sheep must be provided.
- (2) No person may keep goats or sheep in an enclosure or stable within –
- (a) 15 metres of any boundary of any land, dwelling, building or other structure used for human habitation; or
 - (b) 50 metres of any water resource or water supply intended or used for human consumption.
- (3) Every person must provide a water supply adequate for drinking and cleaning purposes situated next to or in every enclosure or stable used to accommodate goats or sheep.

Duties of keeper of goats and sheep

101. Any person who keeps goats or sheep must -
- (a) maintain the premises and any equipment, apparatus, container or receptacle used in connection with keeping the animal in a clean and sanitary condition and in good repair;
 - (b) provide portable manure storage receptacles of an impervious material and with close fitting lids;
 - (c) keep every manure storage receptacle on a platform that enables the surface underneath the receptacle to be cleaned;
 - (d) remove all manure from the enclosure or stable at least once every seven days and place it in the manure storage receptacles;
 - (e) remove the contents of the manure storage receptacles from the premises at least once every seven days and dispose of the manure in a way that will not create a public health nuisance; and
 - (f) store all feed in a rodent-proof storeroom and all loose feed in rodent-proof receptacles with close fitting lids in the storeroom.
 - (g) Take adequate measures to keep the premises free of pests and to prevent offensive odours arising from the keeping of goats and sheep.

Part 4: Keeping of poultry

Application

102. The provisions of sections 104(d), (f), (g) and 105(e), do not apply to any person keeping twenty or less poultry.

Permit requirement

103. No person may keep more than 10 poultry on an erf in a proclaimed township or 100 poultry on premises zoned for agricultural purposes except in terms of a permit authorising that activity.

Requirements for premises

104. No person may keep poultry in premises which do not comply with the following requirements:
- (a) In relation to a poultry house –
 - (i) every wall must be constructed of brick, stone, concrete or other impervious material and must have a smooth internal surface;
 - (ii) the floor must be constructed of concrete or other impervious material brought to a smooth finish;
 - (iii) the upper floor of a two or more story structure must be constructed of an impervious and easily cleanable material;
 - (iv) the minimum floor area must be –
 - (aa) 0,20 m² for each grown fowl, duck, muscovite duck or guinea fowl;
 - (bb) 0,5 m² for each grown goose, turkey or peacock; and
 - (cc) 0, 14 m² for each grown pigeon; and
 - (v) the minimum aggregate floor area must be 4 m²;
 - (b) a poultry run, if provided, must be enclosed with wire mesh or other durable material;
 - (c) in relation to a building or structure housing a battery system –
 - (i) every wall, if provided, must be at least 2,4 m high, must be constructed of concrete, stone, brick or other impervious material and must have a smooth internal surface;

- (ii) if walls are provided, the building must be ventilated and lighted by means of mechanical ventilation and artificial lighting or by obtaining natural ventilation and light through openings or opening windows of an area not less than 15% of the floor area of the building or structure;
- (iii) the floor must be constructed of concrete or other impervious material brought to a smooth finish and if required by an environmental health practitioner, the floor surface must be graded and drained by means of a channel drained in terms of section 122;
- (iv) if no walls are provided, or the walls are made of metal, the floor must be provided with a curb at least 150 mm high around its edges;
- (v) the cages of the battery system must be made of an impervious material; and
- (vi) if required by an environmental health practitioner, a tray of an impervious material must be fitted under every cage for the collection of manure;
- (d) a water supply adequate for drinking and cleaning must be provided in or next to every poultry house and poultry run and in or next to a building or structure housing a battery system;
- (e) no poultry house, poultry run, or building or structure housing a battery system, may be constructed within 3 metres of –
 - (i) any dwelling or other building or structure used for human habitation; and
 - (ii) any place where foodstuffs are stored or prepared for human consumption; or
 - (iii) the nearest boundary of any land;
- (f) feed must be stored in an adequate rodent-proof storeroom;
- (g) adequate washing facilities must be provided for the cleaning of the cages;
- (h) if required by an environmental health practitioner, due to the amount of manure stored on the premises awaiting removal, a storage area complying with the following requirements must be provided:
 - (i) A roofed platform constructed of concrete or other impervious material;
 - (ii) the platform's outside edges must have a minimum curb of 100 mm high;
 - (iii) the platform must be graded and drained in terms of section 122; and
 - (iv) the roof of the platform must extend a minimum of 1 metre beyond the edges of the base of the platform.

Duties of keeper of poultry

105. Any person who keeps poultry must -
- (a) ensure that all poultry is kept within a poultry house, poultry run or building or structure housing a battery system;
 - (b) maintain the premises and any equipment, apparatus, container or receptacle used in connection with keeping the poultry, in a clean, sanitary condition and in good repair;
 - (c) maintain the premises and every poultry house, poultry run or building or structure housing a battery system and all cages clean and free from pests;
 - (d) ensure that the poultry do not disturb or hinder the comfort, convenience, peace or quiet of the public;
 - (e) provide portable manure storage receptacles of an impervious material and with close fitting lids and keep the manure storage receptacles on a platform;
 - (f) remove all manure and other waste from a poultry house and poultry run at least once every 48 hours and once every four days from a building or structure housing a battery system;
 - (g) place the manure and other waste matter in manure storage receptacles;
 - (h) remove the contents of the manure storage receptacles from the premises at least once every seven days and dispose of the manure in a way which will not create a public health nuisance; and
 - (i) take adequate measures to keep the premises free of flies, cockroaches and rodents and to prevent offensive odours arising from the keeping of poultry on the premises.

Part 5: Keeping of rabbits

Application

106. The provisions of sections 108(b), (c), (d), (f) and (g), and 109(d), (f) and (g), do not apply to any person keeping ten or less rabbits.

Permit requirements

107. No person may keep more than 5 adult rabbits on an erf in a proclaimed township or more than 20 adult rabbits on premises zoned for agricultural purposes, except in terms of a permit authorising that activity.

Requirements for the premises

108. No person may keep rabbits in premises which do not comply with the following requirements:
- (a) In relation to a rabbit hutch -
 - (i) every wall must be constructed of brick, stone, concrete or other impervious material and must have a smooth internal surface;
 - (ii) the floor surface must be -
 - (aa) constructed of concrete or other impervious material brought to a smooth finish;
 - (bb) situated at least 150 mm above ground level; and
 - (cc) graded to a channel drained in terms of section 143, if required by an environmental health practitioner;
 - (iii) adequate ventilation must be provided; and
 - (iv) the rabbit hutch must be adequate in size to allow free unobstructed movement of animals kept therein.
 - (b) any rabbit run must be enclosed with wire mesh or other durable material and constructed in a way that prevents the escape of rabbits from the run;
 - (c) in relation to a building or structure housing a battery system -
 - (i) every wall must -
 - (aa) be at least 2,4 metres high;
 - (bb) be constructed of concrete, stone, brick or other durable material; and
 - (cc) must have a smooth internal surface;
 - (ii) if walls are provided, the building or structure must be ventilated and lighted by means of natural openings or windows of an area not less than 15% of the floor area of the building or structure;
 - (iii) the floor must be constructed of concrete or other impervious material brought to a smooth finish, and if required by an environmental health practitioner, the floor surface must be graded to a channel drained in terms of section 122;
 - (iv) if no walls are provided, or the walls are made of metal, the floor must be provided with a curb at least 150 mm high around its outside edges; and
 - (v) every cage must be constructed of an impervious material and fitted with trays of an impervious material for the reception of manure;
 - (d) a water supply adequate for drinking and cleaning purposes must be provided in or next to every rabbit hutch or building or structure housing a battery system;
 - (e) no person may erect a rabbit hutch, rabbit run or building or structure housing a battery system within five metres of -
 - (i) any dwelling, building or other structure used for human habitation;
 - (ii) any place where foodstuffs are stored or prepared for human consumption; or
 - (iii) the nearest boundary of any land;
 - (f) an adequate rodent-proof storeroom must be provided for the storage of feed; and
 - (g) adequate washing facilities must be provided for the cleaning of cages.

Duties of keepers of rabbits

109. Any person who keeps rabbits must -
- (a) keep all rabbits within the rabbit hutch, rabbit run or building or structure housing a battery system;
 - (b) maintain the premises and any equipment, apparatus, containers or receptacles used in connection with keeping rabbits, in a clean, sanitary condition and in good repair;
 - (c) maintain the premises free from offensive odours and every rabbit hutch, rabbit run or building or structure housing a battery system and all cages clean and free from pests;
 - (d) provide portable manure storage receptacles of an impervious material with close-fitting lids which receptacles must be kept on a platform;
 - (e) remove all manure and any other waste matter from the rabbit hutch, rabbit run or building or structure housing a battery system, at least once every 48 hours;
 - (f) keep the manure and waste in manure storage receptacles until it is removed from the premises;
 - (g) remove the contents of the manure storage receptacles from the premises at least once every seven days and dispose of the contents in a way which will not create a public health nuisance; and
 - (h) Take adequate measures to keep the premises free of pests.

Part 6: Keeping of birds other than poultry**Requirements for the premises**

110. No person may keep any bird, other than poultry, in an aviary which does not comply with the following requirements:
- (a) the aviary must be constructed of durable rodent-proof material;
 - (b) adequate access must be provided for cleaning purposes;
 - (c) if the aviary is constructed above ground level, its base must be constructed of an impervious and durable material and must be situated a minimum of 300 mm above ground level;
 - (d) the aviary may not be situated within three metres of any building or structure, boundary fence or boundary wall; and
 - (e) a water supply adequate for drinking and cleaning purposes must be situated in or next to every aviary.

Duties of keepers of aviaries

111. Any person who keeps birds in an aviary must -
- (a) ensure that the aviary and the premises are kept in a clean condition and free from pests;
 - (b) provide and use rodent-proof facilities for the storage of bird food; and
 - (c) ensure that the birds do not disturb the comfort, convenience, peace or quiet of the public.

Part 7: Kennels and catteries

Requirements for premises

112. No person may use premises as kennels or a cattery except in terms of a permit authorising that activity and unless the premises comply with the following requirements:
- (a) every dog or cat must be kept in an enclosure which complies with the following requirements:
 - (i) the enclosure must be constructed of impervious materials and must provide adequate access for cleaning purposes;
 - (ii) the floor must be constructed of concrete or other impervious material brought to a smooth finish and graded to a channel 100 mm wide, extending the full width of the floor, which channel must be graded and drained into a gully connected to the Council's sewer by means of a pipe 100 mm in diameter; and
 - (iii) a curb 150 mm high must be provided along the edge of the channel, referred to in subparagraph (ii), to prevent any storm water runoff entering the channel; and
 - (iv) the enclosure must be adequate in size to allow free unobstructed movement of animals kept therein.
 - (b) subject to the provisions of paragraph (c), every enclosure referred to in paragraph (a), must be provided with an adequate roofed shelter that complies with the following requirements:
 - (i) every wall must be made of brick, stone, concrete or other impervious material;
 - (ii) every wall must have a smooth internal surface;
 - (iii) the floor must be made of concrete or other impervious material brought to a smooth finish; and
 - (iv) every shelter must have adequate access for cleaning and eliminating pests;
 - (c) a dog kennel which complies with the following requirements may be provided instead of the shelter contemplated in paragraph (b):
 - (i) the kennel must be constructed of an approved weatherproof and insulating material or other similar material;
 - (ii) the kennel must be movable;
 - (iii) the kennel must be placed on a base constructed of concrete or other impervious material with an easily cleanable finish; and
 - (iv) a sleeping board, which will enable the dog to keep dry, must be provided in any kennel that does not have a waterproof base;
 - (d) a concrete apron extending at least one metre wide around the edges of the enclosure must be provided;
 - (e) the apron must be graded and drained in a way that drains storm water away from the enclosure;
 - (f) a water supply, adequate for drinking and cleaning purposes, must be provided in or adjacent to the enclosure;
 - (g) any cage in which cats are kept must be constructed of durable impervious material and in a manner that it may be easily cleaned; and
 - (h) no shelter, enclosure or kennel may be situated within five metres of any -
 - (i) dwelling or other building or structure used for human habitation;
 - (ii) place where food is stored and prepared for human consumption; or
 - (iii) the boundary of the premises.

Food preparation areas

113. Any keeper of kennels or a cattery who is so instructed by an environmental health practitioner, must provide a separate room or roofed area for the preparation of food which complies with the following requirements:
- (a) The floor of the room or roofed area must be constructed of concrete or other impervious material brought to a smooth finish;
 - (b) the internal wall surfaces of the room or roofed area must be smooth and easily cleanable;
 - (c) adequate washing facilities for food bowls and utensils must be provided; and
 - (d) a rodent-proof storeroom must be provided for the storage of food.

Duties of a keepers of kennels or catteries

114. Any person operating kennels or a cattery must -
- (a) maintain the premises, equipment and every vessel, receptacle or container and sleeping board used in connection with the kennels or cattery in a clean, sanitary condition and in good repair;
 - (b) provide portable storage receptacles, of an impervious material with close fitting lids, for the storage of dog and cat faeces;
 - (c) remove all faeces and other waste matter from the enclosure and shelter at least once every 24 hours and place it in the receptacles referred to in paragraph (b);
 - (d) remove the contents of the storage receptacles from the premises at least twice every seven days and dispose of it in a manner that will not create a public health nuisance;
 - (e) store all loose food in receptacles, with close fitting lids, in the food store;

- (f) provide adequate refrigeration facilities to store perishable foods on the premises;
- (g) provide adequate separate refuse receptacles, with close fitting lids, on the premises for refuse other than faeces;
- (h) keep any sick dog or cat isolated from any other animals;
- (i) maintain the premises free from offensive odours and every enclosure, shelter, kennel, cage or food store clean and free from pests; and
- (j) ensure that no dog or cat disturbs the comfort, convenience, peace and quiet of the public.

Part 8: Pet shops and pet parlours

Requirements for premises

115. No person may operate a pet shop or pet parlour in or on any premises which do not comply with the following requirements:
- (a) Any wall and partition must –
 - (i) be constructed of brick, concrete or other impervious material;
 - (ii) have a smooth and easily cleanable internal surface; and
 - (iii) be painted with a washable paint or other adequate finish;
 - (b) all floor surfaces must be constructed of concrete or other impervious material brought to a smooth finish;
 - (c) all ceilings must be dust proof and easily cleanable;
 - (d) at least one wash hand basin, with a supply of running hot and cold potable water, must be provided for employees and the ratio of wash hand basins to persons employed on the premises must not be less than 1:15;
 - (e) the wash hand basins, referred to in subparagraph (d), must be drained in terms of section 122;
 - (f) adequate storage facilities must be provided;
 - (g) facilities for the washing of cages, trays and other equipment must be provided in the form of either –
 - (i) a curbed and roofed over platform with a minimum surface area of 1,5 m², raised at least 100 mm above the floor and constructed of concrete or other impervious material brought to a smooth finish, which platform must be provided with a supply of running potable water; or
 - (ii) a stainless steel sink or trough of adequate size with a drainage board and provided with a supply of running potable water;
 - (h) the platform, sink or trough referred to in paragraph (g) must be drained in terms of section 122;
 - (i) any wall surface within 0,5 metres of the platform, sink or trough referred to in paragraph (g), must be permanently covered with waterproof material to a minimum height of 1,4 metres above the floor;
 - (j) a clearly designated change room must be provided if more than six persons are employed on the premises and every change room must –
 - (i) have a floor area providing at least 0,5 m² for each employee;
 - (ii) have a minimum overall floor area of 6 m² and width of two metres; and
 - (iii) be equipped with an adequate metal locker for each employee;
 - (k) if no change room is required in terms of paragraph (j), each employee must be provided with an adequate metal locker;
 - (l) for the purposes of washing, clipping or grooming of pets –
 - (i) a bathroom fitted with a bath, or similar fitting, and a wash hand basin supplied with running potable water must be provided;
 - (ii) a clipping and grooming room fitted with impervious topped tables and an adequate number of portable storage receptacles of an impervious durable material with close fitting lids, for the storage of cut hair pending removal, must be provided;
 - (iii) at least 50 % of the floor area of the rooms referred to in subparagraphs (i) and (ii), must be unobstructed; and
 - (iv) the floors of the rooms referred to in subparagraphs (i) and (ii), must be graded to a channel drained in terms of section 122;
 - (m) all buildings, including storage areas, must be rodent-proof; and
 - (n) the premises may not have direct internal access with any room or place –
 - (i) used for human habitation;
 - (ii) where clothing is stored or sold; or
 - (iii) where food is prepared, stored or sold for human consumption.

Duties of pet shop or pet parlour keepers

116. - Any keeper of a pet shop or pet parlour must –
- (a) provide cages for housing the pets which comply with the following requirements:
 - (i) the cages must be constructed of metal or other impervious material and fitted with a removable metal floor-tray to facilitate cleaning;
 - (ii) the exterior cavity of any tubular or hollow material used to construct a cage must be sealed;
 - (iii) the cages must be able to be moved easily;
 - (iv) where rabbits are kept in a cage, the metal floor-tray referred to in subparagraph (i), must be drained to a removable receptacle;

- (v) the cages must be fitted with a drinking vessel filled with water;
- (vi) the distance from any cage to the nearest wall must be a minimum of 150 mm;
- (vii) the cages must be kept a minimum of 450 mm above floor level; and
- (viii) the space below every cage must be unobstructed;
- (b) provide rodent-proof receptacles, of an impervious material and with close fitting lids, for the storage of all loose pet food in the storage facilities required in terms of section 138 (f);
- (c) provide adequate refrigeration facilities to store all perishable pet food on the premises;
- (d) ensure that in any room in which the pets are kept –
 - (i) 50 % of the floor space is unobstructed; and
 - (ii) the cages are placed a minimum of 800 mm from one another;
- (e) maintain the premises and every cage, tray, container, receptacle, basket and all apparatus, equipment or appliances used in connection with the pet shop or pet parlour, in a clean and sanitary condition, free from pests and in good repair;
- (f) provide overalls or other protective clothing for employees and ensure that the employees wear them when on duty;
- (g) provide isolation facilities in which every pet which is, or appears to be, sick must be kept while on the premises;
- (h) provide an adequate supply of potable water for drinking and cleaning purposes;
- (i) provide adequate ventilation to ensure the comfort and survival of the pets; and
- (j) ensure that the number of pets contained in each cage does not impede their free movement.

Part 9: Keeping of wild animals

Requirements for the premises

117. No person may, without the approval of the relevant nature conservation authorities, keep wild animals on premises which do not comply with the following requirements:
- (a) Every wild animal must be kept in an enclosure and/or housing constructed and equipped as follows:
 - (i) The enclosure and/or housing must satisfy the needs of the specific animal as specified by the relevant nature conservation authorities;
 - (ii) the enclosure and/or housing may not be situated within 50 metres of –
 - (aa) any boundary of the premises;
 - (bb) any dwelling, building or structure used for human habitation;
 - (cc) any dwelling, building or structure where food is stored, handled or prepared for human consumption; or
 - (dd) any water resource intended for domestic consumption;
 - (iii) an adequate supply of potable water for drinking and cleaning purposes must be provided; and
 - (iv) the enclosure and/or housing must be graded and drained in a way that does not pollute any water resource or create a public health nuisance;
 - (b) a separate room, equipped with a preparation table and wash-up sink, supplied with running potable water and drained in accordance with section 122, must be provided for the preparation of food;
 - (c) adequate facilities must be provided for washing any cages, trays, crates, refuse receptacles and food containers in the form of either –
 - (i) a curbed platform constructed of concrete or other impervious material brought to a smooth finish; or
 - (ii) a stainless steel sink or trough adequate in size to accommodate the equipment to be washed;
 - (d) both facilities referred to in paragraph (c) must be provided with a supply of running water adequate for drinking and cleaning and be drained in accordance with section 122;
 - (e) any area and room in which fodder and food are stored must be rodent proof; and
 - (f) the enclosure and/or housing must be adequate in size to allow free unobstructed movement of animals kept therein.

Duties of keepers of wild animals

118. Any person who keeps wild animals must –
- (a) maintain the premises in a clean and sanitary condition at all times;
 - (b) clean all manure and food scraps from any enclosure and/or housing at adequate intervals;
 - (c) prevent the soil beneath or around any enclosure and/or housing from becoming saturated with urine or polluted by any other matter or liquid; and
 - (d) remove all bedding from any housing at least once every seven days and store it in a manure receptacle or manure container or area, until it is removed from the premises.

Part 10: Keeping of pigs

Requirements for premises

119. No person may keep pigs on premises which do not comply with the following requirements:
- (a) Every wall must –
 - (i) be constructed of brick, stone, concrete or other durable material;
 - (ii) have a minimum height of 1,5 metres; and
 - (iii) have a smooth, impervious internal surface;

- (b) the floor area must provide at least 3 m² for each pig accommodated in the pigsty, with an overall minimum floor area of 6 m²;
- (c) the roof over any portion of a pigsty must have a minimum height of 1,5 metres;
- (d) except in the case of a roofed structure having one of its long sides completely open, the lighting and ventilation openings must –
 - (i) be situated opposite one another in the external walls; and
 - (ii) provide a minimum of 0,15 m² for each pig;
- (e) the floor must be –
 - (i) at least 150 mm above the surrounding ground level;
 - (ii) constructed of concrete or other durable and impervious material brought to a smooth finish; and
 - (iii) graded for the run-off of liquids into an open channel outside the pigsty;
- (f) the open channel referred to in paragraph (e)(iii) must –
 - (i) be constructed of concrete or other durable and impervious material;
 - (ii) be a minimum of 100 mm in diameter; and
 - (iii) be drained in terms of section 121;
- (g) the pigsty must be strong enough to prevent the pigs breaking out;
- (h) the pigsty may not be situated within 150 metres of –
 - (i) the boundary of the premises;
 - (ii) any dwelling, building or structure used for human habitation;
 - (iii) any place where foodstuffs are stored or prepared for human consumption; or
 - (iv) any water resource intended for domestic consumption;
- (i) a roofed over concrete platform must be provided for –
 - (i) the storage of all swill in containers; and
 - (ii) the preparation of pig feed;
- (j) the platform referred to in paragraph (i) must comply with the provisions of paragraph (e) and in addition, must have a curbing of a minimum height of 100 mm on each edge; and
- (k) a water supply, adequate for drinking and cleaning purposes, must be provided in or adjacent to the pigsty.

Duties of keepers of pigs

120. Every person keeping pigs must -
- (a) ensure that every pig is kept within a pigsty;
 - (b) maintain the premises and any equipment, apparatus, containers and receptacles concerned in a clean and sanitary condition and in good repair;
 - (c) provide portable storage receptacles, of impervious material and with close fitting lids, to store manure;
 - (d) keep all manure storage receptacles on a platform that complies with the provisions of section 121(b);
 - (e) remove all manure from the pigsty at least once every 24 hours and place it in the manure storage receptacles;
 - (f) remove the contents of the manure storage receptacles from the premises at least once every second day and dispose of the manure in a manner that will not create a public health nuisance;
 - (g) provide a rodent-proof store-room of adequate size in which all feed, other than swill, must be stored; and
 - (h) provide rodent-proof receptacles, with close fitting lids, in which to store all loose feed.

Part 11: Keeping of pets

Duties of keepers of pets

121. Any person who keeps pets must –
- (a) maintain the premises in a clean and sanitary condition at all times;
 - (b) clean all manure and food scraps from any premises at adequate intervals;
 - (c) prevent the soil beneath or around any premises from becoming saturated with urine or polluted by any other matter or liquid

Part 12: General provisions

Drainage

122. Any person keeping animals must ensure that all sinks, wash hand basins, baths, shower-baths, troughs, floor surfaces, channels and washing platforms required to be drained in terms of this Chapter, are drained in accordance with the provisions of the National Building Regulations and Building Standards

Requirements for keeping of bees

- 123 (1) No person may keep bees on any premises unless –
- (a) that person is the holder of a permit authorising that activity; and
 - (b) every bee hive is situated –
 - (i) a minimum of five metres from any boundary of the premises; and
 - (ii) a minimum of twenty metres from any public place or building used for human habitation or from any place used for the keeping of animals, poultry and birds;
 - (c) the bees are kept in an approved bee hive; and
 - (d) the bee hive is –
 - (i) kept in an area inaccessible to children and animals;
 - (ii) kept in the shade at all times; and
 - (iii) supplied with a source of drinking water within five metres of the hive.
- (2) No person may dump or deposit any garbage, compost, grass cuttings or manure within five metres of any bee hive.

Illness attributable to animals, poultry or birds

124. (1) The illness of any person, which may be attributed to any animal, poultry or bird kept or handled by that person, must be reported to an environmental health practitioner within 24 hours of diagnosis, by the person making the diagnosis.
- (2) An environmental health practitioner may order the removal of an animal, poultry or bird from premises if he or she reasonably believes that the animal poses a public health nuisance or public health hazard.

Keeping of and slaughtering animals for religious and ceremonial purposes

125. (1) A person intending to slaughter an animal in any place other than in a recognised Abattoir must -
- (a) notify the Council in writing, fourteen days prior to the event; and;
 - (b) submit prior written permission from the owner, tenant or person in control of the land where such a slaughtering will occur if the person who performs the slaughtering is not the owner, tenant or person in control of the relevant land; if the applicant is the owner, proof of ownership must be submitted with the application;
 - (c) obtain prior written permission from Council to conduct such a slaughtering,
 - (d) slaughter the animal in a position where the slaughtering cannot be observed by any person on neighbouring premises or any member of the public;
 - (e) use the meat derived from the slaughtered animal solely for the purposes of the religious or ceremonial feast;
 - (f) handle the meat in a hygienic manner at all times;
 - (g) dispose of any portions, faecal deposits and blood of the animal which are not used or consumed, in a manner which will not become a public health hazard or public health nuisance;
 - (h) not keep such animal prior to slaughtering for a period in excess of 12 hours; and
 - (i) ensure that the animal does not cause a noise nuisance or disturbing noise whilst being kept for slaughter or being slaughtered.
- (2) A person intending to slaughter an animal for religious and/or ceremonial purposes may require the services of an environmental health practitioner for post-mortem examination of the slaughtered animal at a cost determined by Council from time to time.

**CHAPTER 15
CARAVAN PARKS AND CAMPING GROUNDS**

Definitions

126. For the purposes of this chapter, unless the context otherwise indicates,
- “**approved**” means approved by the Council, regard being had to the reasonable public health requirements of the particular case;
- “**camp**” or “**camping**” means the erection or use of a temporary or movable structure for the purpose of human occupation, including tents but excluding non-folding caravans;
- “**camping ground**” means an area of land on which accommodation is provided for camping purposes, whether or not a charge is made for such accommodation;
- “**camp site**” means an area or plot of ground within a camping ground for the accommodation of a camper’s party;
- “**camper’s party**” means a party of not more than six persons;
- “**caravan**” means a vehicle, with or without means of self-propulsion, designed and permanently constructed for sleeping or dwelling purposes, or both, intended for travel, recreation and vocational purposes and having no foundation other than wheels which may be supplemented by stabilizing jacks. Park Homes or any other similar structure or vehicles not normally permitted without a special permit are from this definition.
- “**caravan park**” means an area of land on which accommodation is provided for three or more caravans, whether or not a charge is made for such accommodation;
- “**caravan site**” means an area or plot of ground within a caravan park for the accommodation of a caravan and its towing vehicle, if any;

Requirements for Premises

- 127
- (1) For each caravan or camp site there must be provided a clearly demarcated and numbered level area of not less than 120 m² with a minimum width of 10m.
 - (2) In addition to the area required in terms of sub-section (1), there must be provided, for recreational purposes, an area equal to at least 25% of the gross usable area of the caravan park or camping ground.
 - (3) Roadways not less than 5m in width, with a hardened surface, must be provided so as to afford vehicle adequate access to all caravan or camp sites under all weather conditions, and such roads must afford free access to a public road.
 - (4) The caravan park or camping ground must be properly and attractively laid out and landscaped, and it must be a condition that the plan as approved by the Council must be adhered to in every detail by the licensee.
 - (5) Approved direction signs, indicating the water closets, urinals, ablution and other facilities required in the caravan park or camping ground in terms of these bylaws, must be placed at approved points.
 - (6) A fence not less than 2m high and meeting with the approval of the Council must be provided to enclose the entire area of the caravan park or camping ground.
 - (7) The entrance to the caravan park or camping ground, roadways, paths, water closets, urinals, ablution and other facilities, and the fire fighting and first aid points, must be adequately illuminated during the hours of darkness.
 - (8) An adequate and constant supply of potable water, must be available and one permanent stand pipe must be provided in a convenient position for every four caravan or camp sites, and under every stand pipe tap there must be a gully trap set in a dished and properly rendered surround and connected to an approved drainage system.
 - (9) All baths, showers and wash hand basins must be provided with an adequate and constant supply of hot and cold running water and must be fitted with waste pipes suitably trapped and discharging over and into an external gully connected to an approved drainage system.
 - (10) Every bathroom or shower cubicle must have a door which is lockable from the inside and must be provided with a built-in soap dish. In addition, every bathroom must be provided with a seat and a wall hook or a towel rail of at least 600mm and every shower cubicle with a disrobing area suitably screened from the shower, a seat and a wall hook or towel rail of at least 600mm.

Sanitary Facilities

128. The following separate water closet and urinal accommodation must be provided:
- (1) *Males:* A minimum of one water closet and 750 mm of urinal space for every eight caravan or camp sites or part thereof. The bucket and channel of the urinal must be of stainless steel or other approved material.
 - (2) *Females:* A minimum of two water closets and thereafter an additional water closet for every six caravan or camp sites or part thereof in excess of twelve sites. A binette with a self-closing lid must be provided in each water closet.
 - (3) The internal wall surface of all bathrooms, shower cubicles and water closets must be painted with a light coloured oil paint or must be provided with a wall covering of an approved material.
 - (4) All water closets, urinals, ablution and other facilities must be suitably designated and the entrances in the water closets, urinals and ablution facilities must be screened from public view.
 - (5) An approved slop sink unit with an adequate and constant supply of cold running water must be provided for caravaners and campers where chemical toilets receptacles must be emptied and cleaned. The unit must be installed within a separate compartment adjacent to an ablution block with access thereto for both sexes. The floor of such compartment must be graded and drained to an approved drainage system.
 - (6) For every twenty caravan or camp sites or part thereof for the uses of caravaners or campers, a screened or enclosed drying yard and a laundry room equipped with a double bowl stainless steel laundry trough and an ironing board or table must be provided. The laundry trough must be provided with an adequate and constant supply of hot and cold running water and fitted with waste pipes suitably trapped and discharging over and into an external gully connected in an approved drainage system. An earthed 15 ampere socket outlet for a three-pin plug must be fitted in the laundry room.
 - (7) For every twenty caravan sites or part thereof and for every ten camp sites or part thereof, there must be provided under a roofed area, on an approved impervious floor, which must be graded and drained to an approved drainage system, a double compartment wash-up sink unit for the washing of caravaner's or camper's culinary utensils.

**CHAPTER 16
EXHUMATIONS**

Application to exhume a body or body ashes

129. Any person who intends to exhume or cause to exhume a body or body ashes must comply with provisions of these By-laws and the Burial Place Ordinance, 1952 (Ordinance 4 of 1952).

Exhumation requirements

130. The Director Municipal Health Services must recommend an exhumation to be conducted subject to compliance with the following requirements:

- (1) Handling of the mortal remains must be done by a registered undertaker.
- (2) All persons engaged in the physical exhumation must be provided with approved protective clothing such as durable hand gloves, overalls, gumboots and aprons of durable material and nose and mouth masks.
- (3) An effective, approved disinfectant to be provided and effectively used to disinfect during and after exhumation.
- (4) After exposing the coffin, and/or body remains, such coffin, body remains and soil surrounding it must be effectively disinfected.
- (5) If the coffin is still in a good state of repair it must not be opened and must be placed in a suitable container immediately after exhumation.
- (6) If the deceased has not been buried in a coffin, or if the state of decomposition of the coffin and the remains render compliance with sub-section (5) impossible, the remains and the content of the grave must be placed in a suitable container immediately after exhumation.
- (7) All used disposable protective clothing to be placed into refuse bags and to be disposed of in an approved manner.

CHAPTER 17 AIR POLLUTION CONTROL

PART I INTERPRETATION AND FUNDAMENTAL PRINCIPLES

Definitions

131. (1) In this chapter, unless the context indicates otherwise-
- “**adverse effect**” means any actual or potential impact on the environment that impairs, or would impair the environment or any aspect of it to an extent that is more than trivial or insignificant,
- “**air pollutant**” means any substance (including but not limited to dust, smoke, fumes and gas) that causes or may cause air pollution;
- “**air pollution**” means any change in the composition of the air caused by smoke, soot, dust (including fly ash), cinders, solid particles of any kind, gases, fumes, aerosols, and odours substances.
- “**atmosphere**” means air that is not enclosed by a building, machine, chimney or other such structure;
- “**authorised person**” means any person authorised by the Council to implement any provision of this by-law;
- “**best practicable means**” means the most effective measures that can reasonably be taken to prevent, reduce or minimize air pollution, having regard to all relevant factors including, among others, local conditions and circumstances, the likelihood of adverse effects, the current state of technical knowledge and the financial implications relative to the degree of environmental protection expected to be achieved by application or adoption of the measures;
- “**chimney**” means any structure or opening of any kind from or through which air pollutants may be emitted;
- “**compressed ignition powered vehicle**” means a vehicle powered by an internal combustion, compression ignition, diesel or similar fuel engine;
- “**dark smoke**” means:
- a) in respect of Part IV and V of this chapter, smoke which when measured using a light absorption meter or obscuration measuring equipment has an obscuration of 20% or greater;
 - b) in respect of Part VI of this chapter:
 - (i.) smoke which has a density of 60 Hartridge smoke units or more, provided that in relation to emissions from turbo-charged compressed ignition powered engines, it means a density of 66 Hartridge smoke units or more; or
 - (ii.) smoke which has a light absorption co-efficient of more than 2.125m⁻¹, provided that in relation to emissions from turbo-charged compressed ignition powered engines, it means a light absorption coefficient of more than 2.51m⁻¹,
- “**dust**” means any solid matter in a fine or disintegrated form which is capable of being dispersed or suspended in the atmosphere;
- “**dwelling**” means any building or other structure, or part of a building or structure, used as a dwelling, and any outbuildings ancillary to it, but excludes shacks and informal settlements;
- “**environment**” means the surroundings within which humans exist and that are made up of –
- (a) the land, water and atmosphere of the earth;
 - (b) micro-organisms, plant and animal life;
 - (c) any part of combination of (a) and (b) and the interrelationships among and between them; and
 - (d) the physical, chemical, aesthetic and cultural properties and conditions of the foregoing that influence human health and well being;
- “**free acceleration test**” means the method employed to determine whether compressed ignition powered vehicles emit dark smoke and are being driven or used in contravention to relevant legislation;
- “**fuel-burning equipment**” means any furnace, boiler, incinerator, or other equipment, including a chimney:
- (a) designated to burn or capable of burning liquid, gas or solid fuel;
 - (b) used to dispose of any material or waste by burning; or
 - (c) used to subject liquid, gas or solid fuel to any process involving the application of heat;
- “**light absorption meter**” means a measuring device that uses a light-sensitive cell or detector to determine the amount of light absorbed by an air pollutant;

“**living organism**” means any biological entity capable of transferring or replicating genetic material, including sterile organisms and viruses;

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

“**nuisance**” means, for the purpose of this chapter, an unreasonable interference or likely interference caused by air pollution with:

(a) the health or well being of any person or living organism; or

(b) the use and/or enjoyment by an owner or occupier of his or her property and or environment;

“**obscuration**” means the ratio of visible light attenuated by air pollutants suspended in the effluent streams to incident visible light, expressed as a percentage;

“**open burning**” means the combustion of material by burning without a chimney to vent the emitted products of combustion to the atmosphere, and

“**burning in the open**” has a corresponding meaning;

“**operator**” means a person who owns or manages an undertaking, or who controls an operation or process, which emits air pollutants;

“**proclaimed township**” means any land unit zoned and utilized for residential purposes;

“**person**” means a natural person or a juristic person;

“**premises**” means, for the purpose of this chapter, any building or other structure together with the land on which it is situated and any adjoining land occupied or used in connection with any activities carried on in that building or structure, and includes any land without any buildings or other structures and any locomotive, which operates or is present within the area under the jurisdiction of the Council.

“**public road**” means a road which the public has the right to use;

“**smoke**” means the gases, particulate matter and products of combustion

emitted into the atmosphere when material is burned or subjected to heat and includes the soot, grit and gritty particles emitted in smoke;

“**vehicle**” means any motor car, motor carriage, motor cycle, bus, motor lorry or other conveyance propelled wholly or partly by any volatile spirit, steam, gas or oil, or by any means other than human or animal power.

- (2) This Chapter is subject to the National Environmental Management: Air Quality Act, 2004 (Act No. 39 of 2004).

**PART II
DUTY OF CARE**

Person causing air pollution

132. (1) Any person who is wholly or partially responsible for causing significant air pollution or creating a risk of significant air pollution occurring must take all reasonable measures:
- (a) to prevent any potential significant air pollution from occurring; and
- (b) to mitigate and, as far as reasonably possible, to remedy any significant air pollution that has occurred.
- (2) The Council may, by resolution direct any person who fails to take the measures required under subsection (1) –
- (a) to investigate, evaluate and assess the impact of specific activities and report thereon;
- (b) to commence taking specific reasonable measures before a given date;
- (c) to diligently continue with those measures, and
- (d) to complete them before a specified reasonable date.
- (e) Prior to making such resolution Council must give affected persons adequate opportunity to inform them of their relevant interests and to consult with any other organ of state.
- (3) Should a person fail to comply, or inadequately comply, with a directive under subsection (2), the Council may take reasonable measures to remedy the situation referred to in the directive.
- (4) Provided that if such person fails to take the measures required of him or her under subsection (1), the Council may recover all reasonable costs incurred as a result of it acting under subsection (3) from any of all of the following persons -
- (a) any person who is or was responsible for, or who directly or indirectly contributed to, the air pollution or the potential air pollution;
- (b) the owner of the land at the time when the air pollution or the potential for air pollution occurred, or that owner's successor in title;
- (c) the person in control of the land or any person who has or had a right to use the land at the time when –
- (i) the activity or the process in question is or was performed or undertaken; or
- (ii) the situation came about; or
- (d) any person who negligently failed to prevent -
- (i) the activity or the process being performed or undertaken; or
- (ii) the situation from coming about.
- (5) If more than one person is liable under subsection (4), the liability may be apportioned among the persons concerned according to the degree to which each was responsible for the harm to the environment resulting from their respective failures to take the measures required under subsection (1) and (2).

PART III**SMOKE EMISSIONS FROM PREMISES OTHER THAN DWELLINGS****Application**

133. For the purpose of this Part, “premises” does not include dwellings.

Prohibition

134. (1) Subject to subsection (2), dark smoke must not be emitted from any premises for an aggregate period exceeding three minutes during any continuous period of thirty minutes.
- (2) This section does not apply to dark smoke which is emitted from fuel-burning equipment which occurs while the equipment is being started or while the equipment is being overhauled or repaired, or awaiting overhaul or repair, unless such emission could have been prevented using the best practicable means available.
- (3) If dark smoke is emitted in contravention of subsection (1) the owner, operator and/or the occupier of the premises must be guilty of an offence.

Installation of fuel-burning equipment

135. (1) No person must install, alter, extend or replace any fuel-burning equipment on any premises without the prior written authorisation of the Council, which may only be given after consideration of the relevant plans and specifications.
- (2) Any fuel-burning equipment installed, altered, extended or replaced on premises in accordance with plans and specifications submitted to and approved, for the purposes of this section, by the Council must be presumed until the contrary is proved to comply with the provisions of subsection (1)
- (3) Where fuel-burning equipment has been installed, altered, extended or replaced on premises in contravention of subsection (1):
- (a) the owner and occupier of the premises and the installer of the fuel burning equipment must be guilty of an offence;
 - (b) the Council may, on written notice to the owner and occupier of the premises, order the removal of the fuel-burning equipment from the premises at the expense of the owner and operator and within the period stated in the notice.

Operation of fuel-burning equipment

136. (1) No person must use or operate any fuel-burning equipment on any premises contrary to the authorization referred to in section 135(1).
- (2) Where fuel-burning equipment has been used or operated on the premises in contravention of subsection (1)
- (a) the owner and occupier of the premises and the operator of the fuel burning equipment must each be guilty of an offence;
 - (b) The Council may on written notice to the owner and occupier of the premises:
 - (i) revoke its authorization under section 135(1); and
 - (ii) order the removal of the fuel-burning equipment from the premises at the expense of the owner and operator and within the period stated in the notice.

Presumption

137. In any prosecution for an offence under section 136 dark smoke must be presumed to have been emitted from premises if it is shown that any fuel or material was burned on the premises and the circumstances were such that the burning would be reasonably likely to give rise to the emission of dark smoke, unless the owner, occupier or operator, as the case may be, shows that no dark smoke was emitted.

Installation and operation of obscuration measuring equipment

138. (1) Council or an authorised person may give notice to any operator of fuel-burning equipment or any owner or occupier of premises on which fuel-burning equipment is used or operated, or intended to be used or operated, to install, maintain and operate obscuration measuring equipment at his or her own cost, if:
- (a) unauthorised and unlawful emissions of dark smoke from the relevant premises have occurred consistently and regularly over a period of at least two days;
 - (b) unauthorised and unlawful emissions of dark smoke from the relevant premises have occurred intermittently over a period of at least fourteen days;
 - (c) fuel-burning equipment has been or is intended to be installed on the relevant premises which are reasonably likely in the opinion of an authorised person to emit dark smoke;
 - (d) the person on whom the notice is served has been convicted more than once under this Part III and has not taken adequate measures to prevent further contravention of the provisions of this Part; or
 - (e) the authorised person considers that the nature of the air pollutants emitted from the relevant premises is reasonably likely to create a hazard to human health or the environment.

- (2) A notice referred to in subsection (1) must inform the person to whom it is addressed of:
- (a) that person's right to make written representations and to appear in person to present and dispute information and arguments regarding the notice, and must stipulate a reasonable period within which this must be done;
 - (b) that person's right of appeal under section 160;
 - (c) that person's right to request written reasons for the issuing of the notice; and
 - (d) the measures that must be taken and the potential consequences if the notice is not complied with.

Monitoring and sampling

139. An occupier or owner of premises, and the operator of any fuel-burning equipment, who is required to install obscuration measuring equipment in terms of section 138(1) must:
- (a) record all monitoring and sampling results and maintain a copy of this record for at least four years after obtaining the results;
 - (b) if requested to do so by an authorised person, produce the record of the monitoring and sampling results for inspection, and
 - (c) if requested to do so by an authorised person, provide a written report (in a form and by a date specified by the authorised person) of part or all of the information in the record of the monitoring and sampling results.

Exemption

140. (1) Subject to section 145 and on application in writing by the owner or occupier of premises or the operator of fuel-burning equipment, the Council may grant a temporary exemption in writing from one or all the provisions of this Part.
- (2) Any exemption granted under subsection (1) must state at least the following:
- (a) a description of the fuel-burning equipment and the premises on which it is used or operated;
 - (b) the reason for granting the exemption;
 - (c) the conditions attached to the exemption, if any;
 - (d) the period for which the exemption has been granted; and
 - (e) any other relevant information.

PART IV

SMOKE EMISSIONS FROM DWELLINGS

Restrictions to emission of dark smoke

141. (1) Subject to section 134(2), no person must emit or permit the emission of dark smoke from any dwelling for an aggregate period exceeding three minutes during any continuous period of thirty minutes.
- (2) Any person who emits or permits the emission of dark smoke in contravention of subsection (1) commits an offence.
- (3) Provided an application is in writing by the owner or occupier of any dwelling, the Council may grant a temporary exemption in writing from one or all of the provisions of this Part.

PART V

EMISSIONS CAUSED BY OPEN BURNING

Open burning of material on any land

142. (1) Subject to subsection 4, any person who carries out open burning of any material on any land or premises is guilty of an offence, unless the prior written authorization of the Council, which may include the imposition of further conditions with the person requesting authorization must comply, has been obtained.
- (2) The Council may not authorize open burning under subsection (1) unless it is satisfied that the following requirements have been adequately addressed or fulfilled:
- (a) the material will be open burned on the land from which it originated;
 - (b) that person has investigated and assessed every reasonable alternative for reducing, reusing or recycling the material in order to minimize the amount of material to be open burned, to satisfaction of the Council;
 - (c) that person has investigated and assessed every reasonable alternative for removing the material from the land or premises, to the satisfaction of the Council;
 - (d) that person has investigated and assessed the impact that the open burning will have on the environment, to the satisfaction of the Council;
 - (e) a warning under section 10(1)(b) of the National Veld and Forest Fire Act, 1998 (Act 101 of 1998) has been published for the region;
 - (f) the land on which that person intends to open burn the material is State land, a farm or small-holding, or land within a proclaimed township that is not utilized for residential purposes;
 - (g) the open burning is conducted at least 100 metres from any buildings or structures;
 - (h) the open burning will not pose a potential hazard to human health or safety, private property or the environment.
 - (i) That person has notified in writing the owners and occupiers of all adjacent properties of:

- (i) all known details of the proposed open burning; and
 - (ii) the right of owners and occupiers of adjacent properties to lodge written objections to the proposed open burning with the Council within 7 days of being notified; and
 - (j) the prescribed fee has been paid to the Council.
- (3) Any person who undertakes or permits to be undertaken open burning in contravention of subsection (1) commits an offence.
- (4) The provisions of this section must not apply to:
- (a) recreational outdoor barbecue or braai activities on private premises;
 - (b) small controlled fires in informal settlements for the purposes of cooking, heating water and other domestic purposes; or
 - (c) any other defined area or defined activity to which the Council has declared this section not to apply.

PART VI

EMISSIONS FROM COMPRESSED IGNITION POWERED VEHICLES

Prohibition

143. (1) No person may on a public road drive or use, or cause to be driven or used, a compressed ignition powered vehicle that emits dark smoke.
- (2) If dark smoke is emitted in contravention of subsection (1) the owner and the driver of the vehicle must each be guilty of an offence.
- (3) For purposes of this section the registered owner of the vehicle must be presumed to be the driver unless the contrary is proven.

Stopping of vehicles for inspection and testing

144. (1) In order to enable a Council or an authorised person to enforce the provisions of this Part, the driver of a vehicle must comply with any reasonable direction given by an authorised person:
- (a) to stop the vehicle; and
 - (b) to facilitate the inspection or testing of the vehicle.
- (2) Failure to comply with a direction given under subsection (1) is an offence.
- (3) When a vehicle has stopped in compliance with a direction given under subsection (1), the authorised person may:
- (a) inspect and test the vehicle at the roadside, in which case inspection and testing must be carried out:
 - (i) at or as near as practicable to the place where the direction to stop the vehicle is given; and
 - (ii) as soon as practicable, and in any case within one hour, after the vehicle is stopped in accordance with the direction; or
 - (b) conduct a visual inspection of the vehicle and, if the authorised person reasonably believes that an offence has been committed under section 143(2), instruct the driver of the vehicle, who is presumed to be the owner of the vehicle unless he or she produces evidence to the contrary, in writing to take the vehicle to a testing station, within a specified period of time, for inspection and testing in accordance with section 145.

Testing procedure

145. (1) An authorised person must use the free acceleration test method in order to determine whether a compressed ignition powered vehicle is being driven or used in contravention of section 153(1).
- (2) The following procedure must be adhered to in order to conduct a free acceleration test:
- (a) when instructed to do so by the authorised person, the driver must start the vehicle, place it in neutral gear and engage the clutch;
 - (b) while the vehicle is idling; the authorised person must conduct a visual inspection of the emission system of the vehicle;
 - (c) when instructed to do so by the authorised person, the driver of the vehicle must in less than one second smoothly and completely depress the accelerator throttle pedal of the vehicle, provided that the authorised person may do so himself or herself if the driver fails or refuses to comply with the authorised person's reasonable instructions;
 - (d) while the throttle pedal is depressed, the authorised person must measure the smoke emitted from the vehicle's emission system in order to determine whether or not it is dark smoke;
 - (e) the driver of the vehicle may only release the throttle pedal of the vehicle when the engine reaches cut-off speed, or when directed to do so by the authorised person.
- (3) If, having conducted the free acceleration test, the authorised person is satisfied that the vehicle:
- (a) is not emitting dark smoke, then the authorised person must furnish the driver of the vehicle with a certificate indicating that the vehicle is not being driven or used in contravention of section 153(1); or
 - (b) is emitting dark smoke, then the authorised person must issue the driver of the vehicle with a repair notice in accordance with section 156.

Repair notice

146. (1) A repair notice must direct the owner of the vehicle to repair the vehicle within a specified period of time, and to take the vehicle to a place identified in the notice for re-testing before the expiry of that period.

- (2) The repair notice must contain amongst others the following information:
 - (a) the make, model and registration number of the vehicle;
 - (b) the name, address and identity number of the driver of the vehicle; and
 - (c) if the driver is not the owner, the name and address of the vehicle owner.
- (3) A person commits an offence under this section if that person fails:
 - (a) to comply with the notice referred to in subsection (1)
 - (b) the re-test referred to in subsection (1).
- (4) It must not be a defect in proceedings under subsection (3) to aver that the driver of the vehicle failed to bring the repair notice to the attention of the owner of that vehicle.

PART VII

EMISSIONS THAT CAUSE A NUISANCE

Prohibition

147. Any occupier or owner of premises from which a nuisance emanates, or where a nuisance exists, is guilty of an offence.

Abatement notice

- 148. (1) Council or an authorised person may serve abatement notice on any person whom the authorised person reasonably believes is likely to commit or has committed an offence under section 144, calling upon that person:
 - (a) to abate the nuisance within a period specified in the notice;
 - (b) to take all necessary steps to prevent a recurrence of the nuisance; and
 - (c) to comply with any other conditions contained in the notice.
- (2) For the purposes of subsection (1), an authorised person may form a reasonable belief based on his or her own experience that an air pollutant was emitted from premises occupied or owned by the person on whom the abatement notice is to be served.
- (3) An abatement notice under subsection (1) may be served:
 - (a) upon the owner of any premises, by:
 - (i) delivering it to the owner or if the owner cannot be traced or is living abroad that person's agent;
 - (ii) transmitting it by registered post to the owner's last known address, or the last known address of the agent; or
 - (iii) delivering it to the address where the premises are situated, if the owner's address and the address of the agent are unknown;
 - (b) upon the occupier of the premises, by:
 - (i) delivering it to the occupier;
 - (ii) transmitting it by registered post to the occupier at the address at which the premises are situated.
- (4) Any person who fails to comply with an abatement notice served on that person in terms of subsection (1) is guilty of an offence.
- (5) In addition to any other penalty that may be imposed, a court may order a person convicted of an offence under subsection (4) to take steps the court considers necessary within a period determined by the court in order to prevent a recurrence of the nuisance.

Steps to abate nuisance

149. At any time, the Council may at its own cost take whatever steps it considers necessary in order to remedy the harm caused by the nuisance and prevent a recurrence of it, and may recover the reasonable costs so incurred from the person responsible for causing the nuisance.

PART VIII

APPEALS

- 150. (1) Any person may appeal against a decision taken by Council or an authorised person under this by-law by giving written notice of the appeal, in which the reasons for the appeal are stated, to the municipal manager within 30 days of the date on which that person receives notification of the decision.
- (2) Pending confirmation, variation or revocation of the decision in terms of subsection (4), any person appealing a decision in terms of subsection (1), unless the Council provides otherwise:
 - (a) must nonetheless substantively comply with any obligations that may have been imposed as a result of the decision that is the subject of the appeal; and
 - (b) may not exercise any rights that may have accrued as a result of the decision that is the subject of the appeal application, provided that no other person may exercise any right that may accrue either.

- (3) Within 14 days of receipt of the notice of appeal, the municipal manager must:
 - (a) submit the appeal to the appropriate appeal authority mentioned in subsection (5);
 - (b) take all reasonable measures to ensure that all persons whose rights may be significantly detrimentally affected by the granting of the appeal application, including any persons registered as interested and affected parties, are notified in writing of the appeal application and advised of their right to:
 - (i) obtain a copy of the appeal application;
 - (ii) submit written objections to the application to the municipal manager within 30 days of date of notification
- (4) After the expiry of the 30 day period referred to in subsection (3)(b)(ii), the appeal authority must consider the appeal and any objections raised to it, and confirm, vary or revoke the decision.
- (5) When the appeal is against a decision taken by -
 - (a) an authorised person other than the municipal manager, then the municipal manager is the appeal authority; or
 - (b) the municipal manager, then the Council or such committee as it may delegate is the appeal authority.
- (6) An appeal authority must commence with an appeal within 60 days of receiving notification and must decide the appeal within a reasonable period.

PART IX

GENERAL PROVISIONS

- 151. (1) In the event of a conflict within any other by-law which directly or indirectly regulates air pollution, the provisions of this by-law must prevail.
- (2) In the event of a conflict with the National Environment Management Air Quality Act, 2004 (Act 39 of 2004) the provisions of that Act will prevail within the area of jurisdiction of the Council.

Offences and penalties

- 152. (1) Any person who contravenes section 141(2), 142(3), 143(2) or 147 of this by-law must be liable of conviction to imprisonment not exceeding 30 days or to a fine or both a fine and imprisonment.
- (2) Any person who contravenes section 135(3), 156(2), 146(3)(a), 146(3)(b) or 148(4) of this by-law must be liable of conviction to imprisonment not exceeding two (2) years or a fine or both a fine and imprisonment.
- (3) Any person who contravenes section 147 of this by-law must be liable on conviction to imprisonment not exceeding one (1) year or a fine or both a fine and imprisonment.
- (4) It is an offence to:
 - (a) supply false information to Council or an authorised person in respect of any issue pertaining to this by-law, or;
 - (b) refuse to co-operate with the request of an Council or an authorised person made in terms of this by-law and any person convicted of such offence must be liable to imprisonment not exceeding 30 days or a fine or both a fine and imprisonment.
- (5) Where no specific penalty is provided, any person committing an offence in terms of this by-law is liable on conviction to imprisonment for a period not exceeding one (1) year or to a fine or to both imprisonment and a fine.
- (6) Failure to comply with a notice, direction or instruction referred to in this bylaw constitutes a continuing offence.
- (7) Any person who commits a continuing offences must be guilty of a separate offence for each day during which that person fails to comply with a notice, direction or instruction referred to in this by-law.
- (8) In addition to imposing a fine and/or imprisonment, a court may order any person convicted of an offence under this by-law:
 - (a) to remedy the harm caused;
 - (b) to pay damages for harm caused to another person or property, which order must have the force and effect of a civil judgment; and
 - (c) to install and operate at the person's own expense obscuration reading equipment.

Exemptions

- 153. (1) The Council may grant a temporary exemption in writing from one or all of the provisions of Part III, IV and V, provided that the Council:
 - (a) is satisfied that granting the exemption will not significantly undermine the purpose of these Bylaws;
 - (b) grants any exemption subject to conditions that promote the attainment of the purpose of these Bylaws.
- (2) The Council may not grant an exemption under subsection (1) until the Council has:
 - (a) taken reasonable measures to ensure that all persons whose rights may be significantly detrimentally effected by the granting of the exemption, including but not limited to adjacent land owners or occupiers, are aware of the application for exemption and how to obtain a copy of it;
 - (b) provide such person with a reasonable opportunity to object to the application; and
 - (c) duly considered and taken into account any objections raised.

CHAPTER 18 HEALTH CARE WASTE

Definitions

154. In this Chapter, unless the context otherwise indicates -
- “**generator**” means any person or institution which generates health care waste;
- “**genotoxic waste**” means highly toxic waste that may have mutagenic, teratogenic or carcinogenic properties and includes certain cytostatic drugs as well as vomit, urine or faeces from patients treated with cytostatic drugs, chemicals and radioactive material;
- “**hazardous waste**” means waste that has the potential, even in low concentrations, to have a significant adverse effect on public health and the environment because of its inherent toxicological, chemical and physical characteristics.
- “**health care general waste**” means that portion of health care waste which is not hazardous
- “**health care risk waste**” means that portion of health care waste which is hazardous and includes infectious waste, pathological waste, genotoxic waste, chemical waste, waste containing heavy metals, radioactive waste, and any other waste which is considered hazardous in terms of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008).
- “**waste containing heavy metals**” means waste which includes , but is not limited to, mercury waste from thermometers, blood pressure gauges, residues from dentistry, cadmium from batteries, reinforced wood panels used in radiation proofing and drugs containing arsenic;

Separation at source and marking

- 155 (1) Health care waste generators, transporters, theatres and disposers have a general duty of care in terms of these Bylaws and any other relevant provincial and national legislation, to separate all health care risk waste at source and to handle, package, store and dispose of health care risk waste in a safe manner that poses no threat to human health or to the environment.
- (2) Without limiting the generality of the duty in subsection (1), generators must:
- (a) ensure that the generation of health care risk waste is minimized as far as possible at source;
 - (b) separate health care waste into health care risk waste and health care general waste at the point at which it is generated;
 - (c) store health care risk waste in purpose-manufactured, leak-proof, sealable containers and must ensure that such containers used to store sharps, razors, blades, needles and any other instrument which can cause cuts, punctures or injections, are rigid and puncture-resistant;
 - (d) ensure that the radioactive waste for which he or she is responsible, is treated in accordance with the Hazardous Substances Act, 1973, (Act No. 15 of 1973);
 - (e) ensure that all the employees in their employ are adequately trained in the identification, separation, handling, storing of health care risk waste;
 - (f) take appropriate steps to ensure the health and safety of all the employees in their employ in terms of the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993);
 - (g) label all health care risk waste containers clearly in large, legible lettering with indelible ink with the following information:
 - (i.) the name, address and contact telephone number of the generator
 - (ii.) the words: DANGER – HEALTH CARE RISK WASTE; GEVAAR-GESONDHEIDSAFVAL; and INGOZI: INKUNKUMA YEZAMAYEZA and the international biohazard logo; and
 - (iii.) the date on which the health care risk waste is removed from the premises of the generator.
 - (h) prevent public access to health care risk waste containers which are in use;
 - (i) store filed health care risk waste containers in controlled, secure areas which are reserved for the storage of health care risk waste;
 - (j) make arrangements for the removal of health care risk waste from their premises and for the transportation of health care risk waste by a person who is registered in terms of section 168 of these By-laws as a transporter of health care risk waste;
 - (k) make arrangements for the disposal of the health care risk waste by a person/institution permitted to dispose of health care risk waste in terms of these By-laws or any other applicable legislation
- (3) Generators may apply to Council for permission to handle, store and otherwise deal with health care risk waste in a manner which does not comply with the requirements as set out in subsection (2) above.
- (4) The Council may in writing grant the permission referred to in subsection (3) subject to certain conditions.
- (5) Generators may transport and dispose of health care risk waste generated on their premises, provided they do so in terms of this By-law;
- (6) Generators must:
- (a) maintain an up-to-date written record of all health care risk waste generated and removed from their premises in a format from time to time prescribed by Council;
 - (b) obtain written notification from the disposer of the health care risk waste that the health care risk waste has been disposed of and upon receiving such notification , indicate in their written records that the health care risk waste has been disposed of by mentioning the name of the disposer and the date of disposal;
 - (c) provide copies of the record referred to in (i) and the information in (ii) to Council on a six-monthly basis or at any other frequency as may from time to time be prescribed by Council.

Duty of transporters

156. (1) Transporters must remove health care risk waste from the premises of the generator, transport, store and deliver such health care risk waste to a site at which it will be disposed of in manner which poses no treat to human health or the environment.
- (2) Without limiting the generality of the duty referred to in subsection (1), transporters must:
- (a) not remove the health care risk waste from the containers in which the generator placed it;
 - (b) transport and store the health care risk waste in such way that no member of the public can gain access to the health care risk waste or the containers in which it is stored;
 - (c) transport the health care risk waste in vehicles which:
 - (i.) comply with all applicable legislation as from time to time promulgated by national government or the Provincial Government of Free State or in the absence of such legislation,
 - (ii.) are capable of containing the health care risk waste;
 - (iii.) are designed to prevent spillage;
 - (iv.) are constructed of materials which are easy to clean and to disinfect;
 - (v.) are capable of being secured in order to prevent unauthorised access
 - (d) deliver health care risk waste only to a person and site permitted to dispose of health care risk waste in terms of section 169.
- (3) Transporters may apply to Council for permission to remove, transport, store and deliver health care risk waste in a manner which does not comply with the requirements as set out in subsection (2) above
- (4) The Council may in writing grant the permission referred to in subsection (3) subject to certain conditions.
- (5) Transporters may dispose of health care risk waste provided they do so in terms of these By-laws
- (6) Transporters must maintain a written record in respect of each collection and delivery of health care risk waste, which they must update simultaneously with each collection and delivery. The record must be in the format as prescribed from time to time by Council and must be kept for a period of three years from date on which the health care risk waste is delivered to the disposal site.
- (7) Transporters must keep a copy of the said record in the vehicle used for the transportation of the health care risk waste.

Disposal of Health Care Risk Waste

157. (1) Health care risk waste may only be disposed of by a person –
- (a) who holds a permit to operate a hazardous waste issued in terms of national legislation,
 - (b) who complies to all the terms and conditions attached to such a permit.
- (2) A person permitted in terms of subsection (1) to dispose of health care risk waste must do so at the site at which the permit permits him or her to dispose of health care risk waste and may not dispose of health care risk waste at any other place.
- (3) Persons who dispose of health care risk waste must:
- (a) maintain an up to date written record as required in terms of the National Waste Information System and any additional information as may from time to time be required by the Council of all health care risk waste received and disposed of at the site;
 - (b) keep such records for a period of three years or for a such period as may be prescribed in terms of the guidelines provided for compliance to the National Waste Information System, whichever the shortest.

Duty to register

158. (1) Every generator must register with the Council within 6 months of the coming into effect of these By-laws by completing and submitting a written notification to Council in the format prescribed from time to time.
- (2) Every transporter must register with the Council within 6 months of the coming into effect of these By-laws by completing and submitting a written notification to the Council in the format prescribed from time to time.
- (3) Generators and transporters must notify the Council of any changes to the information provided in terms of subsection (1) and (2) as soon as such changes take place.

Powers of Environmental Health Practitioner

159. (1) Any environmental health practitioner in the employ of the Council may:
- (a) Enter sites and premises on which health care waste is being generated, handled, treated, stored or disposed of, or on which he or she suspects health care waste is being generated, handled, stored or disposed of,
 - (b) Gain access to vehicles on which health care waste is being contained or transported, or on which he or she suspects health care waste is being contained or transported.
- (2) Where an environmental health practitioner enters premises or a site or gain access to a vehicle in terms of subsection (1), he or she may, for the purposes of administering these By-laws, undertake any inspection or enquiry, including but not limited to:
- (a) inspecting the premises, site or vehicle for the presence of health care risk waste;
 - (b) inspecting the manner in which health care risk waste is being, handled, stored, transported, treated or disposed of;
 - (c) requesting information regarding the health care risk waste from the person who is in charge of the health care risk waste or from the person in charge of the health care risk waste or from the person in charge of the premises, site or vehicle;

- (d) examine, extract or make copies of any health care risk waste records and request an explanation from the person in charge of the record, or from the person in charge of the site, premises or vehicle.

Offences

160. Any person who contravenes any provision of the chapter or fails to comply with any notice given in relation hereto in terms of these By-laws, commits an offence.

**CHAPTER 19
MISCELLANEOUS**

Duties of Council

161. In addition to any other duty of Council in terms of this Bylaw or any other applicable legislation, the Council must within its area of jurisdiction:
- (a) enforce the relevant portions of this By-law;
 - (b) carry out water quality monitoring at all potable, industrial and commercial water sources ;
 - (c) perform food control inspections, enquiries, monitoring and observation;
 - (d) monitor waste management;
 - (e) undertake health surveillance of properties;
 - (f) undertake surveillance and prevention of communicable diseases, excluding immunisations;
 - (g) undertake effective vector control measures;
 - (h) prevent environmental pollution;
 - (i) monitor activities related to the disposal of the dead, and
 - (j) ensure chemical safety,

Offences and penalties

162. (1) Any person who –
- (a) contravenes or fails to comply with any provisions of these By-laws;
 - (b) fails to comply with any notice issued in terms of or for the purposes of these By-laws; or
 - (c) fails to comply with any lawful instruction given in terms of or for the purposes of these By-laws; or
 - (d) obstructs or hinders any authorised representative or employee of the Council in the execution of his or her duties under these By-laws, is guilty of an offence and subject to subsection (2) below, liable on conviction to a fine or in default of payment to imprisonment for a period not exceeding six months and in the case of a continuing offence, to a further fine not exceeding R50, or in default of payment to imprisonment not exceeding one day, for every day during the continuance of such offence after a written notice has been issued by the Council and served on the person concerned requiring the discontinuance of such offence.
- (2) Any person convicted of a contravention of the provisions of Chapter 19 is liable to a fine of an amount not exceeding R10,000 or imprisonment for a period not exceeding 1 year and in case of a continuing offence, to a further fine not exceeding R100 per day, or in default of payment to imprisonment not exceeding one day, for every day during the continuance of such offence after a written notice has been issued by the Council and served on the person concerned requiring the discontinuance of such offence.

Serving of notices

163. (1) A notice, order or other document is regarded as having been properly served if -
- (a) it has been delivered to the person concerned personally;
 - (b) it has been sent by registered post or speed post to the person to whom it is addressed at his or her last known address;
 - (c) it is served on a person apparently not less than 16 years of age and apparently in charge of the premises at the addressee's last known address;
 - (d) if the address of the person concerned in the Republic of South Africa is unknown, if it has been served on that person's agent or representative in the Republic of South Africa in the manner provided for in paragraph (a),(b) or (c); or
 - (e) if the address of the person concerned and of his or her agent or representative in the Republic of South Africa is unknown, if it has been posted in a conspicuous place on the premises to which it relates.
- (2) A notice, order or other document which may in terms of these By-laws be served on the owner or occupier of premises may be addressed to the owner or occupier of the specified premises and need not bear the name of the owner or occupier.

Application to the State

164. These By-laws bind the State, including the Council.

Short title

165. These By-laws are called the District Municipal Environmental Management By-laws, 2011.

**SCHEDULE 1
PUBLIC HEALTH NUISANCES**

General Nuisances

1. An owner or occupier of premises creates a public health nuisance if he or she causes or allows -
- (a) any premises or part thereof to be of such a construction or in such a state as to be offensive, injurious or dangerous to health;
 - (b) any street, stream, pool, lagoon, ditch, gutter, watercourse, sink, cistern, water-closet, earth closet, pail closet, urinal, cesspool, cesspit, drain, sewer, dung pit, slop tank, ash heap or dung heap to be so foul or in such a state or so situated or constructed as to be offensive or to be injurious or dangerous to health;
 - (c) any stable, kraal, shed, run or premises used for the keeping of animals or birds and which is so constructed, situated, used or kept as to be offensive or to be injurious or dangerous to health;
 - (d) any accumulation of refuse, offal, manure or other matter which is offensive or is injurious or dangerous to health;
 - (e) any public building to be so situated, constructed, used or kept as to be unsafe or to be injurious or dangerous to health;
 - (f) any dwelling to be occupied without proper and sufficient supply of potable water within a reasonable distance;
 - (g) any factory or industrial or business premises not to be kept in a clean state and free from offensive smells arising from any drain, water closet, earth-closet, urinal or any other source, or not ventilated so as to destroy or render harmless and inoffensive as far as practicable any gas, vapour, dust or other impurity generated, or so overcrowded or so badly lighted or ventilated, as to be injurious or dangerous to the health of those employed therein or thereon;
 - (h) any factory or industrial or business premises to cause or give rise to any smell or effluvium which is offensive or injurious or dangerous to health;
 - (i) any building, room or structure to be used wholly or partly by a greater number of persons than will allow less than 11,3 m³ of free air space and 3,7 m² of floor space for each person aged 10 years or more and 5,7 m³ of free air space and 1,9 m² of floor space for each person less than 10 years of age; or
 - (j) the accumulation of filth, debris rubbish, glass, paper, rags, tins, lumber and the growing or presence of weeds, long grass or undergrowth which is unsightly or is likely to become a nuisance or injurious to health or to cause an annoyance to the inhabitants of the neighbourhood,
 - (k) any other activity, condition or thing declared to be a nuisance as contemplated in the National Health Act, 2003 (Act 61 of 2003) or any other relevant health legislation.
 - (l) Any other condition at or on a place or premises whatever, which in the opinion of Council is or can be detrimental, dangerous, inconvenient, offensive, injurious or dangerous to health; or which may in any other way cause a risk of disease, death or injuries.

Pest control

2. An owner or occupier of premises creates a health nuisance if -
- (a) the premises are maintained in a manner that attracts or harbours rodents or other pests, or is conducive to the breeding thereof;
 - (b) flies are being attracted to, or can breed on, the premises, in significant numbers because -
 - (i) insufficiently rotted manure or any other organic material is being kept or used; or
 - (ii) any other substance that attracts flies is used or kept other than for the purposes of trapping or killing flies;

Air pollution

3. An owner or occupier of premises creates a public health nuisance if-
- (a) any waste on the premises is burned outside except in an approved appliance;
 - (b) ash, grit, soot or smoke is emitted from any chimney or appliance or from any other means on the premises in a manner or quantity that is, in the opinion of Council, sufficient to have an adverse impact on public health;
 - (c) the erection or destruction of a building or structure causes dust to be discharged into the surrounding atmosphere in a manner or quantity that is, in the opinion of Council, sufficient to have an adverse impact on public health; or
 - (d) Any dust is generated on, and emitted from the premises due to any activity or process and discharged into the surrounding atmosphere in a manner or quantity that is, in the opinion of Council, sufficient to have an adverse impact on public health.

Fouling and littering of public places and open spaces

4. (1) A person creates a public health nuisance if he or she throws, dumps, stores, keeps or drops refuse, rubbish, glass, tins, paper, car wrecks or parts of motor vehicles, dead animals, waste water or flushing water or other litter or waste, whether liquid or solid, on or in a street, road, bridge, thoroughfare, open space, vacant stand, public place or erf, spruit or watercourse, or cause or permit it to be thrown, dumped or dropped there, or cause or permit any such liquid to flow into such a place.

- (2) The person who has contravened sub item (1), must remedy, to the satisfaction of the environmental health practitioner, any damage to the environment which resulted from such contravention.

**SCHEDULE 2
SCHEDULED USES**

(Sections 1, 8, 9 and 11)

The activities and uses of premises listed in this Schedule are considered to pose an unacceptable risk to public health unless the measures specified in the relevant Chapter of these By-laws and where required, in a permit, are taken to avoid the risk or to reduce it to a level acceptable to the Council.

Part A: Activities for which a permit is required

Activity
Provision of service to remove human excrement or urine
Installation of sewage works
Offensive trades
Hairdressing, beauty and cosmetology services
Accommodation Establishments
Child care services
Keeping of poultry
Keeping of rabbits
Dog Kennels and catteries
Keeping of bees

Part B: Scheduled uses

Scheduled use
Sanitary services
Private Sewage Works
Water
Offensive Trades
Hairdressing, Beauty and Cosmetology Services
Second-hand Goods
Accommodation Establishments
Dry Cleaning and Laundry Establishments
Swimming Pools and Spa-Baths
Child-Care Services
Keeping of Animals

PROVINCIAL NOTICE

[NO. 183 OF 2011]

NOTICE IN TERMS OF SECTION 14(2)(a)(i) OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000: PUBLICATION: DOGS AND CATS BY-LAWS

I, M.G Qabathe, Member of the Executive Council responsible for Cooperative Governance, Traditional Affairs and Human Settlement in the Free State Province, after consulting the Minister of Cooperative Governance and Traditional Affairs and the South African Local Government Association Free State, do hereby in terms of section 14(2)(a)(i) of the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000), make standard by-laws as set out in the Schedule.

SCHEDULE

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**CHAPTER 1
INTERPRETATION**

Definitions

- 1. (1) In these By-laws, unless the context otherwise indicates –
 - "**agricultural property**" means land zoned for agricultural use in terms of any of the Council's Town Planning Scheme or any other law;
 - "**authorised official**" means any official of the Council who has been authorised by the Council to administer, implement and enforce the provisions of these By-laws ;
 - "**cat**" means a male or a female cat;
 - "**cat breeder**" means a person who is registered as a cat breeder with a cat breeders association;
 - "**cattery**" means premises in or upon which –
 - (a) boarding facilities for cats are provided; or
 - (b) cats are bred for commercial purposes;
 - "**Council**" means –
 - (a) the Local Municipality ofestablished in terms of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), exercising its legislative and executive authority through its municipal Council ; or
 - (b) its successor in title; or

- (c) a structure or person exercising a delegated power or carrying out an instruction, where any power in these By-laws has been delegated or sub-delegated, or an instruction given, as contemplated in section 59 of the Local Government : Municipal Systems Act, 2000 (Act No. 32 of 2000); or
- (d) except for the purposes of sections 3 and 4, and the prescribing of a fee, a service provider fulfilling a responsibility under these By-laws assigned to it in terms of section 81(2) of the Local Government : Municipal Systems Act, 2000 (Act No. 32 of 2000), or any other law;

"dog" means a male or a female dog;

"dog breeder" means a person who is registered as a dog breeder with a dog breeders association;

"dwelling house" means a single building designed for use as a residence for a single family situated on premises containing not more than two such buildings;

"dwelling unit" means an inter-connected suite of rooms including a kitchen or scullery designed for occupation by a single family, other than a dwelling house, irrespective of whether such unit is a single building or forms part of a building containing two or more such units;

"environmental health officer" means an official appointed by the Council, and who is duly registered as an environmental health officer, or environmental health practitioner, with the Health Professions Council of South Africa in terms of section 17 of the Health Professions Act, 1974 (Act No. 56 of 1974);

"kennels" means premises in or upon which –

- (a) boarding facilities for dogs are provided;
- (b) dogs are bred for commercial purposes;
- (c) dogs are kept for the purposes of being trained or hired out with or without handlers; or
- (d) dogs are kept for commercial security purposes;

"owner", in relation to a dog or cat, means any person who keeps a dog or cat or has a dog or cat in his or her possession or care or under his or her control or, in relation to a dog, on whose private premises a dog is present;

"pound" means a place designated by the Council in terms of any law for the impounding, sale and destruction of dogs or cats or both;

"pound master" means the person who has been appointed by the Council to be in charge of a pound;

"premises" means any unit of land, whether built on or not and whether public or private;

"prescribed" means prescribed by the Council from time to time by resolution; and

"public place" means any road, street, thoroughfare, bridge, overhead bridge, subway, pavement, footpath, sidewalk, lane, square, open space, garden, park, path, bus or taxi rank, servitude or enclosed space vested in the Council and includes any road, place or thoroughfare which is in the undisturbed use of the public or which the public have the right to use.

- (2) If any provision in these By-laws vests or imposes any power, function or duty of the Council in or on any employee of the Council and such power, function or duty has in terms of section 81(2) of the Local Government : Municipal Systems Act, 2000 (Act No. 32 of 2000) or any other law, been assigned to a service provider, the reference to such employee must be read as a reference to the service provider or, where applicable, an employee of the service provider authorised by it.

CHAPTER 2 CONTROL OF DOGS

Restriction on number of dogs

- 2. (1) Subject to the provisions of subsections (2) and (3), no person may keep more than –
 - (a) two dogs, or allow more than two dogs, over the age of six months to be kept in or at a dwelling unit;
 - (b) four dogs, or allow more than four dogs, over the age of six months to be kept in or at premises containing one or two dwelling houses;
 - (c) six dogs, or allow more than six dogs, over the age of six months to be kept on an agricultural property; or
 - (d) four dogs, or allow more than four dogs, over the age of six months to be kept on or at any other premises excluding a dwelling unit.
- (2) Subsection (1) does not apply to any person who –
 - (a) is the holder of a permit issued in terms of section 3 to keep a greater number of dogs;
 - (b) is the owner or manager or is in charge of, a pet shop and who has written proof that all the dogs under the control of such owner or manager have been vaccinated against canine distemper, hepatitis, kennel cough and parvovirus;
 - (c) is the owner or is in charge of premises where guide dogs for the blind are being kept or trained;
 - (d) is blind or poor sighted, in respect of a guide dog kept by him or her;
 - (e) is the owner or manager of a veterinary clinic; or
 - (f) any person who is in charge of dogs owned by the Council as specified in paragraph (a) of the definition of "Council", the South African Police Service or the South African Defence Force, and are kept for operational or breeding purposes.

Permits to keep dogs

3. (1) Any person who wants to keep a greater number of dogs on premises than the number permitted in terms of section 2(1), must apply to the Council for a permit.
- (2) An application in terms of subsection (1) must be in writing on a prescribed form and must be accompanied by –
 - (a) the prescribed fee;
 - (b) an affidavit by the applicant and other documentary evidence that the applicant has for a period of 14 days prior to the date of the application in a place on the premises concerned within one metre of, clearly visible from, a public street, displayed and maintained in a prescribed form, notice of his or her intention to apply for a permit in terms of subsection (1) and inviting inhabitants of the area to lodge with the Council during such period, in writing, any objection to, or representations relating to, the granting of the application;
 - (c) a copy of any objection or representation lodged in terms of paragraph (b);
- (3) The Council may require the applicant to provide any further information which it considers relevant to enable it to make an informed decision.
- (4) The Council may refuse to consider an application in terms of subsection (1) in respect of which the provisions of subsection (2) have not been complied with or information contemplated in subsection (3), has not been furnished.
- (5) The Council may only consider an application in terms of subsection (1) after receipt of a written report from an environmental health officer –
 - (a) as to whether the dogs for which the permit is required are likely to cause a public health hazard or the keeping of such dog may result in a contravention of section 5;
 - (b) setting out the results of an inspection of the premises on which the dogs concerned are being kept or to be kept.
- (6) The Council may refuse an application in terms of subsection (1) or approve it subject to any conditions aimed at reducing the risk of any public health hazard created by the dogs on the premises concerned occurring, continuing or recurring or to reduce such risk to a level acceptable to the Council.
- (7) The Council may publish guidelines in the Provincial Gazette which describe –
 - (a) appropriate measures that can be taken and objects and materials that can be used, to eliminate the risk of any public health hazard occurring, continuing or recurring, or to reduce that risk to a level acceptable to the Council; and
 - (b) the circumstances in which taking these measures or using these objects or materials are acceptable to the Council.
- (8) If a person has applied for a permit in terms of subsection (1), such person may continue to keep the number of dogs on the premises that are not permitted in terms of section 2 in the absence of a permit, until the Council has informed him or her in writing of the outcome of such application.
- (9) In respect of any application approved in terms of subsection (6), an authorised official must issue a permit on a prescribed form specifying every condition imposed by the Council.
- (10) A permit issued in terms of subsection (9) is not transferable from one person to another or from the premises in respect of which it had been issued, to other premises.

Amendment, suspension and cancellation of permits

4. The Council may, subject to the provisions of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), and after consideration of a report and recommendation of an environmental health officer or veterinary surgeon, by written notice to the holder of a permit contemplated in section 3 –
 - (a) amend, suspend or cancel that permit if it is satisfied that failure to do so would result in –
 - (i) the creation or continuation of a public health hazard; or
 - (ii) a continued contravention of any provision of section 5;
 - (b) with immediate effect amend, suspend or cancel that permit if such officer is of the view that it is urgently necessary to do so to eliminate or reduce a significant risk to the public posed by a public health hazard or potential public health hazard.

Prohibitions relating to the keeping of dogs

5. No person may keep a dog –
 - (a) which is wild, dangerous or ferocious to such an extent that the dog is a danger to any person who legally enters upon the premises on which the dog is kept;
 - (b) which barks, whimpers or howls to such an extent that it, or has another habit which, causes a disturbance or nuisance to inhabitants of the neighbourhood;
 - (c) which suffers from an infectious or contagious disease which, in the opinion of a veterinary surgeon, is of such a nature that such dog cannot be beneficially treated or boarded at a veterinary clinic;
 - (d) on premises which are not fenced in such a manner that the dog is at all times confined to the premises, unless the dog is confined to the premises in some other manner.

Dogs in public places

6. (1) Subject to any provision to the contrary in these By-laws or any other law, no person may bring or allow a dog into any public place if that dog –
- (a) is wild, dangerous or ferocious;
 - (b) is in a habit of charging at or chasing people or vehicles; or
 - (c) is an unsterilised female dog which is on heat.
- (2) No person may permit any dog to be in a public place unless it is kept on a leash and under control of a person.
- (3) Any person in control of a dog in a public place, excluding a blind or poor sighted person who is led by a guide-dog, must remove any defecation of such dog.

Prohibited behaviour in respect of dogs

7. (1) No person may without reasonable grounds –
- (a) incite a dog against a person, animal or bird; or
 - (b) allow a dog in his or her custody or under his or her control to attack or threaten any person, animal or bird.
- (2) No person may provoke, harass or tease any dog.
- (3) No person may terrify or cause stress or fear to any dog with fireworks or by any other means.

Council's power to sterilise dogs

8. The Council may sterilise –
- (a) a dog at the request of its owner, subject to payment of the costs thereof by the owner; and
 - (b) a stray dog, and recover the costs thereof from the owner of such dog.

**CHAPTER 3
CONTROL OF CATS**

Restriction on number of cats

9. (1) Subject to the provisions of subsection (2), no person may keep more than –
- (a) two cats, or allow more than two cats, over the age of six months to be kept in or at a dwelling unit;
 - (b) four cats, or allow more than four cats, over the age of six months to be kept in or at premises containing one or two dwelling houses; or
 - (c) six cats, or allow more than six cats, to be kept on an agricultural property.
- (2) (a) The provisions of section 2(2) and (3), except paragraph (c) of subsection (3), read with the necessary changes, apply in respect of subsection (1);
- (b) For the purpose of applying the provisions of Section 2 (3) in terms of paragraph (a) –
- (i) paragraph (b) thereof is deemed to refer to a cattery; and
 - (ii) paragraph (c) thereof is deemed to refer to cat flu and feline respiratory diseases.
- (3) The provisions of sections 3 and 4, read with the necessary changes, apply in respect of permits with regard to cats.

Council's powers to sterilise cats

10. The Council may sterilise –
- (a) a tom cat or a she cat at the request of its owner, subject to payment of the costs thereof by the owner; and
 - (b) a stray tom cat or she cat, and recover the costs thereof from the owner.

**CHAPTER 4
IMPOUNDING OF DOGS AND CATS**

Duties of poundmaster

11. A pound master –
- (a) (i) must keep the pound open between 08:00 and 16:30 from Monday to Friday and Saturday between 08:00 and 12:00 unless any such day is a public holiday;
 - (ii) may notwithstanding the provisions of subparagraph (i), keep the pound open during such earlier or later hours as he or she considers necessary, subject to displaying an easily legible notice to that effect at the entrance to the pound and on the Council's official notice board.
 - (b) must accept, take charge of and impound any dog or cat brought to the pound with a view to impounding it, during the hours when the pound is open and must, subject to the further provisions of this Chapter, detain that dog or cat in the pound: Provided that the pound master may refuse to receive, or may release, any dog or cat if he or she reasonably believes that such dog or cat was not lawfully taken into custody or impounded;
 - (c) Must keep a register in which the following particulars in respect of every impounded dog or cat are recorded:
 - (i) the name of the authorised official or the name, residential address and telephone number of any other person, who brought the dog or cat to be impounded;
 - (ii) the time at which and date on which the dog or cat was impounded;
 - (iii) the place where the dog or cat was found immediately before it was taken into custody;

- (iv) the date on which and the time at which the dog or cat was taken into custody before being brought to the pound;
- (v) the reason for impounding the dog or cat;
- (vi) a description of the dog or cat indicating the estimated age, breed, sex, colour, markings and any injury found on the dog or cat when the poundmaster accepted it;
- (vii) whether the dog or cat was released, sold or destroyed and the date and time of such release, sale or destruction;
- (viii) the amount or money realised in respect of such release or sale;
- (ix) the amount of veterinary expenses, if any, incurred in respect of the dog or cat;
- (d) must ensure that the pound and all equipment used in connection with impounding dogs and cats are at all times kept in a clean condition and free from flies and other vermin, to the satisfaction of the Council's Director: Municipal Health;
- (e) must ensure that every dog and cat in the pound is properly fed and cared for;
- (f) must isolate any female dog or cat on heat;
- (g) must take all reasonable steps to prevent fighting amongst dogs or cats in the pound;
- (h) must isolate any diseased dog or cat from the healthy dogs or cats, have such dog or cat attended to by a veterinarian and take all steps to recover the expenses incurred in this regard from the owner if the identity and address of the owner are known;
- (i) must take all necessary steps to have any dog or cat destroyed as contemplated in section 15 and recover any expenses incurred in this regard from the owner if the identity and address of the owner are known; and
- (j) must levy the prescribed fees for impoundment and daily holding fees in respect of any dog or cat.

Taking dogs into custody

12. (1) An authorised official or an employee authorised thereto by a person, body or structure contemplated in paragraph (c) or (d) of the definition of "Council" may, for the purpose of having a dog impounded, take into custody any dog which –
- (a) is at large and apparently ownerless;
 - (b) suffers from an infectious or contagious disease;
 - (c) is found in a public place and is not on a leash and in the control of a person;
 - (d) overturns, damages or tears any refuse receptacle or refuse bag;
 - (e) is brought into a public place in contravention of the provisions of section 6;
 - (f) is being kept in contravention of the provisions of section 2 or 5; or
 - (g) enters any premises in an effort to escape being taken into custody.
- (2) Any person may on premises of which he or she is the owner or occupier, take into custody any dog found trespassing thereon or therein for the purpose of having it impounded.
- (3) Notwithstanding the provisions of subsections (1) and (2), no person may take any dog into custody for the purpose of having it impounded if there are reasonable grounds to believe that the dog is a female dog with unweaned young, unless such dog and unweaned young are taken into custody together.
- (4) Any person who has taken a dog into custody in terms of this section –
- (a) must ensure that the dog is not ill-treated; and
 - (b) may, when the pound is closed, keep the dog in his or her custody until the pound re-opens.
- (5) No person may free any dog which has been taken into custody, or is being kept in custody in terms of this section or which has been impounded, in terms of section 11.

Taking cats into custody

- 13 (1) An authorised official or an employee authorised thereto by a person, body or structure contemplated in paragraph (c) or (d) of the definition of "Council" may, for the purpose of having a cat impounded, take into custody any cat which is kept in contravention of section 9.
- (2) The provisions of section 12 (1) (a), (b), (d) and (g) and section 12(2), (3), (4) and (5), read with the necessary changes, apply to the taking into custody of cats.

Claiming of impounded dogs and cats

14. (1) Any person may claim an impounded dog or cat if he or she –
- (a) satisfies the pound master that he or she is the owner or is otherwise entitled to the custody of the dog or cat concerned;
 - (b) satisfies the pound master that releasing the dog or cat into his or her custody will not result in any provision of section 2, 5 or 9 being contravened; and
 - (c) pays to the pound master the prescribed fees and the amount of veterinary expenses, if any, incurred in respect of the dog or cat.
- (2) The pound master must, if the provisions of subsection (1) have been complied with, surrender the dog or cat concerned to the person claiming it.

Destruction or sale of unclaimed dogs and cats

15. (1) If an impounded dog or cat is not claimed by a person entitled thereto within 96 hours after the dog or cat has been impounded, the pound master may in the manner prescribed in section 5(1) of the Animals Protection Act, 1962 (Act No. 71 of 1962), destroy such dog or cat or cause it to be destroyed, or may sell such dog or cat or cause it to be sold.
- (2) Unless the Council has instructed the pound master to the contrary, he or she must have any unsterilised dog or cat sterilised before it is sold in terms of subsection (1) and may recover the costs incurred from the buyer.

**CHAPTER 5
MISCELLANEOUS**

Designation of authorised officials

16. The Council may designate any authorised official to execute work, conduct any inspection and monitor and enforce compliance with these By-laws.

Offences and penalties

17. Any person who –
- (a) contravenes or fails to comply with any provision of these By-laws; or
 - (b) fails to comply with any notice issued for the purposes of these By-laws;
 - (c) fails to comply with any lawful instruction given for the purposes of these By-laws;
 - (d) obstructs or hinders any authorised official or employee of the Council in the execution of his or her duties under these By-laws,
- is guilty of an offence and liable on conviction to a fine or in default of payment to imprisonment for a period not exceeding six months and in the case of a continuing offence, to a further fine not exceeding R50, or in default of payment to imprisonment not exceeding one day, for every day during the continuance of such offence after a written notice has been issued by the Council and served on the person concerned requiring the discontinuance of such offence.

Application to the State and Council

18. These By-laws bind the State and the Council.

Repeal

19. Any by-laws relating to dogs and cats adopted by the municipality or any municipality now comprising an administrative unit of the Council is repealed from the date of promulgation of these by-laws.

Short title

20. These By-laws are called the Dogs and Cats By laws, 2011.
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PROVINCIAL GAZETTE
(Published every Friday)

All correspondence, advertisements, etc. must be addressed to the Officer in charge of the Provincial Gazette, P.O. Box 517, Bloemfontein, Tel.: (051) 403 3139. Free Voucher copies of the Provincial Gazette or cuttings of advertisements are NOT supplied.

Subscription Rates (payable in advance)

The subscription fee for the Provincial Gazette (including all Extraordinary Provincial Gazettes) are as follows:

SUBSCRIPTION: (POST)

PRICE PER COPY	R 18.80
HALF-YEARLY	R469.40
YEARLY	R938.80

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HALF-YEARLY	R 277.90
YEARLY	R 555.80

Stamps are not accepted

Closing time for acceptance of copy

All advertisements must reach the Officer in Charge of the Provincial Gazette **not later than 16:00, three workings days** prior to the publication of the Gazette. Advertisements received after that time will be held over for publication in the issue of the following week, or if desired by the advertiser, will be inserted in the current issue as a "Late Advertisement". In such case the advertisement must be delivered to the Officer in Charge **not later than 08:00 on the Tuesday** preceding the publication of the Gazette and double rate will be charged for that advertisement.

A "Late Advertisement" will not be inserted as such without definite instructions from the advertiser.

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NUMBERING OF PROVINCIAL GAZETTE

You are hereby informed that the numbering of the Provincial Gazette /Tender Bulletin and notice numbers will from 2010 coincide with the relevant financial year. In other words, the chronological numbering starting from one will commence on or after 1 April of every year.

Printed and published by the Free State Provincial Government

PROVINSIALE KOERANT
(Verskyn elke Vrydag)

Alle korrespondensie, advertensies, ens. moet aan die Beamppte Belas met die Provinsiale Koerant, Posbus 517, Bloemfontein, Tel.: No. (051) 403 3139 geadresseer word. Gratis eksemplare van die Provinsiale Koerant of uitknipsels van advertensies word NIE verskaf nie.

Intekengeld (vooruitbetaalbaar)

Die intekengeld vir die Provinsiale Koerant (insluitend alle Buitengewone Provinsiale Koerante) is soos volg:

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Alle advertensies moet die Beamppte Belas met die Provinsiale Koerant bereik **nie later nie as 16:00 drie werksdae** voordat die Koerant uitgegee word. Advertensies wat na daardie tyd ontvang word, word oorgehou vir publikasie in die uitgawe van die volgende week, of as die adverteerder dit verlang, sal dit in die Koerant wat op die pers is as 'n "Laat Advertensie" geplaas word. In sulke gevalle moet die advertensie aan die Beamppte oorhandig word **nie later nie as 08:00 op die Dinsdag** voordat die Koerant gepubliseer word en dubbeltarief sal vir dié advertensie gevra word.

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Advertensiegelde is vooruitbetaalbaar aan die Beamppte belas met die Provinsiale Koerant, Posbus 517, Bloemfontein 9300, Tel.: (051) 403 3139.

NOMMERING VAN PROVINSIALE KOERANT

U word hiermee in kennis gestel dat die nommering van die Provinsiale Koerant / Tender Bulletin en kennisgewingnummers vanaf 2010 met die betrokke boekjaar sal ooreenstem. Met ander woorde, die kronologiese nommering beginnende met een, sal op of na 1 April van elke jaar begin.

Gedruk en uitgegee deur die Vrystaatse Provinsiale Regering