
CONTENTS • INHOUD

<i>No.</i>		<i>Page No.</i>	<i>Gazette No.</i>
GENERAL NOTICE • ALGEMENE KENNISGEWING			
115	Local Government: Municipal Systems Act (32/2000): Umsobomvu Municipality: Public notice: Enactment of by-laws	3	1336
115	Plaaslike Regering: Munisipale Sisteme Wet (32/2000): Umsobomvu Munisipaliteit: Publieke kennisgewing: Uitvaardiging van verordeninge	3	1336

GENERAL NOTICE ALGEMENE KENNISGEWING

NOTICE 115 OF 2009

UMSOBOMVU MUNICIPALITY

PUBLIC NOTICE: ENACTMENT OF BY-LAWS.

Members of the public are herewith notified in terms of Chapter 4 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) that the municipality has approved the following By-Laws for application in the jurisdiction area of Umsobomvu Municipality: Aerial Systems; Aerodrome; Community and Fire Safety, Electricity Supply, Commonage, Encroachment on Municipal Property, Fences and Fencing; Fixed Assets; Funeral Parlours, Cemeteries and Crematoria; Heritage Resources and Cultural Institutions; Hiring of Municipal Premises and Amenities; Outdoor Signs; Prevention of Nuisances; Roads and Traffic; Sporting Facilities; Storm-water management; Waste Management; Water and Sanitation Services; Work in a Road Reserve

The enactment, promulgation and application of these By-Laws are mandated in terms of Section 156(2) of the Constitution of the Republic of South Africa, 1996 and in terms of Section 11 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000)

Members of the public are also herewith notified in terms of Section 13(b) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) that the By-Laws takes effect on the date of publication thereof in the Provincial Gazette.

KENNISGEWING 115 VAN 2009

UMSOBOMVU MUNISIPALITEIT

KENNISGEWING: UITVAARDIGING VAN VERORDENINGE

Lede van die publiek word hiermee in terme van Hoofstuk 4 van die Plaaslike Regering: Munisipale Sisteeme Wet, 2000 (Wet 32 van 2000) in kennis gestel dat die munisipaliteit die volgende Verordeninge goedgekeur het vir toepassing in die regsgebied van Umsobomvu Munisipaliteit: Antennestelsels; Lughawe; Gemeenskapsveiligheid en Brandveiligheid; Elektrisiteitsvoorsiening; Oorskryding op Munisipale Eiendom; Heinings en Omheinings; Vaste Bates; Begrafnisondernemings, Begraafplase en Krematoriums; Erfenishulpbronne en Kulturele Instansies; Huring en Verhuring van Munisipale Geboue en Geriewe, Buiteligtekens, Voorkoming van Oorlaste, Paaie en Verkeer; Sportfasiliteite; Stormwaterbestuur; Afvalbestuur; Water en Saniteitsdienste; Werk in 'n Padreserwe en Meent.

Die maak, promulgering en toepassing van die Verordeninge word gemagtig in terme van Artikel 156(2) van die Grondwet van die Republiek van Suid-Afrika, 1996 en Artike 11 van die Plaaslike Regering: Munisipale Sisteeme Wet, 2000 (Wet 32 van 2000).

Lede van die publiek word hiermee in terme van Artikel 13(b) van die Plaaslike Regering: Munisipale Sisteeme Wet, 2000 (Wet 32 van 2000) in kennis gestel dat die Verordeninge in werking tree op die datum waneer dit gepubliseer word in die Provinsiale Koerant.

By-law No. 1, 2009

AERIAL SYSTEMS BY-LAW, 2009

BY-LAW

To provide for the regulation of the erection of aerial systems in the Umsobomvu Municipality; and for matters connected therewith.

BE IT ENACTED by the Umsobomvu Municipality, as follows:-

1. Definitions
 2. Principles and objectives
 3. Application of by-laws
 4. Aerial system not to be installed, erected or used without approval of Council
 5. Restriction on the erection, installation or use of aerial systems
 6. Notification of completion of installation or erection of aerial system
 7. Particulars to be endorsed on certain building plans
 8. Powers of entry and inspection
 9. Authentication and service of notices and other documents
 10. Appeal
 11. Notice of compliance and representations
 12. Costs
 13. Penalties
 14. Repeal of laws and savings
 15. Short title
- Schedules

1. Definitions

In these Regulations, unless the context otherwise indicates –

"aerial system" means a single aerial system or a communal aerial system as defined in the Code or an HF wired distribution system as defined in the Specification, and includes a satellite dish used for the reception of digital data from a satellite;

"**Code**" means the Code of Practice of the South African Bureau of Standards, SABS 061 - 1973, for the Installation of Aerial Systems (Communal and Single) for the Reception of VHF and UHF Sound and Television Broadcast Transmissions (Metric Units);

"**Council**" means the Umsobomvu Municipal Council;

"**occupier**", in relation to any premises, means the person in actual occupation of such premises;

"**owner**", in relation to any premises, means the registered owner of such premises;

"**premises**" means an erf, lot, plot, stand or other similar subdivision of land within a township established or recognized under any law and includes any dwelling-house or other building thereon, however, where any such dwelling-house or building extends over more than one such subdivision, such subdivisions is, for the purpose of these Regulations, deemed to be one subdivision;

"**Specification**" means the Specification of the Central Standardization Committee, CKS 387 - 1973 for Television HF Wired Distribution Systems (Metric Units) published by the South African Bureau of Standards.

2. Principles and objectives

Council, aware of its responsibilities under provincial and national legislation that the aesthetics of the environment must be maintained and that no unnecessary structures be allowed which have a detrimental effect on the environment, and that the safety of all its residents are of utmost importance, in these by-laws regulate the erection, installation, control, use or removal of any aerial system for the reception of sound and television broadcast transmissions and digital data from satellites.

3. Application of by-laws

These by-laws apply to all premises situated in the jurisdiction of the Umsobomvu Municipal Council.

4. Aerial system not to be installed, erected or used without approval of Council

- (1) No owner or occupier may erect, install or use or cause to be erected installed or used any aerial system on any premises without having applied for and obtained the prior written approval of the Council, however, in respect of a single aerial system no approval is necessary where the mast of the aerial system is erected on

- a building on such premises and the mast does not project more than 3 m above the highest point of the building.
- (2) An application for any approval referred to in subsection (1), must be made to the Council in the form as set out in Schedule 1, which schedule refers, and the application must be accompanied by the plans, drawings and other information indicated on the form and by a fee, to be annually fixed in the budget, payable to the Council.
- (3) On receipt of an application in terms of sub-regulation (2), in respect of any premises, the Council may inspect the premises or cause the premises to be inspected, or call for such further information as it may deem necessary or expedient for the purpose of considering the application.
- (4) Council may approve or refuse an application, and must, within seven days after the application form has been lodged, in writing notify the applicant if the application has been approved or refused, and –
- (a) if the application is refused, Council must supply to the applicant the reasons why the application was refused; or
 - (b) if the application is approved, Council must forward a notice of approval and one set of the application form and other documents that were submitted, to the applicant, and must specify in the notice of approval the conditions, as contemplated in subsection (6) to which the erection, installation or use of the aerial system are subject.
- (5) Council must keep a register which is open to public inspection at all reasonable hours and which contains the following particulars in respect of an application that was approved:
- (a) The application which was made to Council for the erection, installation or use hiring of the aerial system;
 - (b) the name and address of the applicant;
 - (c) the date of the application;
 - (d) the decision of Council;
 - (e) the prescribed fee that was paid;
 - (g) the conditions relating to the erection, installation or use of the aerial system; and
 - (h) the safety warranty and information as contemplated in section 6.

- (6) Subject to the provision that no condition may be imposed which would interfere or would be likely to interfere with the reception of sound and television broadcast transmissions, any approval for an aerial system in terms of the provisions of subsection (1) may be given subject to such conditions as the Council may deem fit to impose in respect of:
- (a) The aesthetic appearance of the system;
 - (b) the safety and stability of the system;
 - (c) the strength and stability of the structure on which the system is to be erected or installed; and
 - (d) the means to be adopted to prevent access to the system by unauthorized persons,
- (7) An owner or occupier who contravenes subsection (1) commits an offence.

5. Restriction on the erection, installation or use of aerial systems

- (1) No owner or occupier may erect, install or use or cause to be erected, installed or use –
- (a) on any premises any aerial system which does not comply with the provisions of the Code or the Specification, as the case may be;
 - (b) on any premises more than one aerial system; or
 - (c) an aerial system which serves premises other than those on which the system is erected or installed.
- (2) Subject to the provisions of subsections (3) and (4), no owner or occupier may erect, install or use or cause to be erected, installed or used any aerial system other than a communal aerial system on any premises.
- (3) An owner or occupier may erect, install or use or cause to be erected, installed or used a single aerial system on any premises –
- (a) on which there is a single dwelling-house including any outbuildings appurtenant thereto but excluding any semi-detached dwelling-house; or
 - (b) which have not more than one owner or hirer of a television receiver, and where in respect of the premises there are more owners or hirers of television receivers who are members or servants of the same household, the premises is deemed to have not more than one owner or hirer of a television receiver.

- (4) An owner or occupier may erect, install or use or cause to be erected, installed or used an HF wired distribution system on any premises which have a building thereon which is an hotel or in which provision is made for the accommodation of persons in offices, rooms or other portions of the building which are adequately furnished for the purposes of such accommodation by the person providing the accommodation.
- (5) An owner or occupier who contravenes subsection (1) or subsection (2) commits an offence.

6. Notification of completion of installation or erection of aerial system

- (1) Within 14 days after the completion of the erection or installation of any aerial system on any premises, the person responsible for the erection or installation of the system must by registered post furnish the Council and the owner or occupier referred to in section 4(1) with a safety warranty and such other information as is set out in the form contained in Schedule 2 to these by-laws.
- (2) A person who fails to act in accordance with subsection (1), commits an offence.

7. Particulars to be endorsed on certain building plans

- (1) Subject to subsection (2), any person who intends –
 - (a) to erect a new building on any premises; or
 - (b) to extend the floor area of an existing building on any premises by not less than 40% of the floor area of such existing building,must ensure that adequate provision has been made in the building plans concerned for conduits, junction boxes and such other fittings as are required for the erection or installation of an appropriate aerial system and must endorse such plans or cause such plans to be endorsed accordingly.
- (2) Subsection (1) does not apply to a building which is designed for residential purposes or to a dwelling house.
- (3) A person contemplated in subsection (1) must, during the course of the erection of a new building or the extension of the floor area of an existing building as contemplated in that subsection, install or cause to be installed such conduits, junction boxes and other fittings as are shown on the building plans concerned and which comply with the Standard Regulations for the Wiring of Premises

published by the South African Institute of Electrical Engineers and with the Code or the specification, as the case may be.

8. Powers of entry and inspection

- (1) Any officer of the Council or other person acting on its behalf, authorized thereto in writing by the Council may at all reasonable times enter upon any premises or any portion thereof –
 - (a) on which any aerial system has been erected or installed or is being used; or
 - (b) on which, he or she has reasonable grounds for believing, any aerial system has been erected, installed or is being used, and there carry out any inspection or test which he or she deems necessary or expedient in order to determine whether the following have been complied with:
 - (i) The provisions of these Regulations;
 - (ii) any condition imposed in terms of subsection 4(6); and
 - (iii) the provisions of the Standard Regulations for the Wiring of Premises, published by the South African Institute of Electrical Engineers in regard to the erection, installation or use of such aerial system.
- (2) If it appears to the Council from any inspection or test made in terms of subsection (1) that the provisions of these by-laws or any condition imposed in terms of subsection 4(6) have not been complied with, the Council may act in terms of section 11.
- (3) A person who hinders or obstructs an official in the exercise of his or her functions in terms of subsection (1) commits an offence.

9. Authentication and service of notices and other documents

- (1) A notice or other document requiring authentication by Council must be signed by the Municipal Manager or by a duly authorised officer of Council, such authority being conferred by resolution of Council or by a By-law or regulation, and when issued by Council in terms of these By-laws is deemed to be duly issued if it is signed by an officer authorised by Council.

- (2) Any notice or other document that is served on a person in terms of these By-laws is regarded as having been served –
- (a) when it has been delivered to that person personally;
 - (b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of 16 years;
 - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic, and an acknowledgment of the posting thereof from the postal service is obtained;
 - (d) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided by paragraphs (a), (b) or (c);
 - (e) if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the property or premises, if any, to which it relates;
 - (f) in the event of a body corporate, when it has been delivered at the registered office of the business premises of such body corporate; or
 - (g) when it has been delivered, at the request of that person, to his or her e-mail address.
- (3) Service of a copy is deemed to be service of the original.
- (4) When any notice or other document must be authorised or served on the owner, occupier, or holder of any property, or right in any property, it is sufficient if that person is described in the notice or other document as the owner, occupier, or holder of the property or right in question, and it is not necessary to name that person.
- (5) Any legal process is effectively and sufficiently served on Council when it is delivered to the Municipal Manager, or a person in attendance at the Municipal Manager's office.

10. Appeal

- (1) A person whose rights are affected by a decision of an official may appeal against that decision by giving written notice of the appeal and reasons to the Municipal Manager within 21 days of the date of the notification of the decision.

- (2) The Municipal Manager must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.
- (3) When the appeal is against a decision taken by –
 - (a) a staff member other than the Municipal Manager, the Municipal Manager is the appeal authority;
 - (b) the Municipal Manager, the Speaker is the appeal authority; or
 - (c) a political structure or political officer bearer, or the Council the appeal authority.
- (4) The appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable time

11. Notice of compliance and representations

- (1) Where an owner or occupier fails to comply with a requirement relating to the premises as contemplated in section 4(1), 5(1)(a), 7(1) or (3) or if a condition as contemplated in section 8(2) has not been complied with, the Council may serve a notice of compliance on the owner or occupier, which notice must state –
 - (a) the name and residential or postal address of the owner or occupier;
 - (b) the requirement which has not been complied with;
 - (c) having in detail the measures required to remedy the situation;
 - (d) that the owner or occupier must within a specified period take the measures to comply with the notice and to complete the measures before a specified date; and
 - (e) that the owner or occupier may within 14 days make written representations in the form of a sworn statement or affirmation to the Council at a specified place.
- (2) The Council, when considering any measure or period envisaged in subsection (1)(c) or (d), must have regard to the principles and objectives of these By-laws, the nature of the non-compliance, and other relevant factors.
- (3) Where an owner or occupier does not make representations in terms of subsection (1)(e), and the person fails to take the measures before the date contemplated in subsection (1)(d), he or she commits an offence, and the Council may, irrespective of any fines which may be imposed under section 13, act in terms of subsection (5).

- (4) (a) Representations not lodged within the time contemplated in subsection (1)(e) will not be considered, except where the owner or occupier has shown good cause and the Council condones the late lodging of the representations.
- (b) The Council must consider the timely representations and any response thereto by an authorized official.
- (c) The Council may, on its own volition, conduct any further investigations to verify the facts if necessary, and the results of the investigation must be made available to the owner or occupier who must be given an opportunity of making a further response if he or she so wishes, and the Council must also consider the further response.
- (d) The Council must, after consideration of the representations and any response and further response make an order in writing and serve a copy of it on the owner or occupier, which order must confirm, in whole or in part, alter, or set aside the notice of compliance, and where the notice of compliance is confirmed, in whole or in part, or altered, the Council must inform the owner or occupier that he or she must, within the period specified in the order, discharge the obligations set out in the order and that failure to do so constitutes an offence.
- (e) Where an owner or occupier fails to discharge the obligations contemplated in subsection (4)(d), he or she commits an offence and the Council may, irrespective of any fines which may be imposed under section 13, act in terms of subsection (5).
- (5) The Council may take such measures as it deems necessary to remedy the situation, and the cost thereof must be paid by the person contemplated in section 12 to the Council in accordance with section 12.
- (6) Should a landlord or landlady fail to comply with the compliance notice, the Council may immediately withdraw the permit.

12. Costs

- (1) Should an owner or occupier fail to take the measures required of him or her by a notice of compliance contemplated in section 11, the Council

may, subject to subsection (3) recover, as a debt, all costs incurred as a result of it acting in terms of section 11(5) from that owner, occupier or any person who has or had a right to use the land at the time when the situation came about.

- (2) The costs recovered must be reasonable and may include, without being limited to, costs relating to labour, water, equipment, administrative and overhead costs incurred by the Council under section 11(5).
- (3) If more than one person is liable for costs incurred, the liability must be apportioned as agreed among the persons concerned according to the degree to which each was responsible for the emergency resulting from their respective failures to take the required measures.

13. Penalties

- (1) A person who has committed an offence in terms of these by-laws is, on conviction, liable to a fine or in default of payment, to imprisonment, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment, and in the case of a successive or continuing offence, to a fine for every day such offence continues, or in default of payment thereof, to imprisonment..

14. Repeal of laws and savings

- (1) The By-Laws enacted by Colesberg Transitional Local Council, Noupoort Transitional Local Council and Masizakhe Representative Council with regard to Areal Systems are hereby repealed.
- (2) Any permission obtained, right granted, condition imposed, activity permitted or anything done under a repealed law, shall be 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.

15. Short title

This by-law is known as the Umsobomvu Aerial Systems By-law, and commences on the date of publication thereof in the Provincial Gazette.

SCHEDULE 1.

(FORM TO BE COMPLETED IN DUPLICATE).

1. In terms of the provisions of section 4 of the Aerial Systems By-laws, 2009, I/we the undersigned, in respect of the premises detailed below, hereby apply for approval to erect or install thereon a single aerial system/a communal aerial system/an HF wired distribution system (delete whichever is inapplicable) by
.....

(give full name and address of erector or installer), and to use such system thereon.

2. The description of the premises referred to in paragraph 1 is as follows:

Name of premises
Street No
Street
Erf No in the suburb of

3. Attached to this application are the relevant plans and drawings, including structural details, of the aerial system to be erected and installed.

Furnish the following information:

Material of tile mast

Type of foundation or method of fixing
.....

Method of stabilizing

Material of building on which it is to be erected
.....

Power and signal cables will/will not run in the same conduit, junction box or fitting (delete which-ever is inapplicable).

.....

Signature of applicant.

Name in block letters

Address

.....

Telephone No

Place

Date

SCHEDULE 2

FORM TO BE COMPLETED IN DUPLICATE).

AERIAL SYSTEM SAFETY WARRANTY.

1. In terms of the provisions of section 6 of the Aerial Systems By-laws, 2009, I/we the undersigned hereby certify that the erection and installation of a single aerial system a communal aerial system/an HF wired distribution system (delete whichever is inapplicable) in respect of the premises detailed below, has been completed in accordance with –

- (a) the safety requirements of the Code of Practice of the South African Bureau of Standards SABS 061 - 1973, or the Specification of the Central Standardization Committee CKS 387 -1973, as the case may be;
- (b) the Regulations relating to the erection, installation, control, use or removal of any aerial system for the reception of sound and television broadcast transmissions;
- (c) the conditions imposed by the Council in terms of such Regulations; and
- (d) the Standard Regulations for the Wiring of premises, published by the South African Institute of Electrical Engineers.

2. The description of the premises referred to in paragraph 1 is as follows:

Name of premises

Street number

Street

Erf No In the suburb of

3. Furnish the following information:

Wind loading of the aerial

Number of SABS certificate in the case of an HF wired distribution system
.....

Name of applicant to whom local authority has given approval in terms of
section 4(1)

.....

Signature of person responsible for
erection or installation.

Name in block letters

.....

Capacity of signatory

(If a company, the person authorized to sign on its
behalf).

Address

.....

Telephone No

Place

Date

By-law No. 2, 2009

AERODROME BY-LAW, 2009

BY-LAW

To provide for the control and management of municipal aerodromes and aircraft in the Umsobomvu Municipality and for matters connected therewith.

BE IT ENACTED by the Umsobomvu Municipality, as follows:-

Table of contents

1. Interpretation
2. Purpose of by-laws
3. Regulations in terms of the Aviation Act, applicable
4. Aerodrome hours
5. Arrivals and departure of aircraft
6. Access to landing field
7. Regulation or prohibition of vehicular traffic and pedestrians
8. General Conduct of Persons
9. Removal of damaged or disabled aircraft
10. Supply of fuel to Aircraft.
11. Persons or cargo carried in aircraft arriving from outside Republic
13. Use of buildings and hangars
14. Trading
15. Appeal
16. Penalties
17. Liaison forums in community
18. Repeal of laws and savings
19. Short title and commencement

1. Interpretation

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

"**Air Navigation Regulations**" means the Civil Aviation Regulations, 1997, published under Government Notice R. 1219, dated 26th September, 1997, as amended from time to time, or any regulations by which the same have been duly replaced;

"**aerodrome**" has the meaning assigned to it in the Aviation Act. 1962 (Act 74 of 1962), and in this by-law refers to the Umsobomvu Municipal Aerodrome;

"**Council**" means the Umsobomvu Municipal Council;

"**manager**" means the person for the time being in charge of the aerodrome and includes any other person who is authorised to act on his or her behalf;

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

"**landing field**" means the area comprising the runways and other prepared ways for the passage of aircraft on the ground, aprons and all the land surrounding that area enclosed by a fence;

"**maximum permissible weight**" in relation to an aircraft means its weight as authorised by its certificate of airworthiness;

"**public enclosures**" means demarcated areas within the aerodrome set aside by the Council from time to time for use by members of the public other than persons flying in aircraft, and for the parking of vehicles;

"**runway**" means a defined rectangular area prepared or constructed for the landing and take-off run of aircraft along its length;

"**taxiway**" means a defined path on the aerodrome for the use of taxi-ing aircraft whether such path is constructed or not.

2. Purpose of by-laws

The Council in these by-laws provides for the control of all aerodromes under its control.

3. Regulations of Aviation Act, 1962 applicable

These by-laws must be read with, and the application thereof is subject to the Aviation Act, 1962 (Act 74 of 1962), as amended, and any regulations made there-under, and nothing in these by-laws must be taken as purporting to contradict or derogate from the control of the aerodrome in accordance with the Aviation Act, 1962 Act and regulations.

4. Aerodrome hours

The aerodrome is open for use daily from 7 a.m. until 5 p.m. where no night landing facilities are available.

5. Arrivals and departure of aircraft

- (1) Immediately upon landing at and before taking-off from the aerodrome the pilot of the aircraft concerned must report to the traffic officer on duty and furnish him or her with all information reasonably required by him or her and must, if requested to do so, complete an arrival form or a departure form, as the case may be.
- (2) The pilot and every other person for the time being in charge or control of an aircraft must ensure that adequate precautions have been taken to keep unauthorized persons at a safe distance from all aircraft before any of its engines is started and while any engine is running.
- (3) In the absence of any arrangement to the contrary made with the Manager, in writing, all charges due in respect of all aircraft in terms of the tariff of charges set out in the municipality's Tariff policy, must be paid by or on behalf of its operator before it departs from the aerodrome.
- (4) A person who contravenes subsection (1) or subsection (2) commits an offence.

6. Access to landing field

- (1) No person may enter or be on the landing field except the following:
 - (a) Pilots and crew of aircraft based at or using the aerodrome in the course of their duties connected with the aircraft;

- (b) technical, mechanical and servicing personnel going to or from aircraft in pursuance of their official duties connected therewith;
 - (c) pupil pilots going to or from aircraft for purposes of instruction or practice;
 - (d) members of the aerodrome's ground staff on duty, and other aerodrome officials authorized by the Manager;
 - (e) aircraft passengers, as long as they are passing directly between their aircraft and the public enclosures, or otherwise moving under the directions of the Manager or his staff; and
 - (f) any person not previously specified in this section having express authority from the Manager to enter the landing field.
- (2) A person who enters or is on the landing field in contravention of subsection (1) commits an offence.

7. Regulation or prohibition of vehicular traffic and pedestrians

- (1) Motor cars and other vehicles may, in the absence of any special direction given by the Manager, only be parked in areas designated for that purpose by notices and within any lines which may be marked on the surface of any such area or as directed by the Manager or his or her nominee, however this subsection does not apply to any officer of the Council employed at the aerodrome while acting in the course of his or her official duties.
- (2) The Manager may at any time without previous notice, and either permanently or for such period as he or she may determine, prohibit or restrict in such manner as he or she may deem necessary the admission of persons or vehicles to the aerodrome or any particular part thereof.
- (3) The Manager may, if it is deemed necessary for the proper control of the aerodrome, direct the person in lawful charge of a vehicle which is parked on the aerodrome to move the vehicle –
 - (a) to another place on the aerodrome indicated by the Manager; or
 - (b) from the aerodrome;and if such person refuses or fails or is not present to comply forthwith such direction the Manager or a member of the police may have that vehicle moved to such other place or from the aerodrome and any such action by the Manager or a member of the police does not exempt such person from prosecution in respect of such refusal or failure.
- (4) Motor vehicles may not be driven on the taxiways and runways without special permission from the Manager.
- (5) Pedestrians and persons in vehicles at the aerodrome are subject to the supervision of the Manager and must obey such directions with regard to their movements as he or she considers necessary to give in the interests of safety or the good management of the aerodrome.
- (6) No person under the age of fourteen years, not being an authorized passenger in an aircraft, may enter the aerodrome unless accompanied by and under the supervision of an adult person.
- (7) The Manager has the right to remove from the aerodrome any unaccompanied person under the age of fourteen years, not being an authorized passenger in an aircraft, and to require the removal therefrom

by the adult in charge of him or her of any person under the age of fourteen years whose conduct is, in the opinion of the Manager, prejudicial to the amenities and proper management of the aerodrome.

- (8) A person who contravenes any of the provisions of this section or who fails to comply with a direction given by the manager commits an offence.

8. General Conduct of Persons

(1) No person may, within or on the boundary of the aerodrome –

- (a) place or affix any placard or notice without the written prior consent of the Manager;
- (b) climb any tree, building or other structure;
- (c) uproot or injure any tree or plant or pick any flower;
- (d) light or in any other manner cause a fire, or smoke or bring an open flame into –
 - (i) any place where such act is prohibited by a notice displayed on the direction or with the permission of the Manager; or
 - (ii) any place within 16 m of an aircraft or of any vehicle used for the supply of fuel to an aircraft or a store or dump of liquid fuel or explosives;

- (e) tamper or interfere with any fire hose reel, hydrant or any other item or equipment provided solely for fire-fighting purposes, or in the event of a fire, to interfere with or take part in any rescue or fire-fighting operation, unless he or she has been asked to do so by the official in charge of such operation
 - (f) discharge any firearm or airgun or set off any firework, or use a catapult or to throw any stone or other object;
 - (g) affix or distribute any pamphlet, book, handbill or other printed matter or other article without the written consent of the Manager; or
 - (h) enter any public convenience marked as being reserved for persons of the opposite sex;
 - (i) enter any building or place in disregard of a notice prohibiting such entry;
 - (j) play any musical instrument, operate any sound reproducing device, sing or make any speech without the written consent of the Manager previously obtained;
 - (k) cause any obstruction, disturbance or nuisance or commit any act causing annoyance to other persons using the aerodrome or lawfully present thereat;
 - (l) enter or leave the aerodrome or any part thereof except by means of the entrances or exits marked as being provided for that purpose.
- (2) No engine may be run if the aircraft is in such a position that the resulting airstream blows into or against any building, aircraft or person and unless effective and properly constructed chocks are placed in front of its wheels whether or not they are fitted with brakes.
- (3) No chock, drum, loading step, trestle or other equipment or object capable of causing an obstruction may be left on the landing field except when its presence there is actually and immediately necessary.

- (4) The Manager or his or her representative must stop an aircraft, pilot or passenger from leaving the aerodrome on instructions from –
 - (a) the Department of Transport (Civil Aviation);
 - (b) the Department of Immigration;
 - (c) the Department of Customs and Excise; or
 - (d) the South African Police.
- (5) A person who contravenes a provision of this section commits an offence.

9. Removal of damaged or disabled aircraft

- (1) The operator of any damaged or disabled aircraft must, if directed to do so by the Manager, move such aircraft or any part thereof or any cargo or thing carried therein to another place on the aerodrome indicated by the Manager, or from the aerodrome.
- (2) If the operator of a damaged or disabled aircraft refuses or fails or is not present to comply forthwith with any direction given by the Manager in terms of subsection (1), the Manager may take all steps necessary to ensure that such direction is complied with as expeditiously and safely as possible and may recover from the operator of that aircraft the cost incurred in ensuring compliance with such direction and any such action by the Manager does not exempt such operator from prosecution in respect of such refusal or failure.

10. Supply of fuel to Aircraft.

- (1) No person may on the aerodrome supply fuel to any aircraft except at a place and in a manner approved by the Manager.
- (2) The Manager may make any approval granted by him or her in terms of subsection (1) subject to compliance with such conditions as he or she may consider necessary to impose in order to safeguard persons or property on the aerodrome and he or she may from time to time vary or add to any condition so imposed or withdraw his approval.
- (3) The supply of fuel is, notwithstanding the above, subject to the provisions of the municipality's by-law relating to fire prevention.
- (4) A person who contravenes subsection (1) or who fails to comply with a condition imposed in subsection (2) commits an offence.

11. Persons or cargo carried in aircraft arriving from outside Republic

- (1) No persons may be disembarked or cargo unloaded from aircraft arriving on the aerodrome from any point outside the Republic of South Africa until permission for such disembarkation or unloading has been granted by the Customs, Civil Aviation, South African Police, Immigration or Health Authorities, or, if necessary, by all these authorities.
- (2) A person who allows any person to disembark or unload cargo are cause cargo to be unloaded in contravention of subsection (1) commits an offence.

12. Boarding or tampering with aircraft

- (1) Except with the permission of the person in lawful charge of all aircraft no person may on the aerodrome –
 - (a) board such aircraft; or

- (b) tamper or interfere in any way whatsoever with such aircraft or anything used in connection therewith.
- (2) A person who contravenes subsection (1) commits an offence.

13. Use of buildings and hangars

- (1) The buildings, hangars and other facilities on the aerodrome are under the control of the Council and the use thereof is subject to such conditions as may be imposed by it from time to time.
- (2) A person who uses the buildings, hangars or other facilities in contravention of a condition imposed in terms of subsection (1) commits an offence.

14. Trading

- (1) No person may engage in the sale of refreshments or in the sale or hire of any other commodity or in the rendering for reward or otherwise of any service within the boundary of the aerodrome unless having obtained a written permit to do so given by the municipality under the hand of the Municipal Manager, and no person to whom such a permission has been given may continue to engage in any activity as aforesaid after 30 days unless having obtained and produced to the manager the appropriate trading licence.
- (2) Subsection (1) does not apply to any canteen operated by an employer solely for the benefit of his employees.
- (3) A person who contravenes subsection (1) commits an offence.

15. Appeal

- (1) A person whose rights are affected by a decision of an official may appeal against that decision by giving written notice of the appeal and reasons to the municipal manager within 21 days of the date of the notification of the decision.
- (2) The municipal manager must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.
- (3) When the appeal is against a decision taken by –
 - (a) a staff member other than the Municipal Manager, the Municipal Manager is the appeal authority;
 - (b) the Municipal Manager, the Executive Committee or Executive Mayor is the appeal authority; or
 - (c) a political structure or political officer bearer, or a Councillor Council is the appeal authority.
- (4) The appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable time.

16. Penalties

A person who has committed an offence in terms of these by-laws is, on conviction, liable to a fine, or in default of payment, to imprisonment, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment, and in the case of a successive or continuing offence, to a fine for every day such offence continues, or in default of payment thereof, to imprisonment.

17. Liaison forums in community

- (1) The municipality may establish one or more liaison forums in a community for the purposes of –
 - (a) creating conditions for a local community to participate in the affairs of the municipality;
 - (b) encouraging a local community to participate in the affairs of the municipality; and
 - (c) promoting the achievement of a safe aerodrome environment.
- (2) A liaison forum may consist of –
 - (a) a member or members of an interest group, or an affected person;
 - (b) a member or members of a community in whose immediate area an aerodrome exists
 - (c) a designated official or officials of the municipality; and
 - (d) the councillor responsible for aerodromes.
- (3)
 - (a) The municipality may request the input of a liaison forum.
 - (b) A liaison forum or any person or persons contemplated in subsection (2) may submit an input to the municipality for consideration.

18. Repeal of laws and savings

- (1) The By-Laws enacted by Colesberg Transitional Local Council, Noupoort Transitional Local Council and Masizakhe Representative Council with regard to aerodromes are hereby repealed.
- (2) Any permission obtained, right granted, condition imposed, activity permitted or anything done under a repealed law, shall be 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.

19. Short title and commencement

This By-law is known as the Umsobomvu Aerodrome By-law, 2009 and commences on the date of publication thereof in the Provincial Gazette.

By-law No. 3, 2009

COMMONAGE BY-LAW, 2009

BY-LAW

To provide for the management and regulation of commonages in the Umsobomvu Municipality, and for matters connected therewith.

BE IT ENACTED by the Umsobomvu Municipality, as follows:-

Table of contents

1. Definitions
2. Purpose of by-law
3. Establishment of camps for grazing
4. Closing of camps
5. Approval to graze animals
6. Confinement of stock to camps
7. Numbers and condition of animals
8. Branding of stock
9. Grazing fees
10. Dipping of cattle and infected or contagious animals
11. Carcasses of animals
12. Erection of structures or shelters
13. Draught animals
14. Driving of loose cattle
15. Exemptions
16. Liaison forums in community
17. Authentication and service of notices and other documents
18. Appeal
19. Penalties
20. Revocation of by-laws
21. Short title and commencement

Schedule

1. Definitions

“**brand**” has the meaning assigned to it in the Livestock Brands Act, 1962 (Act 87 of 1962);

“**commonage**” means that part of property owned by or under control of the municipality, which the municipality may set aside for grazing;

“**large stock**” has the meaning assigned to it in the Livestock Brands Act, 1962 (Act 87 of 1962);

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

“prescribed” means prescribed by the municipality;

“small stock” has the meaning assigned to it in the Livestock Brands Act, 1962 (Act 87 of 1962).

2. Purpose of by-law

The purpose of this by-law is to provide for the control and administration of animals accommodated on a commonage established by the municipality.

3. Establishment of camps for grazing

(1) The municipality may reserve and fence off such portion of the commonage as may be deemed desirable, and establish camps for the grazing of the stock of the residents.

(2) The municipality may set apart portions of the commonage for the grazing of small stock and large stock.

(3) The municipality may erect paddocks or enclosures for animals of residents on such part of the commonage as it may deem necessary.

4. Closing of camps

(1) The municipality may, whenever it deems it necessary for a purpose such as, but not limited to, maintenance or allowing a meadow to regenerate grass growth, close and reserve the grazing of a camp on the commonage, during certain periods of the year.

(2) No person may allow his or her animal to graze in a camp which has been closed by the municipality for whatever purpose or reason.

(3) The municipality may impound an animal found in a camp which has been closed in terms of subsection (1).

(4) A person who contravenes subsection (2) commits an offence.

5. Approval to graze animals

(1) No person may keep or depasture any animal in a camp on a commonage without first having obtained approval from the municipality.

(2) A person who wishes to obtain approval, must submit the prescribed form to the municipality which may, after considering the following factors, grant approval:

(a) The total number of animals already accommodated in the camps;

(b) the number of animals, and the kind of animal, which he or she wishes to

have accommodated in a camp;

(d) the condition of the meadows (pastures), and if any further animals can be accommodated; and

(e) any other factor which the municipality deems necessary.

(3) The right of depasturing is personal only and no person is entitled to transfer or cede his or her right to another.

(4) A person who contravenes subsection (1) commits an offence.

6. Confinement of stock to camps

(1) A person depasturing on commonage must confine it to the camp set apart by the municipality.

(2) A person who contravenes subsection (1) commits an offence.

7. Numbers and condition of animals

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

8. Branding of stock

- (1) A person who depastures any stock on the commonage must register with the municipality a distinctive brand for large stock and a distinctive brand for small stock which must be approved by the municipality.
- (2) All stock must bear such registered brand at all times.
- (3) Stock found on the commonage without such distinct brand, may forthwith be impounded by the municipality.
- (4) A person may not register in his or her name stock belonging to another person.
- (5) The municipality may keep a register of all brands registered in terms of subsection (1).
- (6) A person who contravenes the provisions of subsection (1), (2) or (4) commits an offence.

9. Grazing fees

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

10. Infected or contagious animals

- (1) No person may graze, bring or leave any stock suffering from or suspected of being infected with any contagious or infectious disease, on the commonage.
- (2) Any stock found on the commonage suspected of being infected with any contagious or infectious disease must, at the cost of the owner, be inspected by a veterinary surgeon and if he or she finds that the disease is contagious or infectious, he or she may cause such stock to be isolated or destroyed.
- (3) A person who contravenes subsection (1) commits an offence.

11. Carcasses of animals

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

12. Erection of structures or shelters

- (1) No person may, for whatever purpose, erect any structure or shelter of whatever kind on the commonage.
- (2) The municipality may demolish any such structure or shelter, and the municipality may claim the costs of such demolition from the person responsible for the erection of such structure or shelter.
- (3) A person who contravenes subsection (1) commits an offence.

13. Draught animals

- (1) A person who, during a break in a journey and for the purpose of allowing an animal to graze, unharnesses his or her animal, may do so on a site on the town lands set apart for that purpose only.
- (2)
 - (a) A person contemplated in subsection (1) is allowed free grazing and water for his or her draught animal for 36 hours only, reckoned from the time he or she breaks the journey.
 - (b) In addition to the period allowed in paragraph (a), the municipality may, if satisfied on application of the necessity thereof, grant a permit for a further period not exceeding 48 hours to such person upon payment to the Council in advance of the prescribed fee.
 - (c) Upon the expiration of the period allowed under paragraph (a) or of the additional period granted under paragraph (b), an animal of such person found on any part of the town lands may be impounded by an authorised official.
- (3) A person in good faith visiting, travelling through, or bringing produce into the municipal area is allowed to depasture his or her necessary draught animals on a site on town land as contemplated in subsection (1) for a period of not more than 36 hours, and upon the expiration of such period, he or she must obtain from the Council a permit to further so keep his or her animal, and pay to the Council in advance the prescribed fee, and such permit shall in no case be for a longer period than seven days, after the expiration of which the animal of such person found on the town lands may be impounded by an authorised official.
- (4) A person passing through the town lands with an animal contemplated in subsection (3), must keep such animal along and within 30 metres of the edge of a public road, and such animal must be under the care and supervision of a sufficient and competent herdsman.
- (5) Where a person has to acquire a permit as contemplated in subsection 2(b) or (3), he or she must complete and submit the prescribed form and pay the prescribed, and the permit may be granted subject to such conditions as the municipality may found to be necessary under the circumstances.
- (2) The permit serves as proof of payment of any fee.
- (3) A person who supplies false information or who fails to comply with conditions imposed in a permit, commits an offence.
- (5) A person who fails to obtain a permit after the expiry of 36 hours as contemplated in subsection (2)(b) or (3) commits an offence.
- (6) The owner or person who is found guilty of a contravention of this section is, in addition to the fine imposed, responsible for all the costs incurred and damages sustained by the municipality, and such costs and damages may be recovered by the municipality in terms of the Customer Care, Credit Control and Revenue Management By-laws.

14. Driving of loose cattle

- (1) No person may drive or cause to be driven loose cattle within an area bounded as specified in item 1 of the Schedule, which schedule refers, except where cattle are stalled within the area so bounded and required to be driven to and from the grazing grounds.
- (2) A person driving loose cattle to or from the Council's abattoirs must observe the routes set out in item 2 of the Schedule.
- (3) No person may drive or cause or allow to be driven livestock at any time through a street in which the driving of livestock is permitted, unless such stock is accompanied by the following attendants:
 - (a) For the first 20 or portion thereof of large stock: 2 attendants; and
 - (b) for each additional 20 or portion thereof of large stock: 1 attendant;
 - (c) for the first 50 or portion thereof of small stock: 2 attendants; and
 - (d) for each additional 50, or portion thereof of small stock: 1 attendant.
- (4) A person who fails to comply with a provision of this section, commits an offence.

15. Exemptions

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

16. Liaison forums in community

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

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

17. Authentication and service of notices and other documents

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

18. Appeal

- (1) A person whose rights are affected by a decision of an official of the municipality acting in terms of these By-laws may appeal against that decision by giving written notice of the appeal and reasons for the appeal to the Municipal Manager within 21 days of the date of the notification of the decision.
- (2) The appeal authority contemplated in subsection (3) must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.
- (3) When the appeal is against a decision taken by –
- (a) a staff member other than the Municipal Manager, the Municipal Manager is the appeal authority;
 - (b) the Municipal Manager, the Mayor is the appeal authority; or
 - (c) the Mayor, the Council is the appeal authority.
- (4) The appeal authority must commence with an appeal within six weeks of receipt of the notice of appeal and decide the appeal within a reasonable time.

19. Penalties

A person who has committed an offence in terms of these by-laws is, on conviction, and subject to penalties prescribed in any other law, liable to a fine or in default of payment, to imprisonment, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment, and in the case of a successive or continuing offence, to a fine for every day such offence continues, or in default of payment thereof, to imprisonment.

20. Revocation of by-laws

(1) The By-Laws with regard to commonages enacted by Colesberg Transitional Local Council, Noupoort Transitional Local Council and Masizakhe Representative Council are hereby repealed.

(2) Any permission obtained, right granted, condition imposed, activity permitted or anything done under a repealed law, shall be 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.

21. Short title and commencement

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

Schedule
(Section 14(1) and (2))

BOUNDED AREAS (SECTION 14(1)) AND ROUTES (SECTION 14(2))

- | | | | |
|----|----------------------------------|------------------------|--|
| 1. | Bounded Areas
(Section 14(1)) | Town lands | |
| 2. | Routes
(Section 14(2)) | From the R43 into town | Church Street, into
Station Street |
| | | From the R67 | Gravel Street, into
Main Street, into
Station Street |

**NOTE: THE STREETS MENTIONED IN ITEM (2) MERELY SERVE AS
EXAMPLES.**

By-law No. 4, 2009 COMMUNITY AND FIRE SAFETY BY-LAW, 2009

BY-LAW

To provide for the management of Community and Fire Safety in the Umsobomvu Municipality; and for matters connected therewith.

BE IT ENACTED by the Umsobomvu Municipality, as follows:-

TABLE OF CONTENTS

1. Interpretation
2. Principles and objectives

CHAPTER 1: FIRE BRIGADE SERVICE

3. Establishment and organisation of Service
4. Duties and powers of Service
5. False information
6. Wearing of uniform and insignia
7. Special services
8. Fees payable
9. Exemption from payment of fees

CHAPTER 2: GENERAL PROVISIONS RELATING TO FIRE AND FIRE PREVENTION

10. Safety of premises and buildings
11. Prohibited conduct
12. Attendance of fireman

CHAPTER 3: MISCELLANEOUS PROVISIONS

13. Offences and penalties
14. Repeal of laws and savings
15. Short title and commencement
Schedule

1. Interpretation

- In these by-laws, unless the context otherwise indicates –
“**Act**” means the Fire Brigade Services Act, 1987 (Act 99 of 1987);
“**approved**” means approved by the Chief Fire Officer;
“**Chief Fire Officer**” means the person appointed by the Municipality in terms of section 5(1) of the Act and includes a member of the Service to whom a power and authority has been granted in terms of section 19 of the Act;

“emergency situation” means a situation or event which constitutes or may constitute a serious danger to any person or property;

“Municipality” means the Umsobomvu Municipality and includes any political structure, political office bearer, councillor, duly authorized 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;

“occupier” means any person in actual occupation or control of any land, premises, or building, or any portion thereof without regard to the title under which he or she occupies or controls such land, premises, building, or portion thereof;

“owner” in relation to –

- (a) land and premises, means the registered owner of the land or premises, and includes any person receiving the rent or profits of such land or premises from any tenant or occupier thereof, whether on his own account or as the agent for any person entitled thereto or interested therein;
- (b) a sectional title scheme, the body corporate established in terms of the Sectional Titles Act, 1986 (Act 95 of 1986);
- (c) any vehicle it bears its ordinary meaning; and
- (d) a deceased or insolvent estate, includes the executor or trustee respectively;

2. Principles and objectives

As the Municipality has the duty to obviate emergencies in its area of jurisdiction, and as an uncontrolled fire is a hazard which may endanger property and human life, the Municipality, in these By-laws provide for the –

- (a) establishment of a fire brigade service, and matters related thereto;
- (b) prevention of the outbreak or spread of fire;
- (c) protection of persons and property against fire hazard;
- (e) fighting and extinguishing of fires that may constitute a danger to property or human life; and
- (f) rescuing of persons and property from fire.

CHAPTER 1 FIRE BRIGADE SERVICE

3. Establishment and organisation of Service

- (1) The Municipality must –
 - (a) establish a Fire Brigade Service (hereinafter referred to as “the Service”) as contemplated in section 3(1) of the Act;
 - (b) maintain the Service;
 - (b) appoint, as contemplated in section 6(1) of the Act, the members of the Service; and
 - (c) acquire and maintain in proper and workable condition vehicles, equipment, machinery and accessories to fulfil the objects of these By-laws.
- (2) The Service is under the control of the Chief Fire Officer as contemplated in section 5(1) of the Act.
- (3) The Municipality must provide each member of the Service with an identification card which identifies the person as a member of the Service, and a member must at all times while performing a function or exercising

a duty in terms of these By-laws, carry the card on his or her person, and must produce it when so requested by another person.

4. Duties and powers of Service

- (1) Where the Service has been notified of or there is reason to believe that an outbreak of fire or other situation has occurred where the services of the Service are required, the Chief Fire Officer must immediately instruct personnel to proceed immediately, with such appliances as he or she deems necessary, to the place where the fire or other situation is taking place or where he or she has reason to believe that it is taking place.
- (2) In an emergency, the Chief Fire Officer –
 - (a) may take any action as contemplated in sections 8, 9 and 18 of the Act;
 - (b) may assume command of, interfere with, or put a stop to any existing situation or any operation being conducted in respect of a fire by any person not employed in the Service, including the owner or occupier of the premises and his or her employee or agent;
 - (c) must, on arrival at the site of the emergency, assess the situation and must ensure that sufficient personnel and equipment and apparatus are available and used without delay;
 - (d) must request, without delay and if necessary additional assistance, such as apparatus, equipment, and personnel;
 - (e) may exercise control over any fire fighting organisation and any fire appliance whether owned by the Municipality or by any other person as contemplated in section 12 of the Act, and he or she is entitled to make use of any fireman, volunteer and any fire appliance and other apparatus as he or she thinks fit; and
 - (f) must record, during or as immediately after the emergency, all relevant information concerning the emergency, such as the place and time, and must preserve the information.
- (3) The Chief Fire Officer, acting in terms of section 18(1) of the Act, may inspect –
 - (a) the land, premises or building for the purpose of ascertaining whether any condition exists which may cause a fire or emergency situation, or which may increase the danger of, or contribute towards the spread of fire, or the creation of an emergency situation, or jeopardize or obstruct the escape of persons to a place of safety;
 - (b) any fire-alarm, sprinkler system or other fire-fighting or fire-detecting appliance;
 - (c) any manufacturing process involving the danger of fire or explosion;
 - (d) the method of storing of flammable gas, chemicals, oils, explosives, fireworks or a hazardous substance; or
 - (e) any installation making use of the substances referred to in subparagraph (d).
- (4) The Chief Fire Officer, acting in terms of subsection (3), may serve a notice as contemplated in section 18(2) of the Act on the owner or occupier of the land, premises or building for the purpose of lowering the risk of fire or the protection of life and property, where he or she finds in any building or on any premises –

- (a) any flammable, combustible or explosive matter which is so stored or used as to increase the risk of fire or the danger to life or property;
 - (b) any situation, or practise existing which is likely to cause or increase such danger or is likely to interfere with the operation of the service or the escape of persons to a place of safety; or
 - (c) any defective, inferior or insufficient number of fire appliances,
 - (d) any obstruction on or in any fire-escape, staircase, passage, doorway or window;
 - (e) a fire-escape or means of escape which would in the event of a fire be inadequate for the escape to a place of safety of the number of persons likely to be in such building or premises at any time;
 - (f) any other object or condition of a structural nature or otherwise which may increase the risk of fire or the danger to life or property; or
 - (g) that a fire-alarm or other communication system is required.
- (5) (a) The Chief Fire Officer, in the exercising of his or powers, may take a sample of any substance for analysis, which sample must be taken in the presence of the owner or occupier of the premises concerned, and if practicable, another member of the Service.
- (b) A sample taken in terms of paragraph (a) must be divided into two equal parts and sealed in separate but similar containers.
- (c) The following information must be recorded on each container contemplated in paragraph (b):
- (i) The address of the premises from which the sample was taken;
 - (ii) a description of the exact location (on the premises) where the sample was taken;
 - (iii) the name and signatures of the persons who were present when the sample was taken; and
 - (iv) the date and time when the sample was taken.
- (d) The Chief Fire Officer must, for analysis and report, deliver the samples taken in terms of subsection (1) to an institution which is accredited for this purpose by the Municipality.
- (e) Any costs incurred by the Municipality in connection with such analysis and report as contemplated in subsection (d) may be recovered from the owner or occupier of the premises at which the sample was taken if the owner or occupier of the premises is not in compliance with these by-laws regarding the substance concerned.

5. False information

A person who summons the Service while he or she knows there is no reason to do so, is liable to pay the fees contemplated in section 8.

6. Wearing of uniform and insignia

- (1) A member of the Service must at all times while performing a function or exercising a duty in terms of these By-laws wear the prescribed uniform, rank markings and insignia.
- (2) No person other than a member of the Service may wear a uniform of the Service or wear any uniform intended to convey the impression that

he or she is a member of the Service, or in any other manner represent himself or herself to be a member of the Service.

- (3) A person who contravenes subsection (2) commits an offence.

7. Special services

The Service may, in fulfilment of the objects of these By-laws, and with the approval of Municipality, provide on request by a person, a special service, such as the pumping or expelling of liquid or other substance from premises, to the person against payment of the fee as contemplated in section 8, however, should the services of the Service be required to deal with an emergency, the special service may be terminated without notice.

8. Fees payable

- (1) The fees payable as contemplated in section 10 of the Act are as stipulated by the municipality.
- (2) (a) The Chief Fire Officer may assess the whole or portion only of the fees contemplated in subsection (1), but such portion may not be more than ninety per cent lower than the aggregate of the fees which would have been payable in terms of subsection (1), and in assessing the fees or portion thereof, due regard must, amongst other relevant factors, be had to -
- (i) the fact that the amount so assessed must be commensurate with the service rendered;
 - (ii) the manner and place of origin of the fire; and
 - (iii) the loss which may have been caused by the fire to the person liable to pay the fees, if the services of the service had not been rendered.
- (b) Where fees are assessed in terms of paragraph (a) and the person liable to pay such fees is dissatisfied with the assessment, he or she may lodge an appeal in accordance with section 10(3) of the Act.

9. Exemption from payment of fees

Despite the provisions of section 8, no fees are payable where -

- (a) a false alarm has been given in good faith;
- (b) the services were required as a result of civil commotion, riot or natural disaster;
- (c) the services were rendered in the interest of public safety;
- (d) the services were of a purely humanitarian nature or were rendered solely for the saving of life;
- (e) any person, including the State, has entered into an agreement with the Municipality whereby the services of the Service are made available to such person against payment as determined in the agreement.

CHAPTER 2

GENERAL PROVISIONS RELATING TO FIRE AND FIRE PREVENTION

10. Safety of premises and buildings

- (1) An application in respect of the erection of any building, not being a dwelling house, must be accompanied by a fire plan which clearly shows

fire protection measures provided in terms of the provisions of Parts T, V and W of SABS 0400-1990, which provisions apply.

- (2) An application in respect of the erection of a dwelling house must be accompanied by a plan which clearly shows fire protection measures provided in terms of the provisions of Part V of SABS 0400-1990, which provisions apply.
- (3) No owner or occupier of a building may allow soot or any other combustible substance to accumulate in a chimney, flue or duct of the building in quantities or in a manner as to create a danger of fire, and a person who allows this to happen, commits an offence.

11. Prohibited conduct

- (1) No person –
 - (a) may, inside or outside a building, store, cause or permit to be stored, timber, packing cases, forage, straw or other combustible material in such quantities or in such a position or in such manner as to create a danger of fire to any building;
 - (b) who is the owner or occupier of premises, may permit –
 - (i) trees, bushes, weeds, grass or other vegetation to grow on the premises; or
 - (ii) rubbish to accumulate on the premises, in such quantities as to create a danger of fire to any building or any premises;
 - (c) may, without the written permission of the Chief Fire Officer first having been obtained –
 - (i) fill a balloon, toy or other device with flammable gas; or
 - (ii) keep, store, use, display or permit to be kept, stored, used or displayed a balloon, toy or other device filled with flammable gas on or in any land, building or premises to which the public has access or which is used as a club or place of assembly;
 - (d) may make a fire or, cause or permit a fire to be made in a place or in a manner as to endanger any building, premises or property; or
 - (e) may, unless burnt in an approved incinerating device, without the written permission of the Chief Fire Officer first having been obtained, burn rubbish, wood, straw, or other material in the open air or cause or permit it to be burnt.
- (2) The provisions of subsection (1)(c) do not apply to a balloon filled with hydrogen for meteorological or another bona fide scientific or educational purpose, or a gas cylinder, and the provisions of subsection (1)(e) do not apply where food is being prepared in the open air.
- (3) (a) A person who wishes to obtain the permission of the Chief Fire Officer as contemplated in subsection (1)(c) or (e), must complete and submit, 14 days before undertaking the activity, a form similar to the form contained in the Schedule, which schedule refers, to Chief Fire Officer, who may grant or refuse permission.
- (b) Where the Chief Fire Officer grants permission, and subject to paragraph (c), he or she, having regard to the circumstances of the case, may impose such conditions as he or she deems necessary.
- (c) The Chief Fire Officer shall grant permission only after the person contemplated in paragraph (a) has confirmed in writing that he or she understands the contents of section 20 of the Act, which contents

- have been brought to his or her attention by the Chief Fire Officer.
- (4) The Chief Fire Officer may serve a notice as contemplated in section 18(2) of the Act on the person contemplated in subsection (1)(a) or (b) requiring of him or her to take the measures stipulated in the notice.
 - (5) A person who contravenes a provision of section (1)(d) or who, without the permission of the Chief Fire Officer undertakes an activity contemplated in subsection (1)(c) or (e) commits an offence.

12. Attendance of fireman

- (1) If at any meeting or event held at a place of entertainment or recreation 100 or more persons are likely to be present, the person convening such meeting must deliver a notice in writing to the Chief Fire Officer not less than 48 hours before the meeting takes place, stating the time when and premises where the meeting will be held.
- (2) Where the presence of a fireman is necessary on the grounds of safety, the Chief Fire Officer may provide one or more firemen to be in attendance at the premises during the whole or part of the meeting or event.
- (3) The person in control of the meeting or event contemplated in subsection (1) must pay to the Municipality the prescribed fees.
- (4) Subsection (1) does not apply to the showing of films at a licensed cinema.
- (5) A person who contravenes subsection (1) commits an offence.

**CHAPTER 3
MISCELLANEOUS PROVISIONS**

13. Offences and penalties

A person who has committed an offence is, on conviction, liable to a fine or in default of payment, to imprisonment, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment.

14. Repeal of laws and savings

- (1) The By-Laws Municipal Community Fire Safety By-laws enacted by Colesberg Transitional Local Council, Noupoort Transitional Local Council and Masizakhe Representative Council are hereby repealed.
- (2) Any permission obtained, right granted, condition imposed, activity permitted or anything done under a repealed law, shall be 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.

15. Short title and commencement

This By-law is known as the Umsobomvu Municipal Community Fire Safety By-laws, 2009, and commence on the date of publication thereof in the Provincial Gazette.

SCHEDULE
(Section 11(3)(a) and (e))

**APPLICATION: PERMISSION TO RELATING TO BALLOONS, TOYS OR
OTHER DEVICES WITH FLAMMABLE GAS / BURNING OF MATERIALS
IN OPEN AIR**

A. PERSON IN CHARGE / APPLICANT

Surname and first names of person in whose name the permission must be issued

.....

I.D. Number

Address: Postal address:

.....

.....

.....

Residential address:

.....

.....

.....

Telephone number: Business **Residential**

**B. PARTICULARS OF PREMISES ON WHICH ACTIVITY WILL BE
UNDERTAKEN**

Erf No. (if applicable)

Address where the activity will take place

.....

.....

C. NATURE OF ACTIVITY TO BE UNDERTAKEN

**List and describe what your activity will entail (e.g. burning of refuse, filling of
balloon)**

.....

.....

D. DATE OF ACTIVITY

List and describe what your activities will entail (e.g. preparation or packing and processing)

.....
.....
.....

E. PERMISSION GRANTED

SIGNATURE OF OFFICIAL

DATE

Name of inspector

Official designation

F. CONDITIONS

.....
.....

DATE **SIGNATURE OF INSPECTOR**.....

By-law No. 6, 2009

ELECTRICITY SUPPLY BY-LAW, 2009

BY-LAW

To provide for the supply and management of electricity in the Umsobomvu Municipality; and for matters connected therewith.

BE IT ENACTED by the Umsobomvu Municipality, as follows:-

Table of contents

1. Definitions
2. Purpose of by-law

CHAPTER 1: GENERAL CONDITIONS OF SUPPLY

3. Provision of electricity services
4. Customer Care, Credit Control and Revenue Management By-laws apply
5. Processing of requests for supply
6. Wayleaves
7. Statutory Servitude
8. Refusal or failure to give information
9. Electricity tariffs and fees
10. Non-liability of the Municipality
11. Leakage of electricity
12. Failure of supply
13. Protection of Municipality's supply mains
14. Prevention of tampering with service connection or supply mains
15. Temporary supplies
16. Temporary work
17. Load reduction
18. Medium and low voltage switchgear and equipment
19. Substation accommodation
20. Wiring diagram and specification
21. Standby supply
22. Consumer's emergency standby supply equipment
23. Circular letters

CHAPTER 2: RESPONSIBILITIES OF CONSUMERS

24. Consumer to erect and maintain electrical installation
25. Fault in electrical installation
26. Discontinuance of use of supply
27. Change of occupier
28. Service apparatus

CHAPTER 3: SPECIFIC CONDITIONS OF SUPPLY

29. Service connection

30. Metering accommodation

CHAPTER 4: SYSTEMS OF SUPPLY

- 31. Load requirements
- 32. Load limitations
- 33. Interference with other persons' electrical equipment
- 34. Supplies to motors
- 35. Power factor
- 36. Protection

CHAPTER 5: ELECTRICAL CONTRACTORS

- 37. Requirements

CHAPTER 6: MISCELLANEOUS PROVISIONS

- 38. Repairs and costs of work
- 39. Penalties
- 40. Repeal of by-laws
- 41. Short title and commencement

Definitions

1. In this by-law, unless the context otherwise indicates –
 - "**accredited person**" means a person registered in terms of the Regulations as an electrical tester for single phase, an installation electrician or a master installation electrician, as the case may be;
 - "**applicable standard specification**" means the standard specifications as listed in Schedule 1 attached to this by-law;
 - "**consumer**" in relation to premises means –
 - (a) any occupier thereof or any other person with whom the Municipality has contracted to supply or is actually supplying electricity thereat;
 - (b) if such premises are not occupied, any person who has a valid existing agreement with the Municipality for the supply of electricity to such premises; or
 - (c) if there is no such person or occupier, the owner of the premises;
 - "**conventional meter**" means a meter where an account is issued subsequent to the consumption of electricity;
 - "**electrical contractor**" means an electrical contractor as defined in the Regulations;
 - "**electrical installation**" means an electrical installation as defined in the Regulations;
 - "**high voltage**" means the set of nominal voltage levels that are used in power systems for bulk transmission of electricity in the range of $44\text{kV} < U_n \leq 220\text{ kV}$. [SABS 1019];
 - "**low voltage**" means the set of nominal voltage levels that are used for the distribution of electricity and whose upper limit is generally accepted to be an AC. voltage of 1000V (or a DC. voltage of 1500 V). [SABS 1019]
 - "**medium voltage**" means the set of nominal voltage levels that lie above low voltage and below high voltage in the range of $1\text{ kV} < U_n \leq 44\text{ kV}$. [SABS 1019]
 - "**meter**" means a device which records the demand and/or the electrical energy consumed and includes conventional and prepayment meters;
 - "**motor rating**" means the maximum continuous kW output of a motor as stated on the maker's rating plate;
 - "**municipality**" means the Municipality of Umsobomvu, and includes any political structure, political office bearer, municipality or, duly authorised agent thereof or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, municipality or, agent or employee;
 - "**occupier**" in relation to any premises means –

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

"owner" in relation to premises means the person in whom is vested the legal title thereto, provided that –

- (a) in the case of immovable property –

- (i) leased for a period of not less than 50 years, whether the lease is registered or not, the lessee thereof, or

- (ii) beneficially occupied under a servitude or right analogous thereto, the occupier thereof;

- (b) if the owner as hereinbefore defined –

- (aa) is deceased or insolvent, has assigned his estate for the benefit of his creditors, has been placed under curatorship by order of court or is a company being wound up or under judicial management, the person in whom the administration of such property is vested as executor, administrator, trustee, assignee, curator, liquidator or judicial manager, as the case may be, or

- (bb) is absent from the Republic of South Africa, or if his address is unknown to the municipality, any person who as agent or otherwise receives or is entitled to receive the rent in respect of such property, and

- (cc) if the municipality is unable to determine who such person is, the person who is entitled to the beneficial use of such property, shall be deemed to be the owner thereof to the exclusion of the person in whom is vested the legal title thereto;

"point of consumption" means a point of consumption as defined in the Regulations;

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

"point of supply" means the point determined by municipality at which electricity is supplied to any premises by the municipality;

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

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

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

"safety standard" means the Code of Practice for the Wiring of Premises SABS 0142 incorporated in the Regulations;

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

"service protective device" : means any fuse or circuit breaker installed for the purpose of protecting the municipality's equipment from overloads or faults occurring on the installation or on the internal service connection;

"standby supply" means an alternative electricity supply not normally used by the consumer;

"supply mains" means any part of the municipality's electricity network;

"tariff" means the municipality's tariff of charges for the supply of electricity, and

"voltage" means the root-mean-square value of electrical potential between two conductors,
and all other terms used in this by-law have, unless the context otherwise requires, the meaning assigned thereto in the Electricity Act, 1987 (Act 41 of 1987), as amended, or the Occupational Health and Safety Act, 1993 (Act 85 of 1993), as amended.

2. Purpose of by-law

This by-law has as aim the supply of electricity to the residents within the area of jurisdiction of the municipality, and to provide for procedures, methods and practices to regulate such provision of electricity.

CHAPTER 1: GENERAL CONDITIONS OF SUPPLY

3. Provision of electricity services

Only the municipality may supply or contract for the supply of electricity within its area of jurisdiction with the exception of those areas where electricity is supplied by Eskom.

4. Customer Care, Credit Control and Revenue Management By-laws apply

The provisions of the municipality's Customer Care and Revenue Management By-laws apply to all matters relating to and incidental to –

- (a) the application for and supply of municipal services;
- (b) municipal service agreements;
- (c) the payment and non-payment of a municipal accounts;
- (d) the limitation and termination of electricity services;
- (e) deposits;
- (f) fixed charges for electrical services;
- (g) prescribed tariffs and charges for electrical services;
- (h) payment for electrical services;
- (i) queries or complaints in respect of accounts;
- (j) appeals against findings in respect of queries or complaints;
- (k) arrears;
- (l) agreements for the payments of arrears in instalments.

5. Processing of requests for supply

Subject to section 4, applications for the supply of electricity will be processed and the supply made available within the periods stipulated in NRS 047.

6. Wayleaves

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

borne by the consumer to whose premises the supply of electricity is required to be continued.

7. Statutory Servitude

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

8. Refusal or failure to give information

- (1) No person may refuse or fail to give such information as may be reasonably required of him or her by the municipality or render any false information to the municipality regarding any electrical installation work completed or contemplated.
- (2) A person who contravenes the provisions of subsection (1) commits an offence.

9. Electricity tariffs and fees

Copies of charges and fees may be obtained free of charge at the offices of the municipality.

10. Non-liability of the Municipality

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

11. Leakage of electricity

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

12. Failure of supply

- (1) The municipality does not undertake to attend to a failure of supply of

electricity due to a fault in the electrical installation of the consumer, except when such failure is due to the operation of the service protective device of the municipality.

- (2) When any failure of supply of electricity is found to be due to a fault in the electrical installation of the consumer or to the faulty operation of apparatus used in connection therewith, the municipality has the right to charge the consumer the fee as prescribed by the municipality for each restoration of the supply of electricity in addition to the cost of making good or repairing any damage which may have been done to the service main and meter by such fault or faulty operation as aforesaid.

13. Protection of Municipality's supply mains

- (1) No person may, except with the consent of the municipality and subject to such conditions as may be imposed –
- (a) construct, erect or lay, or permit the construction, erection or laying of any building, structure or other object, or plant trees or vegetation over or in such a position or in such a manner as to interfere with or endanger the supply mains;
 - (b) excavate, open up or remove the ground above, next to, under or near any part of the supply mains;
 - (c) damage, endanger, remove or destroy, or do any act likely to damage, endanger or destroy any part of the supply mains;
 - (d) make any unauthorized connection to any part of the supply mains or divert or cause to be diverted any electricity there from, and any such unauthorised connection or diversion shall be removed by the municipality and the costs thereof be recovered from the owner or occupier of the premises on which the unauthorised connection was made or from which electricity was diverted.
- (2) The owner or occupier must limit the height of trees or length of projecting branches in the proximity of overhead lines or provide a means of protection which will adequately prevent the tree from interfering with the conductors should the tree or branch fall or be cut down, and should the owner fail to observe this provision the municipality has the right, after prior written notification, or at any time in an emergency, to cut or trim the trees or other vegetation in such a manner as to comply with this provision and is entitled to enter the property for this purpose and to recover the costs for work done from the owner.
- (3) The municipality may, subject to written notice of at least 14 days, demolish, alter or otherwise deal with any building, structure or other object constructed, erected or laid in contravention with this by-law.
- (4) The municipality may in the case of a power failure, emergency or disaster remove anything damaging, obstructing or endangering or likely to damage, obstruct, endanger or destroy any part of the electrical distribution system.
- (5) A person who contravenes a provision of subsection (1) or (2) commits an offence.

14. Prevention of tampering with service connection or supply mains

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

15. Temporary supplies

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

16. Temporary work

- (1) Electrical installations requiring a temporary supply of electricity may not be connected directly or indirectly to the supply mains except with the special permission in writing of the municipality, and full information as to the reasons for and nature of such temporary work must accompany the application for the aforesaid permission, and the municipality may refuse such permission or may grant the same upon such terms and conditions as it may appear desirable and necessary.
- (2) A person who contravenes subsection (1) commits an offence.

17. Load reduction

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

18. Medium and low voltage switchgear and equipment

- (1) In cases where a supply of electricity is given at either medium or low voltage, the supply and installation of the switchgear, cables and equipment forming part of the service connection must, unless otherwise approved by the municipality, be paid for by the consumer.
- (2) In the case of a medium voltage supply of electricity, all such equipment must be approved and installed by the municipality.
- (3) No person may operate medium voltage switchgear without the written authority of the municipality.
- (4) All earthing and testing of medium voltage equipment linked to the municipality's network must be conducted by or under the supervision of municipality
- (5) In the case of a low voltage supply of electricity, the consumer must provide and install a low voltage main switch or any other equipment required by the municipality.
- (6) A person who contravenes subsection (2), (3), (4) or (5) commits an offence.

19. Substation accommodation

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

20. Wiring diagram and specification

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

21. Standby supply

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

22. Consumer's emergency standby supply equipment

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

- (3) A person who contravenes a provision of subsection (1) commits an offence.

23. Circular letters

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

CHAPTER 2: RESPONSIBILITIES OF CONSUMERS

24. Consumer to erect and maintain electrical installation

- (1) Any electrical installation connected or to be connected to the supply mains, and any additions or alterations thereto which may be made from time to time, must be provided and erected and maintained and kept in good order by the consumer at his or her own expense and in accordance with this by-law and the Regulations.
- (2) A person who contravenes subsection (1) commits an offence.

25. Fault in electrical installation

- (1) If any fault, which constitutes a hazard to persons, livestock or property, develops in the electrical installation, the consumer must immediately –
- (a) disconnect the electricity supply;
 - (b) give notice thereof to the Municipality; and
 - (c) take steps to remedy the fault.
- (2) The Municipality may require the consumer to reimburse it for any expense to which it may be put in connection with a fault in the electrical installation.
- (3) A person who contravenes a provision of subsection (1) commits an offence.

26. Discontinuance of use of supply

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

27. Change of occupier

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

28. Service apparatus

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

CHAPTER 3: SPECIFIC CONDITIONS OF SUPPLY

29. Service connection

- (1) The consumer must bear the cost of the service connection, as approved by the municipality.
- (2) Notwithstanding the fact that the consumer bears the cost of the service connection, ownership of the service connection, laid or erected by the municipality, vests in the municipality, and the municipality is responsible for the maintenance of such service connection up to the point of supply.
- (3) The consumer is not entitled to any compensation from the municipality in respect of such service connection.
- (4) The work to be carried out by the municipality at the cost of the consumer for a service connection to the consumer's premises, shall be determined by the municipality.
- (5) A service connection must be laid underground, whether the supply mains are laid underground or erected overhead, unless an overhead service connection is specifically required by the municipality.
- (6) The consumer must provide, fix or maintain on his or her premises such ducts, wire ways, trenches and fastenings as may be required by the municipality for the installation of the service connection.
- (7) The conductor used for the service connection must have a cross-sectional area according to the size of the electrical supply but may not be less than 10 mm² (copper or copper equivalent), and all conductors must have the same cross-sectional area, unless otherwise approved by the municipality.
- (8)
 - (a) Unless otherwise approved, the municipality provides only one service connection to each registered erf.
 - (b) In respect of two or more premises belonging to one owner and situated on adjacent erven, a single bulk supply of electricity may be made available provided the erven are consolidated or notarial tied.
- (9) Any covers of a wire way carrying the supply circuit from the point of supply to the metering equipment must be made to accept the seals of the municipality.
- (10) Within the meter box, the service conductor or cable, as the case may be, must terminate in an unobscured position and the conductors must be visible throughout their length when cover plates, if present, are removed.
- (11)
 - (a) In the case of blocks of buildings occupied by a number of individual consumers, separate wire ways and conductors or cables must be laid

from the common metering room or rooms to each individual consumer in the blocks of buildings.

- (b) Alternatively, if trunking is used, the conductors of the individual circuits must be clearly identified (tied together every 1,5m) throughout their length.

30. Metering accommodation

- (1) (a) The consumer must, if required by the municipality, provide accommodation in an approved position, to the meter board and adequate conductors for the municipality's metering equipment, service apparatus and protective devices.
- (b) Such accommodation and protection must be provided and maintained at the cost of the consumer or the owner, as the circumstances may demand, and must be situated, in the case of conventional meters, at a point to which free and unrestricted access shall be had at all reasonable hours for the reading of meters, but at all times for purposes connected with the operation and maintenance of the service equipment.
- (c) Access at all reasonable hours shall be afforded for the inspection of prepayment meters.
- (2) Where sub-metering equipment is installed, accommodation separate from the municipality's metering equipment must be provided.
- (3) The consumer or, in the case of a common meter position, the owner of the premises must provide adequate electric lighting in the space set aside for accommodating the metering equipment and service apparatus.
- (4) Where the position of the meter, service connection, protective devices or main distribution board is no longer readily accessible or becomes a course of danger to life or property or in any way becomes unsuitable, the consumer must remove it to a new position, and the cost of such removal, which must be carried out with reasonable dispatch, must be borne by the consumer.
- (5) The accommodation for the municipality's metering equipment and protective devices may, if approved, include the consumer's main switch and main protective devices, and no apparatus other than that used in connection with the supply of electricity and use of electricity may be installed or stored in such accommodation unless approved.

CHAPTER 4: SYSTEMS OF SUPPLY

31. Load requirements

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

32. Load limitations

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

33. Interference with other persons' electrical equipment

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

34. Supplies to motors

Unless otherwise approved by the Municipality, the rating of motors is limited as follows:

- (1) Limited size for low voltage motors:
 The rating of a low voltage single-phase motor is limited to 2kW, and the starting current may not exceed 70A, and a motor exceeding these limits must be wound for three phases at low voltage or such higher voltage as may be required.
- (2) Maximum starting and accelerating currents of three-phase alternating current motors. The starting current of three-phase low voltage motors permitted must be related to the capacity of the consumer's service connection, as follows:

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

- (3) Consumers supplied at medium voltage:
 In an installation supplied at medium voltage, the starting current of a low voltage motor is limited to 1,5 times the rated full-load current of the transformer supplying such a motor, and the starting arrangement for a medium voltage motor is subject to the approval of the municipality.

35. Power factor

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

36. Protection

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

CHAPTER 5: ELECTRICAL CONTRACTORS**37. Requirements**

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

- (a) Where an application for a new or increased supply of electricity has been made to the municipality, the municipality may at its discretion accept notification of the completion of any part of an electrical installation, the circuit arrangements of which permit the electrical installation to be divided up into well-defined separate portions, and such part of the electrical installation may, at the discretion of the municipality, be inspected, tested and connected to the supply mains as though it were a complete installation;
- (b) the examination, test and inspection that may be carried out at the discretion of the municipality in no way relieves the electrical contractor or accredited person or the user or lessor, as the case may be, from his or her responsibility for any defect in the installation, and such examination, test and inspection shall not be taken under any circumstances (even where the electrical installation has been connected to the supply mains) as indicating or guaranteeing in any way that the electrical installation has been carried out efficiently with the most suitable materials for the purpose or that it is in accordance with this by-law or the safety standard, and the municipality shall not be held responsible for any defect or fault in such electrical installation; and
- (c) the municipality shall not be held responsible for the work done by the electrical contractor or accredited person on a consumer's premises and is not in any way responsible for any loss or damage which may be occasioned by fire or by any accident arising from the state of the wiring on the premises.

CHAPTER 6: MISCELLANEOUS PROVISIONS**38. Repairs and costs of work**

- (1) The municipality may repair and make good any damage done in contravention of this by-law or resulting from a contravention of this by-law, and the cost of any such work carried out by the municipality which was necessary due to the contravention of this by-law, is to the account of the person who acted in contravention of this by-law.
- (2) Should a person fail to comply with a requirement made by the municipality in terms of this by-law, the municipality may undertake such work as required and the cost of any such work carried out by the municipality is to the account of the person who failed to comply.

39. Penalties

A person who has committed an offence in terms of this by-law is upon conviction be liable to –

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

40. Repeal of by-laws

The By-Laws enacted by Colesberg Transitional Local Council, Noupoort Local Council and Masizakhe Transitional Representative Council with regard to electricity are hereby repealed.

41. Short title and commencement

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

SCHEDULE 1
Applicable standard specification
(Section 1)

SABS 1607 Electromechanical watt-hour meters;
SABS 1524 Parts 0,1 & 2 - Electricity dispensing systems;
SABS IEC 60211 Maximum demand indicators, Class1.0;
SABS IEC 60521 Alternating current electromechanical watt-hour meter (Classes 0.5, 1 & 2);
SABS 0142 Code of practice for the wiring of premises;
NRS 047 National Rationalised Specification for the Electricity Supply - Quality of Service;
NRS 048 National Rationalised Specification for the Electricity Supply - Quality of Supply; and
NRS 057 Electricity Metering: Minimum Requirements.

By-law No. 7, 2009 **ENCROACHMENT ON MUNICIPAL PROPERTY
BY-LAW, 2009**

BY-LAW

**To provide for the establishment and management of cemeteries in the
Umsobomvu Municipality; and for matters connected therewith.**

BE IT ENACTED by the Umsobomvu Municipality, as follows:-

TABLE OF CONTENTS

1. Interpretation
 2. Principles and objectives
 3. Application of by-laws
 4. Permit and application
 5. Tenant at will
 6. Prescribed fee
 7. Maintenance of encroachment
 8. Demolition order
 9. Notice of compliance and representations
 10. Costs
 11. Authentication and service of notices and other documents
 12. Appeal
 13. Penalties
 14. Saving and transitional provisions
 15. Repeal of by-laws
 16. Short title and commencement
- Schedules

1. Interpretation

In these By-laws, unless the context otherwise indicates –

“**Council**” means the Umsobomvu Municipal Council;

“**encroachment**” means a physical object which intrudes on municipal property;

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

“**municipal property**” means property which the municipality has control over, or property in respect of which a servitude or other property right has been registered in favour of the municipality;

“**prescribed fee**” means a fee determined by the municipality by resolution in terms of section 6;

“**public road**” means any road, public street, cycle path, thoroughfare or any other place, and includes –

- (a) the verge of any such public road;
- (b) any footpath, sidewalk or similar pedestrian portion of a road reserve;
- (c) any bridge, ferry or drift traversed by any such public road;
- (d) any other object belonging to such public road, which has at any time been -
 - (i) dedicated to the public;
 - (ii) used without interruption by the public for a period of at least thirty years;
 - (iii) declared or rendered such by the Municipality or other competent authority; or
 - (iv) constructed by a local authority;
- (e) any land, with or without buildings or structures thereon, which is shown as a public road on -
 - (aa) any plan of subdivision or diagram approved by the Municipality or other competent authority and acted upon; or
 - (bb) any general plan as defined in the Land Survey Act, 1997 (Act 8 of 1997), registered or filed in a deeds registry or Surveyor General's office, unless such land is on such plan or diagram described as a private public road; and any word or expression that has been defined in the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977), has that meaning.

2. Principles and objectives

The Council, aware of its duty to safeguard safety of all person within the area under jurisdiction or control of the Council, and being obliged, by the laws of the country, to create and maintain a aesthetically pleasing and safe environment, adopts these by-laws with the aim of regulating an controlling encroachments on municipal property.

3. Application of by-laws

These by-laws apply to a person who intrudes, or intends to intrude on municipal property by means of an encroachment in a manner specified in these By-laws.

4. Permit and application

- (1) Subject to subsections (4) and (5), no person may, without a permit issued by the municipality -
 - (a) construct, erect or allow a projection, structure or thing such as, but not limited to -
 - (i) a building;
 - (ii) a platform;
 - (iii) a step;
 - (iv) a ramp;
 - (v) a balcony;
 - (vi) a veranda;
 - (vii) a sign;
 - (viii) a colonnade;
 - (ix) a bay window;
 - (x) a pavement light;

- (xi) a showcase;
 - (xii) a cat-crane or lifting crane;
 - (xiii) a window on a ground storey level, if the window opens over a public place and the window is at any point lower than 2,3 m measured vertically from the surface of the level of the public place;
 - (xiv) a gate or door which open outwards thus projecting over or across a portion of a public place;
- (b) alter an existing building or structure; or
 - (c) allow a branch of a plant such as, but not limited to a tree or shrub, growing on his or her premises, so as to encroach, hang over, suspend or intrude in whatever manner, from his or her premises on, into, over, or under municipal property, such as, but not limited to encroachment beyond the public road line into a public place or over a part of a public road or pavement opening in or under a public road, and a permit issued by the municipality includes approval by the municipality of the design, arrangement and construction of an encroachment over a public road, as well as the paving, kerb and gutter thereof, and should a person fail to obtain a permit, the municipality may issue a demolition order, as contemplated in section 8, on the person.
- (2) A person who wishes to obtain a permit must submit to the municipality for consideration a completed form similar to the form contained in Schedule 1, which schedule refers, and the municipality may require, for its consideration, drawings, plans or other information as it may deem fit.
 - (3) The municipality may refuse to grant a permit, or may grant a permit, similar to the permit in Schedule 4, which schedule refers, and should the municipality grant a permit it may do so unconditionally, subject to the provisions of subsection (4), or upon such conditions as the municipality may deem fit, and subject to the payment of the prescribed fee, as contemplated in section 6, for each encroachment.
 - (4) In the instance where the municipality grants a permit contemplated in subsection (3), a particular encroachment must comply with the requirements set out in Schedule 5, which schedule refers.
 - (5) The municipality may, instead of issuing a permit or demolition order as contemplated in subsection (1), require the owner of the premises contemplated in subsection (1) to enter into a lease with the municipality over the portion of the municipal property into which the encroachment encroaches.
 - (6) A permit is not required in the instances where –
 - (a) an owner has alienated to the municipality an area reserved for road purposes in terms of a scheme and has retained a right to project a portion of a building under or over such area; and
 - (c) a flagpole is erected and used for the sole display of the national flag of a country on a building that is wholly or partly occupied by the consulate or embassy of that country.

5. Tenant at will

- (1) The owner of and the person who has erected or constructed an encroachment on, into, under or over municipal property is a tenant at will in respect of the encroachment.
- (2) The owner of the building in connection with which any encroachment exists must allow the municipality to erect on, or attach to the encroachment anything required in connection with electrical or other services.
- (3) Where an encroachment has been erected or constructed in front of a building which adjoins a footway or building, the owner must at his or her expense, and in accordance with the provisions set out in Schedule 6, which schedule refers –
 - (a) pave the footway or pavement under the encroachment or in front of the building for the full width of the footway or pavement; and
 - (b) lay the public road kerbing and guttering in front of the building for the full width of the footway or pavement.

6. Prescribed fee

- (1) The prescribed fee contemplated in section 4(3), as determined by the municipality, is payable in advance at the beginning of each year which is calculated from date of approval or the period determined by the municipality, and the owner of the encroachment is liable for the payment of the prescribed fee as specified in Schedule 3, which schedule refers.
- (2) Where a person –
 - (a) requires a special service from the municipality;
 - (b) requests the municipality to attend at a building to give advice as to the effect of these By-laws on proposals put forward by architects, builders or owners; or
 - (c) has been ordered by the municipality to have the municipality attend at a building to give advice as to the effect of these By-laws on proposals put forward by architects, builders or owners, he or she must pay the prescribed fee before such special service is rendered or before the municipality attends at a building
- (3) The municipality, in determining the fee to be prescribed, may distinguish and differentiate between type and dimensions of encroachments and the nature of the municipal property.

7. Maintenance of encroachment

The owner of an encroachment must maintain the encroachment in proper repair and outward appearance, and where an encroachment is not being maintained in such state, the municipality may act in terms of section 9.

8. Demolition order

- (1) A person on whom a demolition order as been served in terms of section 4(1) or 14, must demolish so much of the encroachment as is encroaching in, into, under, over or on municipal property, and remove the materials and restore the surface of the municipal property to its former condition.

- (2) The municipality may dispose of the whole or any part of the materials from any building, whether wholly or partly removed or demolished, by public auction or public tender.
- (3) The Municipality may deduct from the proceeds of any materials so disposed of the costs of any such pulling down, removal or demolition and the costs incurred in so disposing of the said materials and the surcharge thereon and shall thereafter pay any balance to the owner of the building removed or demolished.
- (4) The exercise of any powers set forth in subsection (2) and (3) shall not prejudice or diminish the rights of the Municipality to recover in terms of other provisions of this Code.

9. Notice of compliance and representations

- (1) Where a person fails to comply with the provisions of section 7, the municipality may serve a notice of compliance on the person, which notice must state –
 - (a) the name and residential or postal address of the affected person;
 - (b) the measures required to restore the encroachment the state contemplated in section 7;
 - (c) that the person must within a specified period take the measures to comply with the notice and to complete the measures before a specified date; and
 - (d) that the person may within 14 days make written representations in the form of a sworn statement or affirmation to the municipality at a specified place.
- (2) The municipality, when considering any measure or period envisaged in subsection (1)(b) or (c), must have regard to the principles and objectives of these By-laws, the nature of the non-compliance, and other relevant factors.
- (3) Where a person does not make representations in terms of subsection (1)(d), and the person fails to take the measures before the date contemplated in subsection (1)(c), he or she commits an offence, and the municipality may, irrespective of any fines which may be imposed under section 13, act in terms of subsection (5).
- (4)
 - (a) Representations not lodged within the time contemplated in subsection (1)(d) will not be considered, except where the person has shown good cause and the municipality condones the late lodging of the representations.
 - (b) The municipality must consider the timely representations and any response thereto by an authorized official.
 - (c) The municipality may, on its own volition, conduct any further investigations to verify the facts if necessary, and the results of the investigation must be made available to the permit holder, who must be given an opportunity of making a further response if he or she so wishes, and the municipality must also consider the further response.
 - (d) The municipality must, after consideration of the representations and any response and further response make an order in writing and serve a copy of it on the person, which order must confirm, in whole or in part, alter, or set aside the notice of compliance, and where the notice of compliance is

confirmed, in whole or in part, or altered, the municipality must inform the person that he or she must, within the period specified in the order, discharge the obligations set out in the order and that failure to do so constitutes an offence.

- (e) Where a person fails to discharge the obligations contemplated in subsection (4)(d), he or she commits an offence and the municipality may, irrespective of any fines which may be imposed under section 13, act in terms of subsection (5).
- (5) The municipality may take such measures as it deems necessary to remedy the situation, and the cost thereof must be paid to the municipality in accordance with section 10.

10. Costs

- (1) Should a person fail to take the measures required of him or her by a notice of compliance contemplated in section 9, the municipality may, subject to subsection (3) recover, as a debt, all costs incurred as a result of it acting in terms of section 9(5) from that person and any or all of the following persons:
 - (a) the owner of the land, building or premises; or
 - (b) the person or occupier in control of the land, building or premises or any person who has or had a right to use the land at the time when the situation came about.
- (2) The costs recovered must be reasonable and may include, without being limited to, costs relating to labour, water, equipment, administrative and overhead costs incurred by the municipality under section 9(5).
- (3) If more than one person is liable for costs incurred, the liability must be apportioned as agreed among the persons concerned according to the degree to which each was responsible for the emergency resulting from their respective failures to take the required measures.
- (4) The owner of the building in connection with which any encroachment exists must defray any cost incurred in connection with wires or property of the municipality.

11. Authentication and service of notices and other documents

- (1) A notice issued by the municipality in terms of these By-laws is deemed to be duly issued if it is signed by an officer authorised by the municipality.
- (2) Any notice or other document that is served on a person in terms of these By-laws is regarded as having been duly served –
 - (a) when it has been delivered to that person personally;
 - (b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of 16 years;
 - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic, and an acknowledgment of the posting thereof from the postal service is obtained;
 - (d) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided by paragraphs (a), (b) or (c);
 - (e) if that person's address and agent or representative in

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

12. Appeal

- (1) A person whose rights are affected by a decision of an official of the municipality acting in terms of these By-laws may appeal against that decision by giving written notice of the appeal and reasons to the municipal manager within 21 days of the date of the notification of the decision.
- (2) The appeal authority contemplated in subsection (3) must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.
- (3) When the appeal is against a decision taken by –
 - (a) a staff member other than the Municipal Manager, the Municipal Manager is the appeal authority;
 - (b) the Municipal Manager, the Executive Mayor is the appeal authority; or
 - (c) a political structure or political officer bearer, or a Councillor the Council is the appeal authority.
- (4) The appeal authority must commence with an appeal within six weeks of receipt of the notice of appeal and decide the appeal within a reasonable time.

13. Penalties

A person who has committed an offence in terms of these By-laws is, on conviction, and subject to penalties prescribed in any other law, liable to a fine or in default of payment, to imprisonment, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment, and in the case of a successive or continuing offence, to a fine for every day such offence continues, or in default of payment thereof, to imprisonment.

14. Saving and transitional provisions

The owner of an encroachment in existence at the date of commencement of these By-laws and for which the municipality has not previously issued a permit must, within three months after the date of commencement of these By-laws, notify the municipality and for this purpose must complete and submit to the municipality a form similar to the form in Schedule 2 which schedule refers, of

the existence of the encroachment and must provide the particulars of the encroachment as specified in the form, and should the owner fail to comply with the provisions of this section, the municipality may issue a demolition order as contemplated in section 8.

15. Repeal of by-laws

- (1) The By-Laws with regard to encroachment enacted by Colesberg Transitional Local Council, Noupoot Transitional Local Council and Masizakhe Representative Council are hereby repealed.
- (2) Any permission obtained, right granted, condition imposed, activity permitted or anything done under a repealed law, shall be 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.

16. Short title and commencement

This By-law is known as the Umsobomvu Encroachment on Municipal Property By-laws, 2009, and commence on the date of publication thereof in the Provincial Gazette.

SCHEDULE 1
(Section 4(2))

APPLICATION FOR PERMIT

A. PERSONAL PARTICULARS

Name:

Address:

Telephone number:

B. ENCROACHMENT PARTICULARS

Address of premises from which encroachment encroaches:
.....

Municipal property on, into, over or under which encroachment encroaches:
.....

Dimensions of encroachment (specify* size, height, width, length, etc.):
.....

Reasons why encroachment is necessary:
.....

* The horizontal dimension of the encroachment must be measured parallel to
the road boundary on or over which the encroachment exists

Signature applicant:

Date:

**SCHEDULE 2
(Section 14)**

NOTICE OF EXISTENCE OF ENCROACHMENT

A. PERSONAL PARTICULARS

Name:

Address:

Telephone number:

B. ENCROACHMENT PARTICULARS

Address of premises from which encroachment encroaches:
.....

Municipal property on, into, over or under which encroachment encroaches:
.....

Dimensions of encroachment (specify* size, height, width, length, etc.):
.....

Reasons for existence of encroachment:
.....

* The horizontal dimension of the encroachment must be measured parallel to the road boundary on or over which the encroachment exists

Signature applicant:

Date:

SCHEDULE 3
(Section 6(1))

PRESCRIBED FEE

1.	Building (section 5(1)(a)(i))	As per the current budget
2.	Platform (section 5(1)(a)(ii))	As per the current budget
3.	Step (section 5(1)(a)(iii))	As per the current budget
4.	Ramp (section 5(1)(a)(iv))	As per the current budget
5.	Balcony (section 5(1)(a)(v))	As per the current budget
6.	Veranda (section 5(1)(a)(vi))	As per the current budget
7.	Sign (section 5(1)(a)(vii))	As per the current budget
8.	Colonnade (section 5(1)(a)(viii))	As per the current budget
9.	Bay window (section 5(1)(a)(ix))	As per the current budget
10.	Pavement light (section 5(1)(a)(x))	As per the current budget
11.	Showcase (section 5(1)(a)(xi))	As per the current budget
12.	Window (section 5(1)(a)(xii))	As per the current budget
13.	Gate or door (section 5(1)(a)(xiii))	As per the current budget
14.	Branch of a plant (section 5(1)(c))	As per the current budget
15.	Other thing (section 5(1))	As per the current budget

SCHEDULE 4
(Section 4(3))

ENCROACHMENT PERMIT

This serves to confirm that (Name of person) of
..... (Address of
person) is permitted to
encroach by means of

.....
within the..... Municipal Area at the following address:

..... (Address of premises).

The following conditions apply to the carrying on of the business:

.....
.....
.....

Signed:
OFFICIAL CAPACITY

Date:

SCHEDULE 5
(Section 4(4))

REQUIREMENTS

1. **Specific requirements relating to columns**
 - (1) A person may not place a veranda column –
 - (a) over a pavement where the pavement is less than 2,6 m wide;
 - (b) more than 3 m from the building line measured to the outside of the column or at less than 3 m centre to centre;
 - (c) over any pavement at the corner of a public road that is beyond the alignment of the building lines;
 - (2) A person may not place a portion of a veranda column at a distance lesser than 600 mm back from the front edge of any kerb.
 - (3) A person may not place a twin or double veranda column over a public road or pavement.
 - (4) Where a veranda is supported on columns –
 - (a) the columns may not have a square arris;
 - (b) no base may project more than 50 mm beyond the bottom diameter of the column; and
 - (c) the maximum horizontal axial dimensions of a base may not exceed 350 mm.
 - (5) Where the form of a column is classic in character, the shaft must have suitable entasis, and the cap and base must be in due proportions.
 - (6) A column, including cap and base, may not be less than 3 m or more than 3,6 m in height and not more than 4,5 m including plinth.
 - (7) No person may place a column on a public road where the footway or sidewalk is, or is likely to be occupied by a cable, pipe or other municipal services.
 - (8) The minimum height from the footway or sidewalk to the underside of each cantilever or fascia girder is 3 m.
 - (9) Plain piping or tubing may not be used for a column over or on a public road veranda and balcony unless architecturally treated for aesthetic purposes.
 - (10) The coping, blocking course or balustrade, if any, may not extend less than 750 mm nor more than 1,05 m above the floor of a balcony.
 - (11) The consent of the municipality is not required for the erection and use of a party column common to two adjoining verandas if the column stands partly on the extended boundary lines of two properties or adjoins the same.
 - (12) If all the other provisions of these By-laws are observed, the consent of the municipality is not required where, in the case of adjoining verandas, the placement of any column upon a plinth if this is necessary for alignment.
2. **Specific requirements relating to balconies and bay windows**
 - (1) A balcony or bay window may not overhang a public road if it is at a height of less than 3 m above the pavement, and must be constructed of fire-resisting material and supported by cantilevers of reinforced concrete or by masonry or steel.
 - (2) A balcony may not encroach more than 1,35 m over a public road.

- (3) A bay window may not encroach more than 900 mm over a public road.
- (4) The aggregate horizontal length of a bay window at any level over a public road may not exceed one-third of the length of the building frontage to that road.
- (5) No part of any window in any bay shall be less than 900 mm from any party wall of the building to which it belongs nor from any boundary separating stands in separate ownership or any extension of the boundary.
- (6) A balcony superimposed upon a veranda must be set back at least 1,2 m from the line of the veranda.
- (7) No part of a balcony that is attached to a veranda, may be carried up to a height greater than two storeys above the pavement level, however, where the top portion of the balcony is roofed with a concrete flat roof forming a floor, a balustrade not exceeding 1 m in height is allowed above the level of the floor.
- (8) A dividing wall across a balcony over a public road may not exceed 1 m in height or 225 mm in thickness.
- (9) A balcony over a public road may not be the sole means of access to any room or apartment.
- (10) No erection of any kind is allowed on a balcony, except balustrades and light columns not exceeding 150 mm in diameter, of good architectural design and supporting the roof and upper balcony sufficiently.
- (11) A person may not place or permit or cause to be placed an article upon a balcony over a public road, except an ornamental plant, table, chair, canvas blind or awning that is not used as a sign or advertisement.
- (12) Where a floor of a building is used solely for the parking of a motor vehicle, a bay window at the level of the floor may not project over a public road for more than 1,35 m for the full length of the building frontage to that road.

3. Specific requirements relating to plinths, pilasters, corbels and cornices

- (1) No plinth or pilaster beyond building lines carried up from ground level are permitted to encroach on a public road.
- (2) A pilaster, cornice, corbel or similar architectural feature that is at least 3 m above the ground may not exceed the following encroachment over a public road:
 - (a) A pilaster: 450 mm: The total aggregate frontage length of the pilaster may not exceed one-fifth of the building frontage and bay windows in the same storey must be included in the calculation of the maximum aggregate length for bay windows;
 - (b) a fire-resisting ornamental hood or pediment over a door: 600 mm and in any part not less than 2,75 m in height above the footway or pavement; and
 - (c) a cornice: 1,05 m where not exceeding 10,5 m above the footway or pavement and one-tenth of the height from the footway or pavement if exceeding 10,5 m with a maximum of 1,8 m.

4. Specific requirements relating to verandas around corners

- (1) Where a veranda is built around the corner of a public road it must be properly splayed or rounded to follow the curves of the kerb.

- (2) If corrugated iron is used for covering a veranda, its exposed surfaces must be painted.
- (3) A veranda over a public road must correspond in line, height and detail with an existing adjoining veranda.

5. Specific requirements relating to pavement openings

- (1) A pavement opening, pavement light, wall and basement wall must be made and kept water-tight by the owner.
- (2) No pavement opening may be the sole means of access to any vault or cellar.
- (3) Every such opening must be formed of thick glass and set in iron or reinforced concrete frames flush with the sidewalk and no single piece of such glass may exceed 160 cm² in area.
- (4) No pavement opening on any public road may extend more than 1,2 m beyond the building line.
- (5) Where flaps are permitted in pavement openings each flap may not exceed 0,75 square metres in area and must open upwards and while open, must be provided with stout iron guard rails and stanchions.
- (6) Flap openings may be opened and used only for the purpose of lowering and raising goods and must be kept closed except when lowering and raising operations are in progress.
- (7) The front wall or wall parallel to the kerb in every opening must be built with a suitable batter to the satisfaction of the municipality.
- (8) No pavement opening may be covered with metal bar gratings or with metal plates or with wood.

6. Cat-cranes, lifting cranes and platforms

- (1) A cat-head, lifting crane, platform and other such contrivance may not overhang a sidewalk or road.
- (2) In the instance where the municipality granted a permit, the contrivance contemplated in sub-item (1) may be situated under a balcony and above first floor level, but the contrivance must be capable of being housed in the building to which it belongs, and may only lift goods from outside the line or kerb.

SCHEDULE 6
(Section 5(3))**SLAB FOOTWAYS OR PAVEMENTS**

1. Paving must be of pre-cast slabs, 450 mm by 450 mm in size with a minimum thickness of 50 mm.
2. The shape of all slabs must be rectangular, and the slabs must be laid with joints parallel and at right angle to kerbing.
3. The backing of the slabs must be 40 mm thick and composed of concrete, of which three volumes must be 6 mm stone, one volume 3 mm stone, free from dust, two volumes drift sand and one volume Portland cement. The topping must be 12 mm thick composed of one and a half volumes of granite chippings which pass through a 6 mm screen but are retained by a 3 mm screen, and one volume Portland cement. The proportion of any colouring matter introduced into slabs must be such as not to impair the strength of the mixture.
4. Slabs must be laid to the grade, line and cross-fall pointed out by the municipality and must conform to the following further requirements:
 - (a) For ordinary slabs the minimum cross-fall must be 1:100 and the maximum cross-fall 1:25.
 - (b) Non-skid slabs of a type to be approved by the municipality must be used for cross-falls between 1:25 and 1:15, provided that the maximum cross-fall may not exceed 1:15.
 - (c) Longitudinal grades may not be steeper than 1:20 for ordinary slabs and non-skid slabs must be used for longitudinal grades between 1:15 and 1:20, provided that when the longitudinal grade is steeper than 1:15, asphaltic concrete must be used.
 - (e) Prior notice of at least three working days must be given to the municipality of the intention to lay slabs or asphaltic concrete on any footway or pavement.
5. When carriage openings are formed in kerbs and across footways or pavements, such openings must be paved with similar slabs to those hereinbefore described, but such slabs must be of sizes 300 mm by 150 mm in thickness. All such slabs must be solidly bedded in suitable material and joints between the slabs must be formed in lime mortar consisting of at least one volume lime to three volumes sand, provided that such joints may not exceed 20 mm nor be less than 6 mm in width.
6. Should any person desire to lay slabs of any material other than pre-cast concrete slabs, he or she must first submit a sample to the municipality for testing and approval in writing before any such materials are deposited upon a public footway or pavement. Should the material be approved, all the provisions of this Schedule in regard to shape, size and laying must be observed as far as applicable.
7. No person may lay or fix any cement concrete bedding under such paving slabs nor cause any joint thereof to be of cement mortar.
8. No person shall lay asphalt, tar macadam, concrete or granolithic in situ in any pavement or any road sidewalk or footway unless specially permitted in writing by the municipality to do so.
9. No person may lay slabs of any other kind, colour, size or shape, or in any manner other than as specified in this Schedule, unless duly authorized thereto by the municipality.

By-law No. 8, 2009

FENCING AND FENCES BY-LAW, 2009

BY-LAW

To provide for the erection and management of fencing and fences in the Umsobomvu Municipality; and for matters connected therewith.

BE IT ENACTED by the Umsobomvu Municipality, as follows:-

TABLE OF CONTENTS

1. Interpretation
 2. Principles and objectives
 3. Application
 4. Fences
 5. Penalties
 6. Notice of compliance and representations
 7. Costs
 8. Demolition order
 9. Authentication and service of notices and other documents
 10. Appeal
 11. Implementation and enforcement
 12. Saving and transitional provision
 13. Exemptions
 14. Liaison forums in community
 15. Revocation of by-laws
 16. Short title and commencement
- Schedule

1. Interpretation

In these By-laws, unless the context otherwise indicates –

"boundary" means the real or notional line marking the limits of premises;

"Council" means the council of the Umsobomvu municipality;

"fence" means any fence, together with any necessary gate or any contrivance forming part or serving the purpose of such a gate, erected as a boundary between any erven, lots or stands within the municipal area, and includes a fence which is not erected on a boundary, such as a garden fence or a free-standing wall on an erf, lot or stand;

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

"municipality" means the Municipality of Umsobomvu, and includes any political structure, political office bearer, municipality or, duly authorised agent thereof or any employee thereof acting in connection with this by-law

by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, municipality or, agent or employee;

"public land" means land the ownership of which is vested in an organ of state;

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

2. Principles and objectives

The Council, aware of its duty to prevent the occurrence of any condition which will or could be harmful or dangerous to the health of any person within its district, in these By-laws aims to protect the public, hereby adopts these By-laws to regulate fencing with the aim of safeguarding its residents in and visitors to the area.

3. Application

Subject to the provisions of the Fencing Act, 1963 (Act 31 of 1963), provisions in these By-laws relating to an electrical fence, barbed wire and razor wire do not apply to land zoned for agricultural purposes, except where such electrical fence, barbed wire or razor wire is erected on the boundary between the land and public land.

4. Fences

- (1) No person may, without the consent of the municipality –
 - (a) erect or cause, allow or permit to be erected a fence which is more than 2 metres in height from ground level on a boundary of a premises;
 - (b) alter, make or cause, allow or permit to be altered or made an addition to an existing fence which is more than 2 metres in height from ground level on a boundary of a premises;
 - (c) erect or cause or permit to be erected on a boundary, or may have on a boundary, an electrified fence, electrified railing or other electrified barrier, unless –
 - (i) the electrified fence, electrified railing or other electrified barrier is erected on top of a wall which may not be less than 2 metres high and built of brick, cement, concrete or similar material; and
 - (ii) the electrified fence, electrified railing, or other electrified barrier is designed and installed in accordance with the Electrical Machinery Regulations, as published in Government Notice R1593, dated 12 August, 1988; and
 - (d) subject to subsection (8), erect or cause or permit to be erected on a boundary a barbed-wire fence, railing, paling, wall or other barrier with spikes or other sharp or pointed protrusions.
- (2) A person who wishes to obtain the consent of the municipality must submit an application form similar to the form contained in the Schedule, which schedule refers, to the municipality, and the municipality may refuse or grant consent.
- (3) Should the municipality refuse permission, it must, on request, supply the person in writing with the reasons for the refusal.
- (4) Should the municipality grant consent, it may do so subject to such conditions, requirements or specifications which it may determine in each individual case, and subject to the provisions of SANS Code No. 1372, Prefabricated Concrete Components for Fences, as published on 20 May, 1985 in the Government Gazette, and the consent must be entered in

- Item C of the form contemplated in subsection (2), and a person who has obtained consent, must at the request of an authorised official, immediately produce the form.
- (5) A person who has obtained consent in terms of subsection (4) must ensure that the fence is maintained in a good condition.
- (6) No person may –
- (a) without the consent of the municipality first having been obtained, demolish, interfere with or damage a fence for which consent has been granted in terms of subsection (4);
- (b) having opened a gate in a fence, leave such gate open or unfastened;
- (c) climb over or crawl through a fence without the permission of the owner or occupier of the land upon which such fence is situated, first having been obtained;
- (d) erect or cause to be erected a fence covered with –
- (i) canvas, reeds, grass or any combustible material, except poles or split poles, or approved wood, which may not be erected within 4,5 m of any street and which may not exceed 1,8 m in height; or
- (ii) sheet iron, corrugated galvanised iron or any other sheeting along or within 4,5 m of any street;
- (e) allow a fence to fall into disrepair; and
- (f) affix to or allow to be affixed to a fence any posters, placards or similar notices, or draw or apply or allow to be drawn or applied any graffiti or drawing on a fence.
- (7) The municipality may, whenever it appears that, in the interests of safety, vehicular, pedestrian or otherwise –
- (a) a fence needs to be erected or repaired, instruct the owner or occupier on whose premises such fence needs to be erected or repaired, to undertake such steps as stipulated in the instruction; or
- (b) the height of a wall, hedge or fence at a street corner needs to be reduced, by order in writing instruct the owner or occupier property to reduce the height of such wall, hedge or fence to a height specified in such order.
- (8) In the instance where a barbed-wire fence, railing, paling, wall or other barrier with spikes or other sharp or pointed protrusions does not exceed 1,8 meters in height from ground level, the consent of the municipality is not required.
- (9) A person commits an offence if he or she contravenes a provision of subsection (6) or fails to produce a form at the request of an authorised official as contemplated in subsection (4).
- (10) Should a person fail to comply with a provision of subsection (1), with a condition, requirement or specification contemplated in subsection (4), or subsection (5) or an instruction issued in terms of subsection (7), the municipality may serve a notice of compliance or a demolition order on the person, as the case may be.

5. Penalties

A person who has committed an offence in terms of these By-laws contravenes is, on conviction liable to a fine or in default of payment, to imprisonment, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment, and in the case of a successive or continuing offence, to a fine for every day such offence continues, or in default of payment thereof, to imprisonment.

6. Notice of compliance and representations

- (1) The notice of compliance must state –
 - (a) the name and residential or postal address of the affected person;
 - (b) the requirement which has not been complied with;
 - (c) having in detail the measures required to remedy the situation;
 - (d) that the person must within a specified period take the measures to comply with the notice and to complete the measures before a specified date; and
 - (e) that the person may within 14 days make written representations in the form of a sworn statement or affirmation to the municipality at a specified place.
- (2) The municipality, when considering any measure or period envisaged in subsection (1)(c) or (d), must have regard to the principles and objectives of these By-laws, the nature of the non-compliance, and other relevant factors.
- (3) Where a person does not make representations in terms of subsection (1)(e), and the person fails to take the measures before the date contemplated in subsection (1)(d), he or she commits an offence, and the municipality may, irrespective of any penalty which may be imposed under section 5, act in terms of subsection (5).
- (4)
 - (a) Representations not lodged within the time contemplated in subsection (1)(e) will not be considered, except where the person has shown good cause and the municipality condones the late lodging of the representations.
 - (b) The municipality must consider the timely representations and any response thereto by an authorized official.
 - (c) The municipality may, on its own volition, conduct any further investigations to verify the facts if necessary, and the results of the investigation must be made available to the permit holder, who must be given an opportunity of making a further response if he or she so wishes, and the municipality must also consider the further response.
 - (d) The municipality must, after consideration of the representations and any response and further response make an order in writing and serve a copy of it on the person, which order must confirm, in whole or in part, alter, or set aside the notice of compliance, and where the notice of compliance is confirmed, in whole or in part, or altered, the municipality must inform the person that he or she must, within the period specified in the order, discharge the obligations set out in the order and that failure to do so constitutes an offence.

- (e) Where a person fails to discharge the obligations contemplated in subsection (4)(d), he or she commits an offence and the municipality may, irrespective of any penalty which may be imposed under section 5, act in terms of subsection (5).
- (5) The municipality may take such measures as it deems necessary to remedy the situation, including the demolition of the fence, and the cost thereof must be paid to the municipality in accordance with section 7.

7. Costs

- (1) Should a person fail to take the measures required of him or her by a notice of compliance contemplated in section 6, the municipality may, subject to subsection (3) recover, as a debt, all costs incurred as a result of it acting in terms of section 6(5) from that person and any or all of the following persons:
 - (a) the owner of the land, building or premises; or
 - (b) the person or occupier in control of the land, building or premises or any person who has or had a right to use the land at the time when the situation came about.
- (2) The costs recovered must be reasonable and may include, without being limited to, costs relating to labour, water, equipment, administrative and overhead costs incurred by the municipality under section 6(5).
- (3) If more than one person is liable for costs incurred, the liability must be apportioned as agreed among the persons concerned according to the degree to which each was responsible for the emergency resulting from their respective failures to take the required measures.

8. Demolition order

- (1) A person on whom a demolition order as been served in terms of section 4(10), must demolish the fence and remove the materials.
- (2) Should the municipality demolish a fence, it may dispose of the whole or any part of the materials from any fence, whether wholly or partly removed or demolished, by public auction or public tender.
- (3) The municipality may deduct from the proceeds of any materials so disposed of the costs of any such pulling down, removal or demolition and the costs incurred in so disposing of the said materials and the surcharge thereon and shall thereafter pay any balance to the owner of the fence removed or demolished.
- (4) The exercise of any powers set forth in subsection (2) and (3) shall not prejudice or diminish the rights of the municipality to recover in terms of other provisions of these By-laws.

9. Authentication and service of notices and other documents

- (1) A notice issued by the municipality in terms of these By-laws is deemed to be duly issued if it is signed by an officer authorised by the municipality.

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

10. Appeal

- (1) A person whose rights are affected by a decision of an official of the municipality acting in terms of these By-laws may appeal against that decision by giving written notice of the appeal and reasons to the municipal manager within 21 days of the date of the notification of the decision.
- (2) The appeal authority contemplated in subsection (3) must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.
- (3) When the appeal is against a decision taken by –
 - (a) a staff member other than the Municipal Manager, the Municipal Manager is the appeal authority;
 - (b) the Municipal Manager, the Mayor is the appeal authority; or
 - (c) a political structure or political officer bearer, or a Councillor, the Council is the appeal authority.
- (4) The appeal authority must commence with an appeal within six weeks of receipt of the notice of appeal and decide the appeal within a reasonable time.

11. Implementation and enforcement

- (1) The municipality may appoint and mandate an official to administer the implementation and enforcement of these By-laws.

- (2) Upon appointment the municipality must issue the official with an identity card which must state the name and function of the official, and which includes a photograph of the official.
- (3) An official, acting within the powers vested in him or her by these By-laws, must on demand by a trader produce the identity card and proof of identity.
- (4) An official, within his or her mandate in terms of subsection (1) –
 - (a) must monitor and enforce compliance with these By-laws;
 - (b) may investigate an act or omission which on reasonable suspicion may constitute an offence in terms of these By-laws;
 - (c) may, for the purposes of paragraphs (a) and (b), enter upon premises on which a business is carried on with the aim of ascertaining if an offence in terms of these By-laws has been or is being committed; and
 - (d) may request the owner or occupier to provide such information as he or she deems necessary.
- (5) A person commits an offence if he or she –
 - (a) hinders or interferes with an official in the execution of his or her official duties;
 - (b) falsely professes to be an official;
 - (c) furnishes false or misleading information when complying with a request of an official; or
 - (d) fails to comply with a request of an official.
- (6) A person who contravenes a provision of subsection (5) commits an offence.

12. Saving and transitional provision.

An owner or occupier whose premises, at the date of commencement of these By-laws, do not comply with the provisions of these By-laws must, within a period of six months, ensure that his or her premises comply with the provisions of these By-laws

13. Exemptions

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

- (4) If any condition of an exemption is not complied with, the exemption lapses immediately.

14. Liaison forums in community

- (1) The municipality may establish one or more liaison forums in a community for the purposes of –
- (a) creating conditions for a local community to participate in the affairs of the municipality;
 - (b) encouraging a local community to participate in the affairs of the municipality; and
 - (c) promoting the achievement of a sound land policy.
- (2) A liaison forum may consist of –
- (a) a member of members of an interest group, or an affected person;
 - (b) a designated official or officials of the municipality; and
 - (c) the councillor responsible for land.
- (3) (a) The municipality may, when considering an application for consent, permit or exemption certificate in terms of these By-laws, where applicable, request the input of a liaison forum.
- (b) A liaison forum or any person or persons contemplated in subsection (2) may, on own initiative submit an input to the municipality for consideration.

15. Revocation of by-laws

- (1) The By-Laws with regard to fences and fencing enacted by Colesberg Transitional Local Council, Noupoot Transitional Local Council and Masizakhe Representative Council are hereby repealed.
- (2) Any permission obtained, right granted, condition imposed, activity permitted or anything done under a repealed law, shall be 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.

16. Short title and commencement

These By-laws are called the Umsobomvu Fences and Fencing By-laws, and commences on the date of publication thereof in the Provincial Gazette.

SCHEDULE
(Section 4(2))

APPLICATION TO ERECT FENCE

A. OWNER OR OCCUPIER

Surname and first names of person

.....

I.D. Number

Address: Postal address:

.....

.....

Residential address:

.....

.....

Telephone number: Business Residential

B. PARTICULARS OF PREMISES AND FENCE

Erf Number

Address where the premises can be inspected

.....

.....

NATURE OF FENCE TO BE ERECTED/ALTERED

.....

.....

.....

C. ISSUING LOCAL AUTHORITY

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

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

.....

.....

.....

.....

.....

SIGNATURE OF INSPECTOR

DATE

.....

Name of inspector:

Official designation:

By-law No. 9, 2009

FIXED ASSETS BY-LAW, 2009

BY-LAW

To provide for the management of fixed assets in the Umsobomvu Municipality;
and for matters connected therewith.

BE IT ENACTED by the Umsobomvu Municipality, as follows:-

TABLE OF CONTENTS

1. Definitions
2. Responsible officers
3. Fixed asset register
4. Classification of fixed assets
5. Investment assets
6. Fixed assets treated as inventory
7. Heritage assets
8. Donated assets
9. Safekeeping of assets
10. Identification of fixed assets
11. Procedure in case of loss, theft, destruction or impairment of fixed assets
12. Capitalisation criteria
13. Maintenance plans in respect of new infrastructure asset
14. Deferred maintenance
15. General maintenance of fixed assets
16. Depreciation of fixed assets
17. Rate of depreciation
18. Method of depreciation
19. Amendment of asset lives and diminution in value of fixed assets
20. Alternative method of depreciation in specific instances
21. Creation of non-distributable reserve for future depreciation
22. Carrying values of fixed assets
23. Revaluation of fixed assets
24. Verification of fixed assets
25. Alienation of fixed assets
26. Other write-offs of fixed assets
27. Replacement norms
28. Insurance of fixed assets
29. Biological assets
30. Short title and commencement

1. Definitions

“**chief financial officer**” means the person designated by the chief accounting officer of the municipality in terms of section 80(2)(a) of the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003);

“**Council**” means the Council of Umsobomvu Municipality;

“**depreciation**” means the monetary quantification of the extent to which a fixed asset is used or consumed in the provision of economic benefits or the delivery of services;

“**fixed asset**” means a tangible item of property, plant or equipment which meet the criteria contemplated in section 12, and which is under the control of the Umsobomvu municipality for use in the production or supply of goods or services, for rental to others, or for administrative purposes, and which is expected to be used during more than one financial year, and includes an asset held under a finance lease;

“**housing developments**” means developments financed and managed by the municipality itself, with the sole purpose of selling or letting such houses for profit;

“**IAS**” means the International Accounting Standards issued by the International Accounting Standards Board;

“**municipal manager**” means the person appointed by the Council under section 82 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998).

2. Responsible officers

- (1) The municipal manager, as accounting officer of the municipality, is the principal custodian of all the municipality's fixed assets, and is responsible for implementing these By-laws.
- (2) The chief financial officer is the fixed asset registrar of the municipality, and must ensure that the fixed asset register, as contemplated in section 3, is maintained.

3. Fixed asset register

- (1) The fixed asset register must be –
 - (a) complete;
 - (b) accurate;
 - (c) up-to-date;
 - (d) contained in an electronic database;
 - (e) maintained in a format determined by the chief financial officer, which format must comply with the requirements of –
 - (i) generally recognised accounting practice;
 - (ii) generally accepted municipal accounting practice; and
 - (iii) any other accounting requirements which may be prescribed by the Council or by law.
- (2) No amendments, deletions or additions to the fixed asset register may be made other than by the chief financial officer or by an official acting under the written instruction of the chief financial officer.
- (3) The following information must be reflected in the fixed asset register:
 - (a) A description of each asset;
 - (b) the date on which an asset was acquired or brought into use;
 - (c) the location of the asset;
 - (d) the department or vote within which the asset is used;
 - (e) in the case of fixed property –
 - (i) the title deed number; and
 - (ii) the stand number;
 - (f) where applicable, the identification number, as contemplated in 10;

- (g) the original cost, or the re-valued amount contemplated in section 23;
 - (h) the last revaluation date of the fixed asset subject to revaluation, and the re-valued value of such fixed asset;
 - (i) the name of the person who did the last revaluation;
 - (j) accumulated depreciation to date;
 - (k) the depreciation charge for the current financial year;
 - (l) the carrying value of the asset;
 - (m) the method and rate of depreciation;
 - (n) impairment losses incurred during the financial year and, where applicable, the reversal of such losses;
 - (o) the source of financing;
 - (p) the current insurance arrangements;
 - (q) whether the asset is required to perform basic municipal services;
 - (r) whether the asset has been used to secure any debt, and where this is the case, the nature and duration of such security arrangements;
 - (s) the date on which the asset is disposed of;
 - (t) the disposal price;
 - (u) the date on which the asset is retired from use, if not disposed of;
 - (v) investment assets contemplated in section 5(3);
 - (w) inventories contemplated in section 6(2);
 - (x) heritage assets contemplated in section 7(1);
 - (y) donated assets contemplated in section 8; and
 - (z) re-valued land and buildings contemplated in section 23(7).
- (4) A head of department under whose control a fixed asset falls must promptly provide the chief financial officer in writing with any information required by the chief financial officer to compile the fixed asset register, and must promptly advise the chief financial officer in writing of any material change which may occur in respect of such information.
- (5) A fixed asset must be recorded in the fixed assets register, as soon as it is acquired, however, if the asset is constructed over a period of time, it must be recorded as work-in-progress until it is available for use, whereafter it must be recorded as a fixed asset in the fixed assets register.
- (6) A fixed asset remains in the fixed assets register for as long as it is in physical existence, and where a fixed asset has been fully depreciated, this is not in itself a reason for writing-off such an asset.

4. Classification of fixed assets

- (1) In compliance with the requirements of the National Treasury, the chief financial officer must ensure that all fixed assets are classified under the following headings in the fixed assets register, and heads of departments must in writing provide the chief financial officer with such information or assistance as is required to compile a proper classification:
- (a) Property, plant and equipment, which class consists of –
 - (i) land not held as investment assets;
 - (ii) infrastructure assets, which assets are part of a network of similar Assets;
 - (iii) community assets, which are resources contributing to the general well-being of the community;

- (iv) heritage assets, which are culturally significant resources; and
 - (v) other assets, which are ordinary operational resources;
 - (b) inventory, which class consists of housing, which are rental stock or housing stock not held for capital gain; and
 - (c) investment property, which class consists of investment assets which are resources held for capital or operational gain.
- (2) The chief financial officer must adhere to the class of assets set out in Column 1 to the Schedule to these By-laws, which Schedule refers, and the life in years of assets set out in Column 2 of the Schedule, and in the instance where a fixed asset does not appear in the Schedule, he or she must use the classification that applies to the asset most closely comparable to the asset which does not so appear.

5. Investment assets

- (1) Investment assets must –
- (a) be accounted for in terms of IAS 40; and
 - (b) not be classified as property, plant and equipment for purposes of preparing the municipality's statement of position.
- (2) Investment assets comprise land, buildings or parts of buildings, and both land and buildings held by the municipality as owner or as lessee under a finance lease, to earn rental revenues or for capital appreciation or both.
- (3) Investment assets must be recorded in the fixed assets register in the same manner as other fixed assets, but a separate section of the fixed assets register must be maintained for this purpose.
- (4) (a) Investment assets may not be depreciated, but must be valued annually on balance sheet date to determine their fair market value, and must be recorded in the balance sheet at such fair value.
- (b) Adjustments to the previous year's recorded fair value must be accounted for as either gains (revenues) or losses (expenses) in the accounting records of the department or service controlling the assets concerned.
- (c) An expert valuer must undertake such valuations.
- (5) If the Council resolves to construct or develop a property for future use as an investment property, such property must in every respect be accounted for as an ordinary fixed asset until it is ready for its intended use, whereafter it must be reclassified as an investment asset.

6. Fixed assets treated as inventory

- (1) Any land or buildings owned or acquired by the municipality with the intention of –
- (a) selling such property in the ordinary course of business; or
 - (b) developing such property for the purpose of selling it in the ordinary course of business, must be accounted for as inventory, and must not be included in either property, plant and equipment, or investment property in the municipality's statement of position.

- (2) Such inventories must be recorded in the fixed assets register in the same manner as other fixed assets, but a separate section of the fixed assets register must be maintained for this purpose.

7. Heritage assets

- (1) If no original costs or fair values are available in the case of one or more or all heritage assets, the chief financial officer may, if the determination of a fair value for the assets in question will be a laborious or expensive undertaking, record such asset or assets in the fixed asset register without an indication of the costs or fair value concerned.
- (2) For balance sheet purposes, the existence of such heritage assets must be disclosed by means of an appropriate note.

8. Donated assets

Where a fixed asset is donated to the municipality, or a fixed asset is acquired by means of an exchange of assets between the municipality and one or more other parties, the asset concerned must be recorded in the fixed asset register at its fair value, as determined by the chief financial officer.

9. Safekeeping of assets

- (1) A head of department is directly responsible for the physical safekeeping of any fixed asset controlled or used by the department in question.
- (2) In exercising the responsibility contemplated in subsection (1), a head of department must adhere to any written directives, in regard to the control of or safekeeping of the municipality's fixed assets, issued by the municipal manager to the head's department, or generally to all departments.

10. Identification of fixed assets

- (1) The municipal manager must ensure that the municipality maintains a fixed asset identification system which is operated in conjunction with its computerised fixed asset register.
- (2) The identification system must –
- (a) be determined by the municipal manager, acting in consultation with the chief financial officer and other heads of departments, and must comply with any legal prescriptions as well as any recommendations of the Auditor-General as indicated in the municipality's audit reports; and
 - (b) decided upon within the context of the municipality's budgetary and human resources.
- (3) A head of department must ensure that the asset identification system approved for the municipality is scrupulously applied in respect of all fixed assets controlled or used by his or her department in question.

11. Procedure in case of loss, theft, destruction or impairment of fixed assets

A head of department must ensure that any incident of loss, theft, destruction or material impairment of any fixed asset controlled or used by his or her department is promptly reported in writing to the –

- (a) chief financial officer;
- (b) internal auditor; and

- (c) in cases of suspected theft or malicious damage, to the South African Police Service.

12. Capitalisation criteria

- (1) The following apply in respect of capitalisation criteria (material value):
 - (a) No item with an initial cost or fair value of less than R5 000, or such other amount as the Council may, on the recommendation of the municipal manager, from time to time determine, may be recognised as a fixed asset, and if the item has a cost or fair value lower than this capitalisation benchmark, it must be treated as an ordinary operating expense.
 - (b) A head of department must ensure that any item with a value in excess of R250 and with an estimated useful life of more than one year, is recorded on a stocksheets.
 - (c) A head of department must ensure that the existence of items recorded on the stocksheets is verified from time to time, and at least once in every financial year, and any amendments which are made to such stocksheets pursuant to such stock verifications, must be retained for audit purposes.
- (2) In respect to capitalisation criteria (intangible items), no intangible item may be recognised as a fixed asset, except that the chief financial officer, acting in strict compliance with the criteria set out in IAS 38 may recommend to the Council that specific development costs be recognised as fixed assets.
- (3) The following apply in respect of capitalisation criteria (reinstatement, maintenance and other expenses):
 - (a) Only expenses incurred in the enhancement of a fixed asset (in the form of improved or increased services or benefits flowing from the use of such asset) or in the material extension of the useful operating life of a fixed asset must be capitalised.
 - (b) Expenses incurred in the maintenance or reinstatement of a fixed asset must be considered as operating expenses incurred in ensuring that the useful operating life of the asset concerned is attained, and may not be capitalised, irrespective of the quantum of the expenses concerned.
 - (c) Expenses which are reasonably ancillary to the bringing into operation of a fixed asset may be capitalised as part of such fixed asset and such expenses may include but need not be limited to import duties, forward cover costs, transportation costs, installation, assembly and communication costs.

13. Maintenance plans in respect of new infrastructure asset

- (1) A head of department must ensure that a maintenance plan in respect of every new infrastructure asset with a value of R100 000 or more is promptly prepared and submitted to the Council for approval.
- (2) If so directed by the municipal manager, the maintenance plan must be submitted to the Council before any approval is granted for the acquisition or construction of the infrastructure asset concerned.
- (3) The head of department controlling or using the infrastructure asset in question, must annually, not later than in July, report to the Council –

- (a) of the extent to which the relevant maintenance plan has been complied with; and
- (b) of the likely effect which any non-compliance may have on the useful operating life of the asset concerned.

14. Deferred maintenance

- (1) If there is material variation between the actual maintenance expenses incurred and the expenses reasonably envisaged in the approved maintenance plan for any infrastructure asset as contemplated in section 13, the chief financial officer must disclose the extent and possible implications of such deferred maintenance in an appropriate note to the financial statements, which note must also indicate any plans which the Council has approved in order to redress such deferral of the maintenance requirements concerned.
- (2) If no plan has been formulated as contemplated in section 13 or is likely to be implemented, the chief financial officer must re-determine the useful operating life of the fixed asset in question, if necessary in consultation with the head of department controlling or using such asset, and must recalculate the annual depreciation expenses accordingly.

15. General maintenance of fixed assets

Subject to section 9, a head of department is directly responsible for ensuring that all assets (other than infrastructure assets which are dealt with in sections 13 and 14) are properly maintained and in a manner which will ensure that such assets attain their useful operating lives.

16. Depreciation of fixed assets

- (1) All fixed assets, except land and heritage assets, must be depreciated, and all intangible assets must be amortised.
- (2)
 - (a) Depreciation generally takes the form of an expense both calculated and debited on a monthly basis against the appropriate line item in the department or vote in which the asset is used or consumed.
 - (b) Depreciation must initially be calculated from the day following the day in which a fixed asset is acquired or, in the case of construction works and plant and machinery, the day following the day in which the fixed asset is brought into use, until the end of the calendar month concerned, and thereafter, depreciation charges must be calculated monthly.
- (3) Each head of department, acting in consultation with the chief financial officer, must ensure that reasonable budgetary provision is made annually for the depreciation of all applicable fixed assets controlled or used by his or her department or expected to be so controlled or used during the ensuing financial year.
- (4) The procedures to be followed in accounting and budgeting for the amortisation of intangible assets must be identical to those applying to the depreciation of other fixed assets.

17. Rate of depreciation

- (1) In the case of a fixed asset recorded on the fixed asset register, the chief financial officer must assign a useful operating life to each depreciable

asset, and in determining such a useful operating life, the chief financial officer must adhere to the useful lives set out in the Schedule to these By-laws.

- (2) In the case of a fixed asset which is not listed in the Schedule to these By-laws, the chief financial officer must determine a useful operating life, if necessary in consultation with the head of department who shall control or use the fixed asset in question, and must be guided in determining such useful operating life by the likely pattern in which the asset's economic benefits or service potential will be consumed.

18. Method of depreciation

Except in those cases specifically identified in section 20, the chief financial officer must depreciate all depreciable assets on the straight-line method of depreciation over the assigned useful operating life of the asset in question.

19. Amendment of asset lives and diminution in value of fixed assets

- (1) Only the chief financial officer may amend the useful operating life assigned to any fixed asset, and when any material amendment occurs the chief financial officer must inform the Council of such amendment.
- (2) The chief financial officer must amend the useful operating life assigned to any fixed asset if –
 - (a) it becomes known that such asset has been materially impaired or improperly maintained to such an extent that its useful operating life will not be attained; or
 - (b) any other event has occurred which materially affects the pattern in which the asset's economic benefits or service potential will be consumed.
- (3) If the value of a fixed asset has been diminished to such an extent that it has no or a negligible further useful operating life or value, such fixed asset must be fully depreciated in the financial year in which such diminution in value occurs.
- (4) If a fixed asset has been lost, stolen or damaged beyond repair, it must be fully depreciated in the financial year in which such event occurs, and if the fixed asset has physically ceased to exist, it must be written off the fixed asset register.
- (5) In the instances contemplated in subsections (2) to (4), the additional depreciation expenses must be debited to the department or vote controlling or using the fixed asset in question.
- (6) If, in the case of a normally non-depreciable fixed asset which has been capitalised at a value other than a purely nominal value, any event contemplated in subsection (2) to (4) arises, such fixed asset must be partially or fully depreciated, as the case may be, as though it were an ordinary depreciable asset, and the department or vote controlling or using the fixed asset in question must bear the full depreciation expenses concerned.

20. Alternative method of depreciation in specific instances

- (1) In the case of fixed assets which are physically wasted in providing economic benefits or delivering services, the chief financial officer may employ the sum-of-units method of depreciation, but only if the head of

department controlling or using the fixed asset in question gives a written undertaking to the municipal manager to provide –

- (a) estimates of statistical information required by the chief financial officer to prepare estimates of depreciation expenses for each financial year; and
 - (b) actual statistical information for each financial year at the specific times stipulated by the chief financial officer.
- (2) Where the chief financial officer decides to employ the method contemplated in subsection (1), and the requirements set out in the subsection (1) have been complied with, the chief financial officer must inform the Council of his or her decision.

21. Creation of non-distributable reserve for future depreciation

NOTE: This section has been prepared on the assumption that these reserves are allowed.

- (1) The chief financial officer must ensure that in respect of all fixed assets financed from the municipality's asset financing reserve, or from grants or subsidies or contributions received from other spheres of government or from the public at large, as well as in respect of fixed assets donated to the municipality, a non-distributable reserve for future depreciation is created equal in value to the capitalised value of each fixed asset in question.
- (2)
 - (a) The chief financial officer must, after the taking of the action contemplated in subsection (1), ensure that in the case of depreciable fixed assets an amount equal to the monthly depreciation expenses of the fixed asset concerned is transferred each month from such non-distributable reserve to the municipality's appropriation account.
 - (b) Where there is a difference between the budgeted monthly depreciation expenses and the actual total depreciation expenses for each financial year, the chief financial officer must appropriately adjust the aggregate transfer from the non-distributable reserve for the year concerned.

22. Carrying values of fixed assets

All fixed assets must be carried in the fixed asset register, and appropriately recorded in the annual financial statements, at their original cost or fair value less any accumulated depreciation, except –

- (a) re-valued assets as contemplated in section 23; and
- (b) heritage assets contemplated in section 7 in respect of which no value is recorded in the fixed asset register.

23. Re-valuation of fixed assets

- (1) All land and buildings recorded in the fixed asset register must be revalued with the adoption by the Council of each new valuation roll or, where the land and buildings concerned fall within the boundary of another municipality, with the adoption by such municipality of each new valuation roll.
- (2) The chief financial officer must adjust the carrying value of the land and buildings concerned to reflect in each instance the value of the fixed asset as recorded in the valuation roll, however, the chief financial officer must

- be satisfied that such value reflects the fair value of the fixed asset concerned.
- (3) The chief financial officer must, where applicable, create a revaluation reserve for each such fixed asset equal to the difference between the value as recorded in the valuation roll and the carrying value of the fixed asset before the adjustment in question.
 - (4) The fixed asset concerned must, in the case of buildings, thereafter be depreciated on the basis of its re-valued amount, over its remaining useful operating life, and such increased depreciation expenses must be budgeted for and debited against the appropriate line item in the department or vote controlling or using the fixed asset in question.
 - (5) The chief financial officer must ensure that an amount equal to the difference between the new (enhanced) monthly depreciation expense and the depreciation expenses determined in respect of such fixed asset before the revaluation in question, is transferred each month from the revaluation reserve to the municipality's appropriation account, and must make an adjustment of the aggregate transfer at the end of each financial year, if necessary.
 - (6)
 - (a) If the amount recorded on the valuation roll is less than the carrying value of the fixed asset recorded in the fixed asset register, the chief financial officer must adjust the carrying value of such asset by increasing the accumulated depreciation of the fixed asset in question by an amount sufficient to adjust the carrying value to the value as recorded in the valuation roll.
 - (b) Such additional depreciation expenses forms a charge, in the first instance, against the balance in any revaluation reserve previously created for such asset, and to the extent that such balance is insufficient to bear the charge concerned, an immediate additional charge against the department or vote controlling or using the asset in question.
 - (7) Re-valued land and buildings must be carried in the fixed asset register, and recorded in the annual financial statements at their re-valued amount less, in the instance of buildings, accumulated depreciation.

24. Verification of fixed assets

A head of department must –

- (a) at least once during every financial, as closely as possible to the end of each financial year, undertake and complete a comprehensive verification of all fixed assets controlled or used by his or her department; and
- (b) promptly and fully report in writing to the chief financial officer, in the format determined by the chief financial officer, all relevant results of such fixed asset verification, which report must be submitted to the chief financial officer not later than 30 June of the year in question.

25. Alienation of fixed assets

NOTE: The reference to the asset financing reserve below is based on the assumption that the reserve is allowed.

- (1) The transfer of ownership of any fixed asset must be fair, equitable, transparent, competitive and consistent with the municipality's Supply Chain Management By-laws, 2005.
- (2)
 - (a) A head of department must report in writing to the chief financial

officer on 31 October and 30 April of each financial year on all fixed assets controlled or used by his or her department which he or she wishes to alienate by public auction or public tender.

- (b) The chief financial officer must consolidate the requests received from the various departments, and must promptly report such consolidated information to the Council or the municipal manager, as the case may be, recommending the process of alienation to be adopted.
- (3) The Council must delegate to the municipal manager the authority to approve the alienation of any fixed asset with a carrying value less than R5 000.
- (4) The Council must ensure that the alienation of any fixed asset with a carrying value equal to or in excess of R5 000 takes place in compliance with Section 14 of the Municipal Finance Management Act, 2004.
- (5) Once the fixed assets are alienated, the chief financial officer must delete the relevant records from the fixed asset register.
- (6)
 - (a) If the proceeds of the alienation are less than the carrying value recorded in the fixed asset register, such difference must be recognised as a loss in the income statement of the department or vote concerned.
 - (b) If the proceeds of the alienation are more than the carrying value of the fixed asset concerned, the difference must be recognised as a gain in the income statement of the department or vote concerned.
- (7)
 - (a) Subject to the provisions of paragraph (c), all gains realised on the alienation of fixed assets must be appropriated annually to the municipality's asset financing reserve.
 - (b) All losses on the alienation of fixed assets remain as expenses on the income statement of the department or vote concerned.
 - (c) If both gains and losses arise in any one financial year in respect of the alienation of the fixed assets of any department or vote, only the net gain, if any, on the alienation of such fixed assets may be appropriated.
- (8) Transfer of fixed assets to other municipalities, municipal entities, whether or not such municipal entities are under the municipality's sole or partial control, or other organs of state, must take place in accordance with the above procedures, except that the process of alienation must be by private treaty.

26. Other write-offs of fixed assets

- (1) A fixed asset, even though fully depreciated, may be written off only –
 - (a) on the recommendation of the head of department controlling or using the asset concerned; and
 - (b) with the approval of the Council of the municipality.
- (2)
 - (a) A head of department must report to the chief financial officer on 31 October and 30 April of each financial year on any fixed assets which he or she wishes to have written off, stating in full the reason for such recommendation.
 - (b) The chief financial officer must consolidate all such reports, and must promptly submit a recommendation to the Council on the fixed assets to be written off.

- (3) The only reasons for writing off fixed assets, other than the alienation of such fixed assets, are the loss, theft, destruction or material impairment of the fixed asset in question.
- (4) In every instance where a not fully depreciated fixed asset is written off, the chief financial officer must immediately debit to department or vote controlling or using the asset, as additional depreciation expenses, the full carrying value of the asset concerned.

27. Replacement norms

- (1) The municipal manager, in consultation with the chief financial officer and other heads of departments, must formulate and incorporate into a formal policy, norms and standards for the replacement of all normal operational fixed assets.
- (2) The formal policy contemplated in subsection (1) must –
 - (a) be submitted to the Council for approval;
 - (b) cover the replacement of –
 - (i) motor vehicles;
 - (ii) furniture and fittings;
 - (iii) computer equipment; and
 - (iv) any other appropriate operational items; and
 - (c) provide for the replacement of fixed assets which are required for service delivery but which have become uneconomical to maintain.

28. Insurance of fixed assets

- (1) The municipal manager must ensure that all movable fixed assets are insured at least against fire and theft, and that all municipal buildings are insured at least against fire and allied perils.
- (2) If the municipality operates a self-insurance reserve (assuming such reserve to be allowed), the chief financial officer must annually determine the premiums payable by the departments or votes after having received a list of the fixed assets and insurable values of all relevant fixed assets from the heads of departments concerned.
- (3) The municipal manager must –
 - (a) after consulting with the chief financial officer; and
 - (b) taking due cognisance of the budgetary resources of the municipality, recommend to the Council the basis of the insurance to be applied to each type of fixed asset, which basis is either the carrying value or the replacement value of the fixed assets concerned.
- (4) The chief financial officer must annually submit to the Council a report on any reinsurance cover which is deemed necessary to procure for the municipality's self-insurance reserve.

29. Biological assets

- (1) Accounting for biological assets must take place in accordance with the requirements of IAS 41.
- (2) The chief financial officer, in consultation with the heads of department concerned, must ensure that all biological assets, such as livestock and crops, are valued at 30 June each year at fair value less estimated point-of-

- sales costs, which valuation is undertaken by a recognised valuer in the line of the biological assets concerned.
- (3) Any losses on such valuation must be debited to the department or vote concerned as an operating expense, and any increase in the valuation must be credited to the department or vote concerned as an operating revenue.
 - (4) If any biological asset is lost, stolen or destroyed, the matter, if material, must be reported in writing by the head of department concerned in exactly the same manner as though the asset were an ordinary fixed asset.
 - (5) Records of the details of biological assets must be kept in a separate section of the fixed assets register or in a separate accounting record altogether, and such details must reflect the information which the chief financial officer, in consultation with the head of department concerned and the internal auditor, deems necessary for accounting and control purposes.
 - (6) The chief financial officer, in consultation with the heads of department concerned, must, if the Council considers such insurance desirable and affordable, annually insure the municipality's biological assets.

30. Short title and commencement

These By-laws may be cited as the Umsobomvu Fixed Assets By-laws, 2009, and commence on the date of publication thereof in the Provincial Gazette.

SCHEDULE
(Sections 4(2), 17(1), 17(2))

COLUMN 1	COLUMN 2
Class of assets	Life in years of assets
1. Infrastructure assets	
(1) Electricity	
(a) Power stations	30
(b) Cooling towers	30
(c) Transformer kiosks	30
(d) Meters	20
(e) Load control equipment	20
(f) Switchgear	20
(g) Supply and reticulation networks	20
(h) Mains	20
(2) Roads	
(a) Motorways	15
(b) Other roads	10
(c) Traffic islands	10
(d) Traffic lights	20
(e) Street lights	25
(f) Overhead bridges	30
(g) Storm water drains	20
(h) Bridges, subways and culverts	30
(i) Car parks	20
(j) Bus terminals	20
(3) Water	
(a) Mains	20
(b) Supply and reticulation networks	20
(c) Reservoirs and storage tanks	20
(d) Meters	15
(e) Rights that is, the right to draw water from a particular source belonging to another party	20
(4) Gas	
(a) Supply and reticulation networks	20
(b) Storage tanks	20
(c) Mains	20
(d) Meters	20
(5) Sewerage	
(a) Sewer mains	20
(b) Outfall sewers	20
(c) Sewage purification works	20
(d) Sewerage pumps	15
(e) Sludge machines	15
(6) Pedestrian malls	
(a) Footways	20
(b) Kerbing	20
(c) Paving	20

(7)	Airports	
	(a) Runways	20
	(b) Aprons	20
	(c) Taxiways	20
	(d) Airport and radio beacons	20
(8)	Security measures	
	(a) Access control systems	5
	(b) Security systems	5
	(c) Security fencing	3
2.	Community assets	
(1)	Buildings and other assets	
	(a) Ambulance stations	30
	(b) Aquariums	30
	(c) Beach developments	30
	(d) Care centres	30
	(e) Cemeteries	30 #
	(f) Civic theatres	30
	(g) Clinics and hospitals	30
	(h) Community centres	30
	(i) Fire stations	30
	(j) Game reserves and rest camps	30
	(k) Indoor sports	30
	(l) Libraries	30
	(m) Museums and art galleries	30
	(n) Parks	30
	(o) Public conveniences and bath houses	30
	(p) Recreation centres	30
	(q) Sports and related stadiums	30
	(r) Zoos	30
(2)	Recreation facilities	
	(a) Bowling greens	20
	(b) Tennis courts	20
	(c) Swimming pools	20
	(d) Golf courses	20
	(e) Jukskei pitches	20
	(f) Outdoor sports facilities	20
	(g) Organs that is, pipe organs that are fixtures in a municipal hall or other centre	20
	(h) Lakes and dams	20
	(i) Fountains	20
	(j) Flood lighting	20

Sum-of-units method of depreciation may be preferred.

3. Heritage assets

No asset lives are given, as no ordinary depreciation will be charged against assets such as the following:

- (a) Museum exhibits
- (b) Works of art (which will include paintings and sculptures)
- (c) Public statues

- (d) Historical buildings or other historical structures, such as war memorials
- (e) Historical sites, such as an Iron Age kiln, historical battle site or site of a historical settlement

4. Investment assets

- (1) Office parks, which have been developed by the municipality itself or jointly between the municipality and one or more other parties 30
- (2) Shopping centres, which have been developed by the municipality itself or jointly between the municipality and one or more other parties 30
- (3) Housing developments 30

5. Other assets

- (1) Buildings 30
- (2) Abattoirs 30
- (3) Asphalt plant 30
- (4) Cable stations 30
- (5) Caravan parks 30
- (6) Compacting stations 30
- (7) Hostels used to accommodate the public or tourists 30
- (8) Hostels for municipal employees 30
- (9) Housing schemes 30
- (10) Kilns 30
- (11) Laboratories 30
- (12) Fresh produce and other markets 30
- (13) Nurseries 30
- (14) Office buildings 30
- (15) Old age homes 30
- (16) Quarries 30 #
- (17) Tip sites 30 #
- (18) Training centres 30
- (19) Transport facilities 30
- (20) Workshops and depots 30
- (21) Office equipment
 - (a) Computer hardware 5
 - (b) Computer software 3-5
 - (c) Office machines 3-5
 - (d) Air conditioners 5-7
- (22) Furniture and fittings
 - (a) Chairs 7-10
 - (b) Tables and desks 7-10
 - (c) Cabinets and cupboards 7-10
- (23) Bins and containers
 - (a) Household refuse bins 5
 - (b) Bulk refuse containers 10
- (24) Emergency equipment
 - (a) Fire hoses 5
 - (b) Other fire-fighting equipment 15
 - (c) Emergency lights 5

(25)	Motor vehicles	
	(a) Ambulances	5-10
	(b) Fire engines	20
	(c) Buses	15
	(d) Trucks and light delivery vehicles	5-7
	(e) Ordinary motor vehicles	5-7
	(f) Motor cycles	3
(26)	Plant and equipment	
	(a) Graders	10-15
	(b) Tractors	10-15
	(c) Mechanical horses	10-15
	(d) Farm equipment	5
	(e) Lawn mowers	2
	(f) Compressors	5
	(g) Laboratory equipment	5
	(h) Radio equipment	5
	(i) Firearms	5
	(j) Telecommunication equipment	5
	(k) Cable cars	15
	(l) Irrigation systems	15
	(m) Cremators	15
	(n) Lathes	15
	(o) Filling equipment	15
	(p) Conveyors	15
	(q) Feeders	15
	(r) Tipplers	15
	(s) Pulverising mills	15
	(t) Aircraft	15
	(u) Watercraft	15

Sum-of-units method of depreciation may be preferred.

By-law No. 10, 2009

**FUNERAL PARLOURS, CEMETERIES AND
CREMATORIA BY-LAW, 2009**

BY-LAW

To provide for the establishment and management of funeral parlours, cemeteries and crematoria in the Umsobomvu Municipality; and for matters connected therewith.

BE IT ENACTED by the Umsobomvu Municipality, as follows:-

Table of contents

1. Interpretation
2. Principles and objectives

CHAPTER 1: FUNERAL UNDERTAKERS' PREMISES

3. Applicable legislation

**CHAPTER 2: GENERAL PROVISIONS RELATING TO CEMETERIES AND
CREMATORIA**

4. Appointment of caretaker
5. Hours of admission for public
6. Children
7. Keeping to path
8. Prohibited conduct within cemetery and crematorium
9. Right of interest in ground

**CHAPTER 3: GENERAL PROVISIONS RELATING TO INTERNMENT AND
CREMATION**

10. Consent required for interment and cremation
11. Interment and cremation times
12. Register
13. Indigent and destitute persons
14. Number of corpses in one coffin

CHAPTER 4: INTERMENT

15. Dimensions of graves and apertures
16. Depth of grate
17. Reservation of grave
18. Child's coffin too large
19. Construction material of coffin
20. Number of bodies in one grave
21. Coffin to be covered with earth
22. Religious ceremony
23. Hearse and vehicle at cemetery

24. Instruction of caretaker
25. Music inside cemetery
26. Interment attended by more than fifty people
27. Occupation of chapel or shelter
28. Number on grave

CHAPTER 5: EXHUMATION OF CORPSE AND RE-OPENING OF GRAVE

29. Disturbance of mortal remains
30. Time of exhumation
31. Re-opening of grave

CHAPTER 6: CARE OF GRAVES

32. Shrubs and flowers
33. Care of grave

CHAPTER 7: CREMATION

34. Receptacles and ashes
35. Burial and exhumation of ashes
36. Cremation certificate

CHAPTER 8: ERECTION AND MAINTENANCE OF MEMORIAL WORK

37. Consent of Municipality
38. Requirements for erection of memorial work
39. Position, movement and removal of memorial work
40. Repairs to memorial work
41. Supervision of work
42. Damaging of memorial work
43. Conveying of memorial work
44. Vehicle and tools
45. Complying with Municipality's directions
46. Times for bringing in material and doing work
47. Inclement weather
48. Production of written permission
49. Memorial work in crematorium

CHAPTER 9: SECTIONS IN CEMETERY

50. Municipality may establish sections
51. Monumental section
52. Garden of Remembrance
53. Heroes Acre
54. Aesthetic section
55. Panoramic section

CHAPTER 10: PRIVATE CEMETERIES

56. By-laws apply
57. Establishment and continued use of cemeteries
58. Duties of Proprietors

CHAPTER 11: MISCELLANEOUS

59. Authentication and service of order, notice or other document

- 60. Complaint
 - 61. Notice of compliance and representations
 - 62. Costs
 - 63. Appeal
 - 64. Charges
 - 65. Penalties
 - 66. Limitation of liability
 - 67. Exemptions
 - 68. Liaison forums in community
 - 69. Revocation of by-laws
 - 70. Short title and commencement
- Schedules

1. Interpretation

In these By-laws, unless the context otherwise indicates –

“**adult**” means a deceased person over the age of 12 years and where the word is used to define a corpse, a deceased person whose coffin will fit into the grave opening prescribed for adults in section 15;

“**aesthetic section**” means a cemetery or section of a cemetery which has been set aside by the Municipality wherein only headstones may be erected; “**approved**” means approved by the Municipality;

“**ashes**” means the cremated remains of a corpse;

“**berm**” means a concrete base laid at the head of a grave and on which a memorial is erected;

“**burial**” means interment in earth, a sepulchre or tomb;

“**burial order**” means an order issued in terms of the Births and Deaths Registration Act, 1992 (Act 51 of 1992);

“**caretaker**” means the official whom the Municipality appoints from time to time in a supervisory capacity with regard to a cemetery or crematorium;

“**cemetery**” means a land or part of a land within the municipal area set aside by the Municipality as a cemetery;

“**child**” means a person who is not an adult, and where the word is used to define a corpse, means a deceased person whose coffin will fit into the grave opening prescribed for children in section 18, and includes the corpse of a stillborn child and a foetus;

“**columbarium**” means a the place set aside in the basement of a crematorium or chapel containing rows of niches for the purpose of placing receptacles containing the ashes of cremated corpses therein;

“**corpse**” means the remains of a deceased person and includes a still-born child and foetus;

“**cremation**” means the process whereby a corpse is disposed of by fire;

“**crematorium**” means a crematorium as defined in section 1 of the Ordinance and includes the buildings in which a ceremony is conducted and the cremation carried out;

“**cremated remains**” means all recoverable ashes after the cremation;

“**exhumation**” means the removal of a corpse from its grave;

“**funeral undertaker’s premises**” has the meaning assigned to it in regulation 1 of the Regulations;

“**garden of remembrance**” means a section of a cemetery or crematorium set aside for the erection of memorial work or a wall of remembrance;

“grave” means a piece of land, within a cemetery or heritage site, excavated for the burial of a corpse and includes the headstone, number or marker of and a structure on or associated with the grave;

“heroes acre” means an area of land set aside for the burial of a hero;

“medical officer of health” means the officer appointed by Municipality or any other person acting in the capacity of the medical officer of health;

“memorial section” means a section of a cemetery set aside for the erection of memorials;

“memorial work” means any headstone, monument, plaque, other work or object, erected or intended to be erected in a cemetery or crematorium to commemorate a deceased person, and includes a kerb demarcating a grave, and a slab covering a grave;

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

“niche” means a compartment in a columbarium or wall of remembrance for the placing of ashes;

“ordinance” means the Crematorium Ordinance, 1965 (Ordinance No. 18 of 1965);

“panoramic section” means a section in a cemetery set aside by the Municipality where memorial work is restricted to a plaque or memorial slab;

“prescribed” means prescribed by the Municipality;

“prescribed fee” means a fee determined by the Municipality in its Customer Care and Revenue Management By-law;

“private cemetery” means a cemetery of which is used as a cemetery but which has not been set aside as such by the Municipality;

“Regulations” means the Funeral Undertakers’ Premises, made under sections 33 and 39 of the Health Act, 1977 (Act 63 of 1977), and published as Government Notice No. 237 of 8 February 1985;

“tomb” means an above ground burial vault;

“wall of remembrance” means a structure (in a cemetery) which contains niches in which urns containing ashes can be stored.

(2) If any provision in these By-laws vests or imposes any power, function or duty of the Municipality in or on an employee of the Municipality and such power, function or duty has in terms of section 81(2) of the Local Government: Municipal Systems Act, 2000 (Act 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.

2. Principles and objectives

The Municipality, acting under the powers granted to it by national and provincial legislation and the regulations made under sections 33 and 39 of the Health Act, 1977 (Act 63 of 1977), and aware of the dignity of its residents and the need to preserve that dignity, and aware that a corpse is to be granted respect, and that all its residents have the right and the duty to inter a corpse in a cemetery or to cremate a corpse in a crematorium, hereby adopts these By-laws to control funeral undertaker's premises, to make provision for the allocation of land for the purposes of the burial of human remains, to develop and maintain existing

cemeteries, to permit its residents to dispose of a corpse by cremation and to provide space allowing the preservation of the remains of a cremation in a dignified manner.

CHAPTER 1: FUNERAL UNDERTAKERS' PREMISES

3. Applicable legislation

The Regulations and the National Building Regulations and Building Standards Act, 1977 apply in respect of funeral undertaker's premises.

CHAPTER 2: GENERAL PROVISIONS RELATING TO CEMETERIES AND CREMATORIA

4. Appointment of caretaker

- (1) The Municipality may appoint a caretaker for each cemetery or crematorium to control and administer the cemetery or crematorium.
- (2) The caretaker must take into account the customs of the deceased person and the people responsible for the burial or cremation and must accommodate these within the framework of these By-laws.

5. Hours of admission for public

- (1) Every cemetery is open to the public during the following hours: 8:00 and 17:00, however, if it is in the interest of the public, the Municipality may close to the public a cemetery or crematorium or part thereof for such periods as the Municipality necessary.
- (2) No person, excluding workers or persons with permission, may be in or remain in a cemetery or crematorium or part thereof before or after the hours mentioned in sub-section (1) or during a period when it is closed to the public.
- (3) A person who contravenes subsection (2) commits an offence.

6. Children

- (1) No child under 12 years of age may enter a cemetery or crematorium unless he or she is under the care of a responsible person.
- (2) A person who allows a child to enter a cemetery or crematorium in contravention of subsection (1), commits an offence.

7. Keeping to path

Except for purposes permitted by these By-laws, a person may only use a path provided in the cemetery, and failure to do so constitutes an offence.

8. Prohibited conduct within cemetery and crematorium

- (1) No person may -
 - (a) commit or cause a nuisance within a cemetery or crematorium;
 - (b) ride an animal or cycle within a cemetery or crematorium;
 - (c) bring or allow an animal to wander inside a cemetery or crematorium;
 - (d) plant, cut, pick or remove a tree, plant, shrub or flower without the permission of the caretaker;

- (e) hold or take part in a demonstration in a cemetery or crematorium;
 - (f) interrupt during the performance of his or her duties an official, workman or labourer employed by the Municipality in a cemetery or crematorium;
 - (g) obstruct, resist or oppose the caretaker in the course of his or her duty or refuse to comply with an order or request which the caretaker is entitled under these By-laws to make;
 - (h) mark, draw, scribble, erect an advertisement or object on a wall, building, fence, gate, memorial work or other erection within a cemetery or crematorium;
 - (i) use water for any form of gardening without the permission of the caretaker;
 - (j) plant trees, flowers or shrubs on or between graves;
 - (k) leave any rubbish, soil, stone, debris or litter within the cemetery or crematorium;
 - (l) in any way damage or deface any part of a cemetery or crematorium or anything therein contained;
 - (m) enter or leave a cemetery or crematorium, except by an entrance provided for the purpose;
 - (n) solicit any business, order or exhibit, or distribute or leave a tract, business card or advertisement within a cemetery or crematorium;
 - (o) treat a grave or memorial work with disrespect, such as climbing or sitting on a grave or memorial work;
 - (p) enter an office, building or fenced place in a cemetery or crematorium, except in connection with lawful business;
 - (q) with the exception of a blind person, bring an animal into a cemetery or crematorium; and
 - (r) expose a corpse or a part thereof in a cemetery or crematorium.
- (2) A person who contravenes a provision of subsection (1) commits an offence.

9. Right of interest in ground

- (1) No person shall acquire any right to or interest in any ground or grave in a cemetery, other than such rights or interests as may be obtainable under these By-laws.
- (2) The Municipality may on payment of the prescribed fee, sell to a person the use of a grave in a section of a cemetery for a period not exceeding 20 years.
 - (a) The Municipality may set aside different areas in a cemetery for exclusive use by different religious or cultural groups, taking into consideration the customs or religious conventions of such groups.
 - (b) The Municipality may launch an awareness campaign regarding the use of land for burial purposes, whereby the environmental advantages of cremation as an alternative to burial is stressed.
 - (c) The Municipality may, if compelled to do so by environmental considerations, such as shortage of land for burial, and subject to the provisions of any other law regarding the rights of a person, request that a corpse be cremated instead of interred.

**CHAPTER 3: GENERAL PROVISIONS RELATING TO
INTERMENT AND CREMATION**

10. Consent required for interment and cremation

- (1) No person may dispose of a corpse in any other manner than by interring it in a cemetery or having it cremated in a crematorium, and a person who wishes to dispose of a corpse must obtain the written consent of the caretaker before he or she disposes of the corpse.
- (2) A person who wishes to obtain the consent as contemplated in subsection (1) must submit to the caretaker an application in writing in a form similar to the form in Schedule 1 together with –
 - (a) the prescribed fee;
 - (b) a death certificate;
 - (c) a burial order issued in terms of the Births and Deaths Registration Act, 1992, and the caretaker may not approve the application unless all of the above requirements are met.
- (3) An application must be submitted to the caretaker, in respect of
 - (a) an interment where the Municipality is responsible for the digging of the grave, not later than 15:00 on the day before the intended interment or, where the grave exceeds the standard size, not later than 15:00 two days before the intended interment; and
 - (b) a cremation, not later than 15:00 on the day before the intended cremation.
- (4) Should any alteration be made in the day or hour previously fixed for an interment or cremation, or an interment or cremation be cancelled, in the instance where the Municipality is responsible for the digging of a grave, notice of the alteration must be given to the caretaker at the cemetery at least six hours before the time fixed for the interment or cremation, and no refund will be made on monies paid in respect of the opening of an existing grave.
- (5) The application contemplated in subsection (2) must be signed by the nearest surviving relative of the deceased person whose corpse will be buried in the grave or cremated or such other person as the nearest surviving relative may authorise to sign the application on his or her behalf, however, if the caretaker is satisfied that the signature of the nearest surviving relative cannot be obtained timeously, or for any other valid reason, he or she may in his or her discretion grant an application signed by any other interested person.
- (6) In the instance where a person –
 - (a) who at the time of his or her death was suffering from a communicable disease, this must be indicated in the application; or
 - (b) in whom was inserted radioactive material or a pacemaker, it must be indicated in the application if the said material or pacemaker was removed from the corpse.
- (7) A person who disposes of a corpse in contravention of

subsection (1) or who contravenes subsection (5) or subsection (6) commits an offence.

11. Interment and cremation times

- (1) An interment and cremation may take place between 09:00 and 16:00 on week days and between 09:00 and 12:00 on Saturdays.
- (2) Despite the provisions of subsection (1), the caretaker to whom an application is made may, if the case is one of emergency, permit interment or cremation outside the times contemplated in subsection (1) in which case an additional fee as prescribed by the Municipality is payable.
- (3) A person who interms or cremates a corpse in contravention of the provisions of subsection (1) commits an offence.

12. Register

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

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

13. Indigent and destitute persons

- (1) A person may apply to the Municipality for the burial or cremation of the corpse of an indigent person and must provide proof that the deceased was granted the status as indigent person in terms of the Municipality's Customer Care and Revenue Management By-laws, and the Municipality shall decide if the corpse is to be buried or cremated.
- (2) Subject to the provisions of section 48 of the Health Act, 1977, 0 of the Human Tissue Act, 1983, the corpse of a destitute person or an unclaimed corpse may be buried or cremated according to conditions determined by the Municipality.
- (3) Where a corpse contemplated in subsection (1) or (2) is cremated, the caretaker of the crematorium where the corpse was cremated must retain the ashes, and should the ashes not be claimed, bury the ashes in a grave.

14. Number of corpses in one coffin

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

CHAPTER 4: INTERMENT

15. Dimensions of graves and apertures

- (1) The standard dimensions of a grave are as follows:
 - (a) Adult:
 - (i) Single grave: Length: 2200 mm; Width: 900 mm.
 - (ii) Double grave: Length: 2200 mm; Width: 2700 mm.
 - (b) Child:
Single grave: Length: 1500 mm; Width: 700 mm.
- (2) Any person requiring an aperture for an interment in an adult's grave of a size larger than the standard dimensions must, when submitting an application in terms of section 10, specify the measurements of the coffin, and pay the fee prescribed by the Municipality for enlarging the aperture.
- (3) A person, other than an employee of the Municipality, who digs a grave in contravention of the dimensions stipulated in subsection (1), commits an offence.

16. Depth of grave

- (1) An adult's grave is 1900 mm in depth and that of a child 1500 mm in depth.
- (2) The lid of the coffin, or where one coffin has been buried on top of another coffin, the lid of the top coffin, may not be less than 1200 mm from the surface.
- (3) A person, other than an employee of the Municipality, who digs a grave in contravention of the dimensions stipulated in subsection (1) or who inters a coffin in contravention of the provisions of subsection (2) commits an offence.

17. Reservation of grave

- (1) A person desiring to reserve the use of a grave must apply therefore to the caretaker and must pay the prescribed fee
- (2) A restriction is placed on the reservation of graves, and reservations shall only be accepted for adult graves in the monumental section as stated in subsection (3).
- (3) In the event of an interment of a husband or wife in the monumental section, only one additional adjoining grave may be reserved for the survivor.
- (4) In the event of an interment of a husband or wife in the aesthetic section, an additional adjoining grave may not be reserved for the survivor, however, subject to the provisions of section 20, the interment of the survivor may be permitted in the same grave.
- (5) Where another person, other than the applicant, has mistakenly used a grave, the caretaker must allocate another grave within the cemetery to the applicant.

18. Child's coffin too large

Should a child's coffin be too large for the dimensions of a child's grave, it must be placed in an adult grave and the prescribed fee for an adult's interment must be

paid by the person submitting an application in terms of section 10, and in the instance where a child is interred in a section intended for adults the fee applicable to adults applies.

19. Construction material of coffin

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

20. Number of bodies in one grave

Subject to the provisions of section 16(2) and 31, more than one corpse may be interred in a single grave.

21. Coffin to be covered with earth

The person contemplated in section 10(1) ensure that a coffin, upon being placed in a grave, is covered without delay with at least 300 mm of earth, and failure to do so constitutes an offence.

22. Religious ceremony

The members of a religious denomination may conduct, during the interment and at the grave, a religious ceremony in connection with an interment or memorial service.

23. Hearse and vehicle at cemetery

- (1) No hearse or other vehicle may enter a cemetery without the prior permission of the caretaker first having been obtained.
- (2) No hearse or other vehicle may use any other route to enter a cemetery than the routes set aside for that purpose.
- (3) A person who contravenes subsections (1) or (2) commits an offence.

24. Instruction of caretaker

A person taking part in a funeral procession or ceremony in a cemetery must follow instructions by the caretaker, and failure to do so constitutes an offence.

25. Music inside cemetery

- (1) Only sacred singing is allowed in a cemetery, except in the case of a police or military funeral, in which case the prior permission of the caretaker must be obtained.
- (2) A person who contravenes subsection (1) commits an offence.

26. Interment attended by more than fifty people

In any instance where it is probable that more than 50 people will be present at an interment, the person submitting an application in terms of section 10, must notify the fact to the caretaker the day before the funeral, and failure to do so constitutes an offence.

27. Occupation of chapel or shelter

- (1) No person may for the purpose of a funeral occupy a chapel or shelter in a cemetery for more than 45 minutes.

- (2) A person who contravenes subsection (1) commits an offence.

28. Number on grave

- (1) No person may inter a corpse in a grave on which a peg marked with the number of the grave has not been fixed.
(2) A person who contravenes subsection (1) commits an offence.

CHAPTER 5: EXHUMATION OF CORPSE AND RE-OPENING OF GRAVE

29. Disturbance of mortal remains

- (1) Subject to the provisions of an exhumation order given in terms of section 3(4) of the Inquests Act, 1959 any other provision of any Act relating to the exhumation of corpses –
(a) no corpse or mortal remains or ground surrounding it in a cemetery may be disturbed;
(b) no grave may be re-opened; and
(c) no corpse may be removed from a grave, without the written consent of the Municipality.
(2) The prescribed fee for exhumation must be paid to the caretaker at least two days before the date fixed for the exhumation or removal of the corpse.
(3) A person who contravenes subsections (1) commits an offence.

30. Time of exhumation

- (1) No person may exhume or cause a corpse to be exhumed during such time as the cemetery is open to the public.
(2) A person who contravenes subsection (1) commits an offence.

31. Re-opening of grave

- (1) No person may re-open a grave for the purpose of interring a second corpse in the same grave unless –
(a) the grave was initially made deeper for this purpose;
(b) if not made deeper, then only after 10 years have passed since the interment of the first corpse;
(c) for purposes of burial of a receptacle containing ashes, the depth does not exceed 300 mm;
(d) the consent contemplated in section 29(1) has been obtained; and
(e) the fee prescribed by the Municipality has been paid.
(2) A person who contravenes a provision of subsection (1)(a) to (d) commits an offence.
(3) The Municipality has the right to re-open a grave for the purpose of establishing, by reading the inscription on the coffin, the identity of the corpse.

CHAPTER 6: CARE OF GRAVES**32. Shrubs and flowers**

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

33. Care of grave

- (1) The maintenance of a grave is the responsibility of the person contemplated in section 9(2).
- (2) The Municipality may, on application by a person contemplated in subsection (1) and upon payment of the fee prescribed by the Municipality, undertake to keep any grave in order for any period.
- (3) The Municipality may at its discretion undertake to keep, at its own expense, any grave in order for any period.

CHAPTER 7: CREMATION**34. Receptacles and ashes**

- (1) Unless the ashes are to be buried by the Municipality, the person contemplated in section 10(1) must provide a receptacle, on which the full name of the deceased person is indicated, for receiving the ashes.
- (2) The quantity of ashes to be kept, as indicated on the application form by the person contemplated in subsection (1) must, after the cremation, be collected by him or her, and should he or she fail to collect the ashes, the ashes will be dealt with in terms of section 35(1)..
- (3) Where a receptacle is intended to be placed in a niche in the columbarium –
 - (a) it must –
 - (i) be made of wood or stone; and
 - (ii) be of a size and design as to fit into the niche; and
 - (b) if the niche is not meant to be sealed, have affixed to it a plate on which the full name of the deceased person is inscribed.

35. Burial and exhumation of ashes

- (1) In the absence of an arrangement between the caretaker and the person contemplated in section 34 regarding the ashes, the caretaker may bury or scatter the ashes in a garden of remembrance, where such facility is available.
- (2) A person may deposit ashes in a –
 - (a) grave; or
 - (b) niche in a –
 - (i) columbarium;
 - (ii) wall of remembrance; or
 - (ii) memorial work.
- (3) A person must obtain the consent of the caretaker if he or she wishes to –
 - (a) bury ashes in a grave;
 - (b) exhume ashes from a grave; or
 - (c) scatter ashes,and the caretaker must, on receiving payment of the prescribed fee –
 - (i) give written consent to the applicant to bury, exhume or scatter the ashes; and

- (ii) in the instance of burial or exhumation, prepare the grave for burial or exhumation.
 - (4) A grave for the burial of ashes or a niche in a columbarium must measure 610 mm in length, 610 mm in width, and 610 mm in depth.
- 36. Cremation certificate**
- (1) On completion of a cremation, the caretaker must supply a cremation certificate to the person contemplated in section 34(1).
 - (2) The caretaker must, on application and after receipt of the prescribed fee, issue a duplicate cremation certificate to a person.

CHAPTER 8: ERECTION AND MAINTENANCE OF MEMORIAL WORK

- 37. Consent of Municipality**
- (1) No person may bring into a cemetery, erect, alter, paint, clean, renovate, decorate, remove or otherwise interfere with any memorial work or cut any inscription thereon in a cemetery without the written consent of the Municipality.
 - (2) When erecting a memorial work, the following must be submitted:
 - (a) A plan which gives an indication of the measurements and the position;
 - (b) specification of the material of which the memorial work is to be constructed; and
 - (c) the wording of the epitaph.
 - (3) The plan must be submitted 30 days before the erection commences, and must be accompanied by the prescribed fee, and the Municipality, when granting consent, may impose such conditions as it deems necessary.
 - (4) No person may bring into the cemetery any material for the purpose of constructing therewith any memorial work on any grave unless and until -
 - (a) the provisions of subsection (1) to (3) have been complied with; and
 - (b) all charges due in respect such grave have been duly paid.
 - (5) The Municipality's consent of the proposed work is valid for six months only, and in the event of the memorial work not being erected within the prescribed time a new application must be submitted.
 - (6) The grave number must be indicated, in a workmanlike manner, in figures 30 mm in size, and failure to do so constitutes an offence.
 - (7) A person who contravenes a provision of subsection (1) or (4)(a) commits an offence
- 38. Requirements for erection of memorial work**
- (1) A person erecting a memorial work must comply with the following:
 - (a) He or she must be in possession of a plan approved by the Municipality;
 - (b) all work must be effected according to the conditions contemplated in section 37(3);
 - (c) proceedings must be of such a nature that no damage be caused to any structure or offence given;
 - (d) where a memorial has a pedestal on ground level or on the berm, the pedestal may not be more than 900 mm in length, 250 mm in width and 250 mm in height for a single grave, and not more than 2700 mm in length, 250 mm in width, and 250 mm in height for a double grave;
 - (e) with the contractor's permission, the name of the maker can be displayed on a memorial work, but no address or any other particulars may be added

thereto, and the space utilized for it may not be larger than 40 x 100 mm;
and

- (f) tiles in the Garden of Remembrance must be 240 mm x 300 mm large and must be manufactured out of non-corrosive metal.
- (2) A person who does not comply with a provision in subsection (1) commits an offence.

39. Position, movement and removal of memorial work

- (1) No person may erect a memorial work on a grave before the position in which such memorial work is to be placed has been indicated by the Municipality.
- (2) Should the provisions of subsection (1) not be complied with the Municipality has the right to alter the position of the memorial work and to recover the costs of the alteration from the person who erected the memorial work.
- (3) In the instance where a memorial work has originally been placed in a certain position with the express consent of the Municipality or its employee, any alteration of the position in terms of the provisions of this section is executed at the expense of the Municipality.
- (4) A memorial work placed, erected, constructed, built, altered, decorated, painted or otherwise dealt with in a cemetery in such manner that any provisions of these By-laws are contravened thereby, may be removed, after due notice, by the Municipality at the cost of the person who erected the memorial work, without payment of any compensation.

40. Repairs to memorial work

Should the person who erected a memorial work allow such memorial work to fall into such a state of disrepair that it may cause danger or deface the cemetery, the Municipality may cause a Notice of Compliance, as contemplated in section 61, to be served on such person.

41. Supervision of work

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

42. Damaging of memorial work

The Municipality under no circumstances accepts responsibility for any damage which may at any time occur to a memorial work, and which is not due to the negligence of the Municipality's employees.

43. Conveying of memorial work

- (1) No person may convey any stone, brick or memorial work or a portion thereof within a cemetery upon a vehicle or truck which may cause damage to the paths or grounds or structures of the cemetery.
- (2) A person who contravenes subsection (1) commits an offence.

44. Vehicle and tools

Every person engaged with work upon a grave or plot must ensure that the vehicles, tools or appliances be of such a kind as not to contravene these By-laws and by no means block any road or roads, and failure to do so constitutes an offence.

- 45. Complying with Municipality's directions**
A person carrying on work within a cemetery must in all respects comply with the directions of the Municipality, and failure to do so constitutes an offence.
- 46. Times for bringing in material and doing work**
- (1) No person may bring memorial work or material into or do any work, other than the dismantling of memorial work for burial purposes, within a cemetery except during the following hours: Mondays to Fridays between the hours of 7:00 and 18:00.
 - (2) No person may engage in work which may be disturbing when a funeral takes place and for the duration of the funeral.
 - (3) A person who contravenes subsections (1) or (2) commits an offence.
- 47. Inclement weather**
- (1) No person may fix or place any memorial work while the soil is in an unsuitable condition.
 - (2) A person who contravenes subsection (1) commits an offence.
- 48. Production of written permission**
A person charged with a work or on his or her way to or from work within the cemetery must, upon demand from the Municipality or its authorized official, produce the written consent issued to him or her in terms of section 37, and failure to do so constitutes an offence.
- 49. Memorial work in crematorium**
- (1) Unless a corpse was cremated in the crematorium, or a cremation certificate issued by another crematorium is submitted, no person may, without the consent of the caretaker first having been obtained, erect a memorial work in a crematorium.
 - (2) A memorial work –
 - (a) if erected in a garden of remembrance –
 - (i) must be made of marble or granite; and
 - (ii) may not exceed a size of 250 mm in width, 305 mm in length, and 25 mm in thickness;
 - (b) if intended to seal a niche, must conform in size and material to the memorial work next to it and may have a photograph of the deceased person affixed to it; or
 - (c) erected on a grave, may not exceed 1,2 m in height, 610 mm in length, and 610 mm in width.
 - (3) A person who erects a memorial work in contravention of subsection (1) or who contravenes a provision of subsection (2) commits an offence.

CHAPTER 9: SECTIONS IN CEMETERY

- 50. Municipality may establish sections**
- (1) The Municipality may establish one or more of the following sections in a cemetery:
 - (a) Monumental section;
 - (b) garden of remembrance;
 - (c) heroes acre;
 - (d) aesthetic section; or

- (e) panoramic section.

51. Monumental section

- (1) Memorial work may be erected upon the whole surface of the grave subject thereto that the provisions of section 38 must be complied with and that the following measurements may not be exceeded:
- (a) Height: 2000 mm.
 - (b) Width: 900 mm in case of a single grave, and 700 mm in case of a double grave.
 - (c) Thickness: 250 mm.
- (2) The Municipality may in the course of time level all graves and plant grass thereon.
- (3) Flowers, foliage, wreaths or any adornment may be placed upon the berm only of graves, except in the case of graves which have not yet been levelled.
- (4) A person commits an offence if he or she –
- (a) exceeds the measurements stipulated in subsection (1); or
 - (b) contravenes section (3).

52. Garden of Remembrance

- (1) This section contains the wall of remembrance with niches, and a garden area in which plaques can be erected.
- (2) A container intended to be placed in a niche may not exceed 300 mm x 150 mm x 150 mm in size.
- (3) Flowers and wreaths may be placed on the places provided therefor only.
- (4) A person who contravenes a provision of subsection (2) or (3) commits an offence.

53. Heroes Acre

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

54. Aesthetic section

- (1) Only a headstone may be erected, and a slab may not be erected on, and a kerb may not be erected around a grave.
- (2) The dimensions of a headstone are as follows:
- (a) Adult's grave:
 - (i) Single grave: 900 mm in length by 260 mm in width.
 - (ii) Double grave: 2200 mm in length by 260 mm in width.
 - (b) Child's grave:
 - (i) Single grave: 610 mm in length by 260 mm in width.
 - (ii) Double grave: 1200 mm in length by 260 mm in width.

- (3) No headstone may exceed a height of 1500 mm above the berm.
- (4) A person who contravenes a provision of this section commits an offence.

55. Panoramic section

- (1) Only a plague may be embedded, which plague must be –
 - (a) made of marble, granite or stainless steel;
 - (b) 500 mm in length, 500 in width, and 30 mm thick.
 - (c) embedded –
 - (i) 30 mm below the level of the grass;
 - (ii) horizontally on ground level; and
 - (iii) on a concrete foundation.
- (2) A person who contravenes a provision of subsection (1) commits an offence.

CHAPTER 10: PRIVATE CEMETERIES

56. By-laws apply

The provisions of these By-laws apply mutatis mutandis to private cemeteries.

57. Establishment and continued use of cemeteries

- (1) No person may, without the Municipality's consent first having been obtained, establish a private cemetery, and no proprietor of a private cemetery already in existence may, if the use of the cemetery was not previously authorised by the Municipality, continue to use the existing cemetery for burial purposes.
- (2) A person who wishes to apply for the Municipality's consent to establish a cemetery or use as cemetery as contemplated in subsection (1), must submit to the Municipal Manager an application in a form similar to the form in Schedule 2, which schedule refers, in writing together with –
 - (a) a locality plan to a scale of not less than 1: 10 000 which shows
 - (i) the position of the proposed cemetery or existing cemetery in relation to the boundaries of the land on which it is proposed to establish it or upon which it is situated as the case may be;
 - (ii) the registered description of the site;
 - (iii) all streets, public places and privately-owned property within a distance of 100 metres of the site;
 - (b) a "block" plan to a scale of not less than 1: 500 showing the position of external boundaries, internal roads and paths, subdivisions, grave sites, drainage and any buildings existing or proposed to be erected;
 - (c) a plan and sections to a scale of not less than 1: 100 of any building existing or proposed to be erected, and which must in this case conform with the National Building Regulations and the Water Services and Sanitation By-laws of the Municipality;
 - (d) a list of registers or records kept or proposed to be kept with reference to –
 - (i) identification of graves;
 - (ii) sale of grave sites transfer of grave sites; and
 - (iii) interments;
 - (e) the full name and address of the proprietor;

- (f) particulars regarding the nature of the title under which the proprietor will hold or holds the land on which the cemetery is to be established or which is being used as a cemetery and whether such land is subject to any mortgage or trust; and
 - (g) a schedule of the burial fees proposed to be charged or actually in force.
- (3) On receipt of an application the Municipal Manager must cause to be inserted in one or more newspapers circulating in the municipal area a notice stating the nature of the application and specifying the date being not less than 14 days after the date of publication of such notice by which objections to the granting of an application may be lodged with the Municipality.
- (4) The Municipality may, upon receipt of the payment by the applicant of the prescribed fee and if satisfied after consideration of the application and any objections which may have been lodged that no interference with any public amenity, or nuisance or danger to the public health is likely to take place or arise as a result, in writing grant consent for the establishment of the proposed private cemetery or the continued use of the private cemetery as the case may be, referred to in the application, in accordance with the plans submitted and to any variation or amendment which it may require and to any conditions which it may prescribe.
- (5) No departure from the plans as approved are permitted without the prior approval of the Municipality.
- (6) A person who contravenes a provision of subsection (1) or (5) commits an offence.

58. Duties of Proprietors

- (1) The proprietor of a private cemetery for which the consent of the Municipality has been obtained must –
- (a) comply with –
 - (i) any special conditions prescribed by the Municipality; and
 - (ii) the relevant provisions of these By-laws and any other applicable law;
 - (b) keep a record which shows –
 - (i) the number of each grave site and the ownership of the site; and
 - (ii) the number of interments in each grave site and the name, age, sex, race, last known address, date and cause of death of the deceased;
 - (d) maintain the grounds, fences, gates, roads, paths and drains in good order and condition and clear of weeds and overgrowth;
 - (e) provide for the identification of grave sites by subdividing the cemetery into blocks each containing a number of graves or grave sites, and –
 - (i) each block must be demarcated by means of signs showing the number and situation of each block;
 - (ii) the graves or grave sites in each block must be separately numbered by means of durable number plates; and
 - (iii) all signs and number plates must be maintained in a neat and legible condition;
 - (f) allow an official to enter or inspect the cemetery and all records kept in connection therewith;

- (g) render a monthly return to the municipal manager on or before the 7th day in each month of all burials, which sets out the –
 - (i) name, last known address, age, sex, race, date and cause of death of each deceased person interred in the cemetery;
 - (ii) name of the medical practitioner who issued the death certificate;
 - (iii) authority who issued the burial order;
 - (iv) block and grave site number;
 - (v) date of burial; and
 - (vi) particulars of a change in the identity of the caretaker or of a person newly appointment;
 - (h) render an annual return to the municipal manager on or before the 31st day of March each year which contains a detailed list of the names and addresses of all trustees, committee members or persons controlling the cemetery; and
 - (i) appoint a caretaker to manage the cemetery and to keep the records.
- (2) A person who contravenes a provision of subsection (1) commits an offence.

CHAPTER 11: MISCELLANEOUS

- 59. Authentication and service of order, notice or other document**
- (1) An order, notice or other document requiring authentication by the Municipality must be sufficiently signed.
 - (2) Any notice or other document that is served on a person in terms of these by-laws, is regarded as having been served -
 - (a) when it has been delivered to that person personally;
 - (b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of sixteen years;
 - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic and an acknowledgment of the posting thereof from the postal service is obtained;
 - (d) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided by paragraphs (a), (b) or (c);
 - (e) if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the property or premises, if any, to which it relates; or
 - (f) in the event of a body corporate, when it has been delivered at the registered office of the business premises of such body corporate.
 - (4) Service of a copy shall be deemed to be service of the original.
 - (5) Any legal process is effectively and sufficiently served on the municipality when it is delivered to the municipal manager or a person in attendance at the municipal manager's office.

60. Complaint

A person wishing to lodge a complaint must lodge the complaint, in writing, with the Municipal Manager.

61. Notice of compliance and representations

- (1) A notice of compliance served in terms of section 40 must state -
 - (a) the name and residential and postal address, if either or both of these be known, of the person;
 - (b) the nature of the state of disrepair;
 - (c) in sufficient detail to enable compliance with the notice, the measures required to remedy the memorial work;
 - (d) that the person must within a specified time period take the measures to comply with the notice, to diligently continue with the measures, and to complete the measures before a specific date;
 - (e) that failure to comply with the requirements of the notice within the period contemplated in paragraph (d) is an offence;
 - (f) that written representations, as contemplated in subsection (3) may, within the time period stipulated under paragraph (d) above, be made to Municipality at a specified place.
- (2) Municipality, when considering any measure or time period envisaged in subsections (1)(d) and (e), must have regard to -
 - (a) the principles and objectives of these By-laws;
 - (b) the state of disrepair;
 - (c) any measures proposed by the person on whom measures are to be imposed; and
 - (d) any other relevant factors.
- (3) A person may within the time period contemplated in paragraph (1)(f) make representations, in the form of a sworn statement or affirmation to Municipality at the place specified in the notice.
- (4) Representations not lodged within the time period will not be considered, except where the person has shown good cause and Municipality condones the late lodging of the representations.
- (5) Municipality must consider the representations and any response thereto by an authorised official or any other person, if there be such a response.
- (6) Municipality may, on its own volition, conduct any further investigations to verify the facts if necessary, and the results of the investigation must be made available to the person, who must be given an opportunity of making a further response if he or she so wishes, and Municipality must also consider the further response.
- (7) Municipality must, after consideration of the representations and response, if there be such a response, make an order in writing and serve a copy of it on the person.
- (8) The order must -
 - (a) set out the findings of Municipality;
 - (b) confirm, alter or set aside in whole or in part, the notice of compliance; and
 - (c) specify a period within which the person must comply with the order made by Municipality.
- (9) If the notice of compliance is confirmed, in whole or in part, or is altered but not set aside, Municipality will inform the person that he or she -
 - (a) must discharge the obligations set out in the notice; or
 - (b) may elect to be tried in court.

- (10) If the person elects to be tried in court he or she must, within seven calendar days, notify Municipality of his or her intention to be so tried.
- (11) If the person does not elect to be tried in court, he or she must, within the prescribed manner and time discharge his or her obligations under the order.
- (12) Where there has been no compliance with the requirements of a notice, the Municipality may take such steps as it deems necessary to repair the monumental work and the cost thereof must be paid to the Municipality in accordance with section 62.

62. Costs

Should a person fail to take the measures required of him or her by notice, Municipality may recover all costs incurred as a result of it acting in terms of paragraph 61(12) from the person.

63. Appeal

- (1) A person whose rights are affected by a decision of an official, may appeal against that decision by giving written notice of the appeal and reasons to the municipal manager within 21 days of the date of the notification of the decision.
- (2) The municipal manager must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.
- (3) The municipal manager must commence with an appeal within six weeks and decide the appeal within a reasonable time

64. Charges

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

65. Penalties

A person who has committed an offence in terms of these by-laws is, on conviction, liable to a fine or in default of payment, to imprisonment for a period not exceeding six months, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment.

66. Limitation of liability

The Municipality is not liable for any damage or loss caused by –

- (a) the exercise of any power or the performance of any duty in good faith under these By-laws; or
- (b) the failure to exercise any power, or perform any function or duty in good faith under these By-laws.

67. Exemptions

- (1) Any person may by means of a written application, in which the reasons are given in full, apply to the municipality for exemption from any provision of these by-laws.
- (2) The municipality may –

- (a) grant an exemption in writing and the conditions in terms of which, if any, and the period for which such exemption is granted must be stipulated therein;
 - (b) alter or cancel any exemption or condition in an exemption; or
 - (c) refuse to grant an exemption.
- (3) An exemption does not take effect before the applicant has undertaken in writing to comply with all conditions imposed by the municipality under subsection (2), however, if an activity is commenced before such undertaking has been submitted to the municipality, the exemption lapses.
- (4) If any condition of an exemption is not complied with, the exemption lapses immediately.

68. Liaison forums in community

- (1) The municipality may establish one or more liaison forums in a community for the purposes of –
- (a) creating conditions for a local community to participate in the affairs of the municipality;
 - (b) encouraging a local community to participate in the affairs of the municipality; and
 - (c) promoting the achievement of a healthy environment.
- (2) A liaison forum may consist of –
- (a) a member or members of an interest group, or an affected person;
 - (b) a member or members of a community in whose immediate area a cemetery or crematorium exists;
 - (c) a designated official or officials of the municipality; and
 - (d) the municipality responsible for cemeteries.
- (3) (a) The municipality may, when considering an application for consent, permit or exemption certificate in terms of these By-laws, where applicable, request the input of a liaison forum.
- (b) A liaison forum or any person or persons contemplated in subsection (2) may, on own initiative, submit an input to the municipality for consideration.

69. Revocation of by-laws

- (1) The By-Laws enacted by Colesberg Transitional Local Council, Noupoort Transitional Local Council and Masizakhe Representative Council are hereby repealed.
- (2) Any permission obtained, right granted, condition imposed, activity permitted or anything done under a repealed law, shall be 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.

70. Short title and commencement

These By-laws may be cited as the Umsobomvu Funeral Parlours, Cemeteries and Crematoria By-laws, 2009, and commence on the date of publication thereof in the Provincial Gazette.

SCHEDULE 1

(Section 10(2))

APPLICATION FORM FOR BURIAL / CREMATION

Name of applicant

Address of applicant

Name of diseased person to be interred

Particulars of diseased person

SCHEDULE 2
(Section 57(2))

APPLICATION FORM FOR PRIVATE CEMETERY

EXISTING FORM TO BE USED OR ADAPTED WHERE NECESSARY.

By-law No. 11, 2009

**HERITAGE RESOURCES AND CULTURAL
INSTITUTIONS BY-LAW, 2009**

BY-LAW

To provide for the establishment and management of heritage resources and cultural institutions in the Umsobomvu Municipality; and for matters connected therewith.

BE IT ENACTED by the Umsobomvu Municipality, as follows:-

TABLE OF CONTENTS

1. Interpretation
2. Principles and objectives
3. Application
4. Legislation specifically referred to

CHAPTER 1: GENERAL PROVISIONS

5. Number of visitors
6. Admission to heritage and cultural facility
7. Entrance fees
8. Notice boards
9. Consent required for certain activities
10. Permit
11. Prescribed fees
12. Animals
13. Prohibited behaviour
14. Vehicles
15. Camping in heritage site
16. Certain provisions do not apply to official

CHAPTER II: HERITAGE RESOURCES

17. Interpretation
18. Principles of Chapter II
19. Powers and functions of Council
20. Procedure at meeting
21. Formal protection of privately owned heritage sites
22. Protection and management of protected areas, heritage areas and heritage objects

CHAPTER III: CULTURAL INSTITUTIONS

23. Interpretation
24. Principles and objectives of Chapter III
25. Council to establish and maintain cultural institutions
26. Cultural committee

CHAPTER IV: MISCELLANEOUS PROVISIONS

27. Enforcement officials
28. Costs
29. Penalties
30. Authentication and service of notices and other documents
31. Appeal
32. Revocation of by-laws
33. Short title and commencement

Schedules**1. Interpretation**

In these By-laws, unless the context indicates otherwise –

"Council" means the Umsobomvu Municipal Council;

"cultural institution" means a museum, theatre, lecture room and similar institutions established in terms of section 25 of these By-laws;

"heritage and cultural facility" means a –

- (a) heritage site as defined in section 1 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999);
- (b) a place of cultural significance as identified by a badge or in a notice board contemplated in section X; and
- (c) cultural institution; **"official"** means a person appointed in accordance with the provisions of section 27, and any other word or expression to which a meaning has been assigned in the Cultural Promotion Act, 1983 (Act No. 35 of 1983), Cultural Affairs Act (House of Assembly), 1989 (Act No. 65 of 1989), National Arts Council Act, 1997 (Act No. 56 of 1997), Cultural Institutions Act, 1998 (Act No. 119 of 1998), and National Heritage Resources Act, 1999 (Act No. 25 of 1999), carries that meaning.

2. Principles and objectives

The Council, acting within framework of the principles, and striving to realise the objectives expressed in the Acts contemplated in section 4, hereby adopts these By-laws to protect, manage and control those sites and objects of the national estate, as set out in section 3 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999), entrusted to it under section 26(1)(f) of said Act, and those cultural institutions established by the Council in terms of section 25 of these By-laws.

3. Application

These By-laws apply to those cultural institutions which the Council has established in terms of section 25, and those heritage resources, heritage sites and heritage objects to which powers and functions of a heritage resources authority were delegated in terms of section 26(1)(f) of the Act, 1999 in respect of such Grades as contemplated in section 7, within the Umsobomvu municipal area.

4. Legislation specifically referred to

These By-laws refer specifically to the –

- (a) Cultural Promotion Act, 1983 (Act No. 35 of 1983);
- (b) Cultural Affairs Act (House of Assembly), 1989 (Act No. 65 of 1989);
- (c) Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996);
- (d) National Arts Council Act, 1997 (Act No. 56 of 1997);
- (e) Cultural Institutions Act, 1998 (Act No. 119 of 1998); and
- (f) National Heritage Resources Act, 1999 (Act No. 25 of 1999).

CHAPTER 1: GENERAL PROVISIONS

5. Number of visitors

For the purpose of protecting and managing the heritage and cultural facilities and heritage objects contemplated in these By-laws, the Council may by resolution determine

- (a) the maximum number of persons who or, where applicable, vehicles which may be present at a specific time in or at a heritage and cultural facility; and
- (b) different numbers of persons or, where applicable, different classes of vehicles, as contemplated in paragraph (a), for different heritage and cultural facilities, in respect of those heritage resource or heritage site which the Council, in terms of the National Heritage Resources Act, 1999 (Act No. 25 of 1999) or any other law, may establish, protect or manage, and those cultural institutions which the Council has established in terms of section 25 of these By-laws.

6. Admission to heritage and cultural facility

- (1) A heritage and cultural facility is open to the public at the times, dates and subject to such conditions regarding the entry to and activities that may be undertaken upon the heritage and cultural facility, as determined by the Council by resolution in respect of different heritage and cultural facilities, including conditions regarding the driving of a motor vehicle and different classes of motor vehicles in heritage sites.
- (2) The Municipal Manager may from time to time grant to any person or persons, during such hours and for such period as he or she may deem fit, the exclusive use of a heritage and cultural facility.
- (3) The heritage authority or the Council may by resolution for reasons of maintenance, development, security, safety or public health, temporarily or permanently –
 - (a) close a heritage and cultural facility or a portion thereof; or
 - (b) suspend all or any activities thereon.
- (4) Where a person in a heritage and cultural facility has committed an offence in terms of these By-laws or any other law, an official may order such person to leave the heritage and cultural facility, and a person so ordered to leave –
 - (a) must forthwith leave the heritage and cultural facility by the shortest route available to the public;
 - (b) may not enter any heritage and cultural facility during the period of six months immediately succeeding the relevant order, unless –
 - (i) the Municipal Manager has authorised him or her thereto in writing; or

- (ii) he or she has not, within three months of being so ordered, been prosecuted and found guilty of an offence similar to the offence contemplated above.
- (5) Where an official on reasonable grounds suspects that a person wishing to enter a heritage and cultural facility intends to commit an offence in terms of these By-laws or any other law in or at the heritage and cultural facility, he or she may refuse entry to such person.
- (6) A person who fails to obey an order issued in terms of subsection (4) commits an offence.

7. Entrance fees

- (1) The heritage resource authority or the Council may by resolution levy different entrance fees and issue entrance tickets in respect of persons of different ages, groups of persons, or different classes of vehicles, which entitle such person, groups or vehicles (the "ticket holder") to enter upon a heritage and cultural facility, and grant concessions in respect of entrance fees payable.
- (2) An entrance fee is payable at the entrance to a heritage and cultural facility, except where another place is indicated on a notice board erected in terms of section 8(1), and for each person, group or vehicle as contemplated in subsection (1).
- (3) An entrance ticket contemplated in subsection (1) is valid for the period, as contemplated in subsection (4) in respect of which an entrance fee has been paid.
- (4) An entrance fee contemplated in subsection (1) is payable in respect of each day or portion thereof during which a person, group or vehicle is or remains in a heritage and cultural facility, provided that no fee is payable in respect of the day on which such heritage and cultural facility is left, if heritage and cultural facility is left before 10:00 of such day and such day is not the day of arrival in such heritage and cultural facility.
- (5) No fee contemplated in subsection (1) is repayable, however, where the whole or any portion of the period in respect of which such fee has been paid has not been or cannot be utilised, the fee which has been paid in respect of each full day which has not been utilised may, with the approval of the Municipal Manager, be repaid, and for the purposes of this subsection "full day" means a period of 24 hours commencing at 10:00 of any day.
- (6) An official may require any person in a heritage and cultural facility to produce forthwith to such official the entrance ticket issued to the person in terms of subsection (1), and a person who fails to produce such entrance ticket or a person who enters a heritage and cultural facility without having paid the entrance fee as contemplated in subsection (1) commits an offence.

8. Notice boards

- (1) The heritage resource authority or, where applicable, the Council may erect a notice board at the entrance to or in the immediate vicinity of a heritage and cultural facility, on which any of the following are displayed:
 - (a) The times, dates and conditions contemplated in section 6(1);
 - (b) the fees payable in terms of section 7; and
 - (c) a notice relating to a resolution taken in terms of section 6(3), however, where no such notice board has been so erected, and subject to the provisions of section 9, no activities may be undertaken upon the heritage and cultural facility.

- (2) No person other than an official or other person authorised to do so in these By-laws or any other law may move or alter the contents of, and no person may deface or otherwise tamper with a notice board erected by the heritage resource authority or the Council in terms of these By-laws.
- (3) A notice posted by the heritage resource authority or the Council in terms of these subsection 8(1) –
 - (a) must be clearly visible and readable;
 - (b) must be written in such language or languages as the heritage authority or the Council may determine; and
 - (c) may contain a graphic representation to convey meaning.
- (4) A person who enters a heritage and cultural facility in contravention of the times, dates and conditions contemplated in subsection (1)(a) and a resolution contemplated in subsection (1)(c), as displayed on a notice board, or who undertakes an activity upon a heritage and cultural facility as contemplated in subsection (1), or who contravenes a provision of subsection (2) commits an offence.

9. Consent required for certain activities

- (1) No person may, without the written consent of the Municipal Manager first having been obtained at, in or upon a heritage and cultural facility –
 - (a) arrange, hold, present or attend –
 - (i) a public entertainment;
 - (ii) a meeting;
 - (iii) a public gathering or procession, exhibition or performance; or
 - (iv) an auction;
 - (b) from the general public, collect money or any other goods for charity or any other purpose;
 - (c) display or distribute a pamphlet, placards, painting, book, handbill or a printed, written or painted work;
 - (f) conduct any trade, occupation or business;
 - (g) display, sell or rent out or present for sale or rent any wares or articles;
 - (i) tell fortunes for compensation;
 - (j) play any musical instruments or sing;
 - (k) have in his or her possession a firearm, air pistol, bow, knife, slingshot, or fireworks; or
 - (l) in any manner disturb such heritage and cultural facility.
- (2) No person may, without the written consent of the Municipal Manager first having been obtained bring into a heritage and cultural facility an alcoholic beverage, and a person who has obtained such consent may consume such beverage, at a designated area set aside for this purpose only.
- (3) No person may, without the written consent of the Municipal Manager first having been cook, prepare or sell, in a heritage and cultural facility, food of any kind, and a person who has obtained such consent may cook, prepare or sell such food at a designated area set aside for this purpose only must ensure that the preparation and cooking of food is done in a clean and sanitary manner so as not to give rise to excessive smoke or other nuisances or entail any danger to health.
- (4) No person may, without the written consent of the Municipal Unit Manager first having been obtained kindle a fire in a heritage and cultural facility, except for the purpose of barbecuing food, and a person who has obtained such consent may kindle such fire at a designated area set aside for this purpose only may not leave

any fire which he or she has kindled or used without completely extinguishing the fire or the embers thereof.

- (5) No person may, without the written consent of the Municipal Manager first having been obtained erect or establish in or on a heritage and cultural facility any fence, structure, dam, shelter or anything else and a person who has obtained such consent erect such fence, structure, dam, shelter or anything else, park such or pitch such tent at a designated area set aside for this purpose only.
- (6) No person may, without the written consent of the Municipal Manager first having been obtained bring into, or have in his or her possession in a heritage and cultural facility a firearm.
- (7) A person who wishes to obtain the consent of the Municipal Manager as contemplated in subsection (1), (2) or 27(2)(f) of the Act, must complete and submit to the Municipal Manager a form similar to the form in Schedule 1, which schedule refers, and the Municipal Manager may refuse consent, or grant consent, which consent will be indicated on the above form, subject to any such conditions as he or she deems necessary and subject to the prescribed fee as contemplated in section 11 having been paid, and a person who wishes to sell food must, in addition to the provisions of these By-laws, comply with the provisions of any and applicable by-laws in force in the Umsobomvu municipal area relating to –
 - (a) the licensing and control of undertakings that sell food to the public; or
 - (b) the hawking of food by street traders, vendors or pedlars.
- (8) A person who has been granted consent in terms of subsection (7) must at all times when undertaking an activity for which consent has been granted, keep the form in his or her possession, and must forthwith produce the form on request of an official.
- (9) A person who contravenes a provision of subsection (1) to (6) or (8) commits an offence.

10. Permit

- (1) Despite the provisions of section 5, 6(1), 6(3), and 7(1), the Municipal Manager may, on written application submitted to him or her in a form similar to the form in Schedule 2, which schedule refers, and subject to any such conditions as he or she may deem necessary to be imposed, issue a permit in a form similar to the form in Schedule 2, free of charge –
 - (a) to a group of people, such as, but not limited to, a group of bona fide students; or
 - (b) to a person who is undertaking scientific, educational or similar research.
- (2) The holder of a permit issued in terms of subsection (1) or section 48 of the National Heritage Resources Act, 1999 must, on arrival at the heritage and cultural facility concerned, display such permit to the control official, and a person who fails to do so, commits an offence.
- (3) The holder of a permit who undertakes an activity in contravention of a condition imposed on him or her commits an offence.

11. Prescribed fees

The Council has determined the prescribed fees payable in terms of these By-laws, which fees are stipulated in the annual budget, and the Council may review such fees.

12. Animals

- (1) No person may in contravention of a notice board erected in terms of section 8(1) bring upon the heritage and cultural facility any animal.
- (2) A person who, in terms of a resolution taken in terms of section 6(1), is permitted to bring an animal upon a heritage and cultural facility, must have direct and physical control over the animal by means of a leash or other device, and may not bath, wash or allow such animal to enter or remain in any pond, fountain or ornamental water
- (3) A person who contravenes a provision of subsection (1) or (2) commits an offence.

13. Prohibited behaviour

- (1) In addition to behaviour which constitutes an offence in terms of section 51(5) of the Act, no person –
 - (a) may loiter or linger about in a heritage and cultural facility if he or she –
 - (i) leads the life of a loiterer;
 - (ii) lacks any determinable and legal refuge;
 - (iii) leads a lazy, debauched or disorderly existence;
 - (iv) habitually sleeps in a public street, public place or on a private place; or
 - (v) habitually begs for money or goods or persuades others to beg for money or goods on his or her behalf;
 - (b) may bring into a heritage and cultural facility any drugs as defined in section 1 of the Drugs and Drugs Trafficking Act, 1992 (Act No. 140 of 1992);
 - (c) who –
 - (i) is in a state of intoxication or under the influence of any drug may enter or remain in, and such person shall not be admitted to a heritage and cultural facility;
 - (ii) knows that he or she is suffering from a communicable disease as defined in section 1 of the Health Act 63 of 1977, may enter upon or remain in a heritage and cultural facility;
 - (d) may in or at a heritage and cultural facility –
 - (i) break, damage, destroy, tamper with, misuse, disfigure or use in a manner contrary to a notice erected in respect of such heritage and cultural facility or heritage object, anything (whether movable or immovable), or remove such movable thing from the heritage and cultural facility, or fail to observe a notice which was erected by the Council in respect of such heritage and cultural facility or heritage object or fail to observe an instruction by a person permitted to manage and such heritage and cultural facility or heritage object;
 - (ii) throw or roll down a rock, stone or object from a mountain, koppie, slope of cliff;
 - (iii) pull out, pick, cut or damage any flora growing in the heritage and cultural facility, or have such flora in his or her possession;
 - (iv) walk on a flowerbed;

- (v) walk, stand, sit or lie on grass;
- (vi) write, paint, draw graffiti or a representation on a structure or path;
- (vii) excavate soil, sand or stone or remove organic or inorganic objects;
- (viii) interfere with water flow, obstruct water, divert a stream or drain a wetland;
- (ix) deface or disfigure anything on the heritage and cultural facility by pasting or affixing in any way any bills, papers, place cards, notices or anything else;
- (x) burn refuse so as to cause an unpleasant or offensive smell or the production of smoke nuisance;
- (xi) except in a container provided for that purpose dump, discard, drop, leave or place any litter, refuse, rubble, stone, sand, soil material, bottles, wood, metal, manure, offal, fish, filth or any object or thing that may cause injure to any person or be prejudicial to the health of the inhabitants of the municipality, or permit it to be done;
- (xii) misuse, pollute or contaminate in any way a water source, water supply, a dam or river with fuel, oil, garbage, offal, bilge, sewerage, refuse, stone, sand, soil or rubble of any kind;
- (xiii) wash any crockery or laundry or hang out clothes, except at places indicated by notice for that purpose;
- (xiv) use or try to use anything in such heritage and cultural facility for any purpose other than that for which it is designed or determined by notice;
- (xv) throw away any burning or smouldering object;
- (xvi) behave or conduct himself or herself in an improper, indecent or unbecoming manner such as by making an improper gesture, inciting or urging someone to perform a disorderly or indecent act;
- (xvii) cause a disturbance, use foul, lewd, dirty or indecent language, behave or conduct himself or herself in an unruly or violent manner, fight, shout, argue, beg, sing, play musical instruments, use loud speakers, radio reception devices, television sets, or similar equipment, or perform any act with the purpose of disturbing the good order or which may constitute a danger or nuisance to others;
- (xviii) defecate, urinate or undress, except in such building or on premises intended for that purpose;
- (xix) lie on a bench or seating place provided in the heritage and cultural facility or use it in such a manner that other users or potential users find it impossible to make use thereof;
- (xx) swim, walk or play in a fish-pond, fountain, dam, artificial feature or pond;
- (xxi) perform any act that may detrimentally affect the integrity of the heritage and cultural facility or of an heritage object;

- (xxii) enter or use a toilet facility intended or indicated as such by notice for members of the opposite sex;
 - (xxiii) stay or sleep over night other than in terms of section 15;
 - (xxiv) hunt, injure, disturb, feed, kill, hurt, follow, disturb, ill-treat or catch an animal, or displace, disturb, destroy or remove a bird, nest or egg, or skin or gut a live animal, except if authorised to do so under section 10(2)(a);
 - (xxv) fire a firearm, airgun or air pistol, except if the necessary consent as contemplated in section 9(6) has been obtained, or discharge a bow, fireworks or use a slingshot or catapult;
 - (xxvi) in any way whatsoever prejudice the safety, convenience of rights of other persons;
 - (xxvii) obstruct or interfere with any official appointed by the Council in the proper execution of his or her official duties;
 - (xxviii) play or conduct a game of any nature whatsoever;
 - (xxix) expose his or her body or clothe indecently; or
 - (xxx) discard of a burning or smouldering object;
- (e) may enter –
- (i) or leave a heritage and cultural facility other than by way of the official entry and exit point;
 - (ii) a heritage and cultural facility without having paid the entrance fees as contemplated in section 7(1); or
- (f) may release any wild animal, bird or flora into a heritage and cultural facility;
- (2) A person who contravenes a provision of subsection (1) commits an offence.

14. Vehicles

- (1) Where a person is permitted in terms of a resolution contemplated in section 6(1) to drive a vehicle in a heritage site or a portion of a heritage site, he or she may not –
- (a) travel with the vehicle elsewhere than on a road constructed by the heritage resource authority;
 - (b) drive the vehicle or cause or permit it to be driven at a speed in excess of the speed indicated on a notice board erected by the heritage resource authority in terms of section 8(1); or
 - (c) wash, polish or repair a vehicle, except emergency repairs to a vehicle.
- (2) The provisions of sub-section (1) do not apply to an emergency vehicle while lawfully in use as such, or a vehicle used in an emergency, or a vehicle used by an official in the discharge of his or her duties.
- (3) A person who contravenes a provision of subsection (1) commits an offence.

15. Camping in heritage site

- (1) Where in terms of a resolution contemplated in section 6(1) a person is permitted to camp in a heritage site, the person may camp in a designated area set aside for that purpose only.
- (2) A person who contravenes a provision of subsection (1) commits an offence.

- 16. Certain provisions do not apply to official**
 Those provisions in these By-laws that relate to the activities normally undertaken in a household, the contravention of which would otherwise constitute an offence in terms of these By-laws, do not apply to:
- (a) An official who lives on a heritage site;
 - (b) a relation of the official who lives with or visits him or her at his or her home, however the Council may from time to time determine the maximum number of visits per year by a relation; and
 - (c) a person who, at the request of the official, visits him or her in the heritage site, however the Municipal Manager may from time determine the maximum number of visits per year by a person.

CHAPTER II: HERITAGE RESOURCES

- 17. Interpretation**
 In this Chapter, unless the context indicates otherwise, "Act" means the National Heritage Resources Act, 1999 (Act No. 25 of 1999), and any other word or expression has the meaning assigned to it in the Act.
- 18. Principles of Chapter II**
- (1) Those heritage resources of South Africa, and specifically falling within the Umsobomvu municipal area, which are of cultural significance or other special value for the present community and for future generations, are listed in subsection (2) and must be considered part of the national estate and fall within the sphere of operations of the Council as heritage resources authority.
 - (2) Without limiting the generality of subsection (1), the national estate may include--
 - (a) places, buildings, structures and equipment of cultural significance;
 - (b) places to which oral traditions are attached or which are associated with living heritage;
 - (c) historical settlements and townscapes;
 - (d) landscapes and natural features of cultural significance;
 - (e) geological sites of scientific or cultural importance;
 - (f) archaeological and paleontological sites;
 - (g) graves and burial grounds, including --
 - (i) ancestral graves;
 - (ii) royal graves and graves of traditional leaders;
 - (iii) graves of victims of conflict, including of persons connected with the liberation struggle and who died in exile or as a result of the action of State security forces or *agents provocateur*;
 - (iv) graves of individuals designated by the Minister by notice in the Gazette;
 - (v) historical graves and cemeteries; and
 - (vi) other human remains which are not covered in terms of the Human Tissue Act, 1983 (Act No. 65 of 1983);
 - (h) sites of significance relating to the history of slavery in South Africa;

- (i) movable objects, including –
 - (i) objects recovered from the soil or waters of South Africa, including archaeological and paleontological objects and material, meteorites and rare geological specimens;
 - (ii) objects to which oral traditions are attached or which are associated with living heritage;
 - (iii) ethnographic art and objects;
 - (iv) military objects;
 - (v) objects of decorative or fine art;
 - (vi) objects of scientific or technological interest; and
 - (vii) books, records, documents, photographic positives and negatives, graphic, film or video material or sound recordings, excluding those that are public records as defined in section 1 (xiv) of the National Archives of South Africa Act, 1996 (Act No. 43 of 1996).
- (3) Without limiting the generality of subsections (1) and (2), a place or object is to be considered part of the national estate if it has cultural significance or other special value because of –
 - (a) its importance in the community, or pattern of South Africa's history;
 - (b) its possession of uncommon, rare or endangered aspects of South Africa's natural or cultural heritage;
 - (c) its potential to yield information that will contribute to an understanding of South Africa's natural or cultural heritage;
 - (d) its importance in demonstrating the principal characteristics of a particular class of South Africa's natural or cultural places or objects;
 - (e) its importance in exhibiting particular aesthetic characteristics valued by a community or cultural group;
 - (f) its importance in demonstrating a high degree of creative or technical achievement at a particular period;
 - (g) its strong or special association with a particular community or cultural group for social, cultural or spiritual reasons;
 - (h) its strong or special association with the life or work of a person, group or organisation of importance in the history of South Africa; and
 - (i) sites of significance relating to the history of slavery in South Africa.

19. Powers and functions of Council

The Council has –

- (a) all such powers and functions of a heritage resources authority as delegated to it in terms of section 26(1)(f) of the Act, 1999 in respect of such Grades as contemplated in section 7 of the Act, and such responsibilities and competence as contemplated in section 8 of the Act; and
- (b) such rights and duties as contemplated in section 9 of the Act, and hereby acts in accordance with the provisions of section 54 of the Act.

20. Procedure at meeting

- (1) When the Council intends to take a decision regarding –

- (a) the administration and management of the national estate, the administration and management of which has been assigned or delegated to the Council; or
 - (b) a responsibility which has been assigned to the Council under section 7 of the Act, 1999, including a decision as contemplated in section 10(1) of the Act, such decision must be taken in accordance with the general principles contemplated in subsection (2).
- (2)
- (a) The decision must be consistent with the principles or policy set out in section 5 or prescribed in section 6 of the Act.
 - (b) A meeting at which a decision is to be taken, must be open to the public and the agenda and minutes must be available for public scrutiny, however, when there is good reason to do so, a matter may, by decision of a majority of members present, be declared confidential and the discussion and minutes may be excepted from public scrutiny.
 - (c) A person who may be affected by a decision has the right of appearance at the meeting.
 - (d) Written reasons must be given for any decision upon request.

21. Formal protection of privately owned heritage sites

- (1) In the instance where a heritage site has not been put under the control of the Council in terms of the Act, the Council may formally protect the site in a manner contemplated in Part 1 of Chapter II of the Act, and may, with the consent of the owner of the site, make regulations with the aim of –
- (a) safeguarding the site from destruction, damage, disfigurement, excavation or alteration;
 - (b) regulating the use of the site;
 - (c) imposing conditions for any development of the site; and
 - (d) regulating the admission of members of the public to the site, and the fees payable for such admission.
- (2) The Council may, by agreement with the owner of a heritage site –
- (a) conserve or improve the sit;
 - (b) construct fences, walls or gates around or on the site;
 - (c) acquire or construct and maintain an access road to the site over any land, and construct upon such land fences, walls or gates;
 - (d) erect signs on or near the site; or
 - (e) obtain all reproduction rights either in two or three dimensions.

22. Protection and management of protected areas, heritage areas and heritage objects

- (1) The Council must make provision in its planning scheme to provide for the protection and management, and in these By-laws provide for the protection and management of –
- (a) a protected area, in accordance with section 28(5) and (6) of the Act;
 - (b) a heritage resource listed in terms of section 30(3) of the Act and subject to the provisions of said section;
 - (c) a heritage area designated in terms of section 31(5) of the Act; and
 - (d) heritage objects as contemplated in section 32 of the Act.

- (2) The Council shall protect and manage the areas, resources and objects contemplated in subsection (1) in accordance with the provisions of Chapter II of the Act, and may for these purposes enter into any heritage agreement contemplated in said Chapter, or issue any permit contemplated in Chapter III of the Act, and may provisionally protect a heritage source in accordance with the provisions of section 31 of the Act.

CHAPTER III: CULTURAL INSTITUTIONS

23. Interpretation

In this Chapter, unless the context indicates otherwise –

"Acts" means the –

- (a) Cultural Promotion Act, 1983 (Act No. 35 of 1983);
- (b) Cultural Affairs Act (House of Assembly), 1989 (Act No. 65 of 1989); and
- (c) Cultural Institutions Act, 1998 (Act No. 119 of 1998),
and regulations made under said Acts;

"living heritage" has the meaning assigned to it in section 1 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999);

"presentation" has the meaning assigned to it in section 1 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999).

24. Principles and objectives of Chapter III

The Council, acting within the framework of, and in the spirit which pervades, and striving to realise the objectives which are expressed in the Cultural Promotion Act, 1983 (Act No. 35 of 1983), Cultural Affairs Act (House of Assembly), 1989 (Act No. 65 of 1989), National Arts Council Act, 1997 (Act No. 56 of 1997) and the Cultural Institutions Act, 1998 (Act No. 119 of 1998), adopts this Chapter with the aim of regulating such cultural institutions and activities as are falling within its competency, and further to –

- (a) preserve, develop, foster or extend culture as it finds expression in the municipal area in particular by means of non-formal out-of-school education of adults and youthful person in the following fields:
 - (i) the visual arts, music and literary arts;
 - (ii) the acquisition, in popular fashion, of knowledge of the applied, natural and human sciences;
 - (iii) the utilization of leisure, including physical recreation activities which are of such a nature as not to be courses of training with a view to participating in competitions;
 - (iv) such other fields as the minister may from time to time determine;
- (b) to provide, and encourage the provision of, opportunities for person to practise the arts;
- (c) to promote –
 - (i) the appreciation, understanding and enjoyment of the arts;
 - (ii) the general application of the arts in the community;
 - (iii) and uphold the right of any person to freedom in the practice of the arts;
 - (iv) and facilitate national and international liaison between individuals and institutions in respect of the arts; and
 - (v) and develop the arts and to encourage excellence in regard to these;

- (d) to foster the expression of a national identity and consciousness by means of the arts;
- (e) to give the historically disadvantaged such additional help and resources as are required to give them greater access to the arts; and
- (f) to address historical imbalances in the provision of infrastructure for the promotion of the arts.

25. Council to establish and maintain cultural institutions

- (1) The Council may, in the spirit of the Acts, by resolution –
 - (a) establish, acquire, erect, construct, carry on, assist or promote within the area under its jurisdiction, such cultural institutions as it may deem necessary to realise the objectives of said Acts, and must maintain such and existing cultural institutions; and
 - (b) establish, maintain, carry on, or contribute to bands and orchestras for musical performances in public places or municipal halls, and generally provide musical entertainment in such places or halls, and make charges in connection therewith, and hereby carries on, assists and promotes the cultural institutions stipulated in Schedule 4.
- (2) The Council, when incurring expenditure in respect of acting in terms of subsection (1), must do so within its budgetary limits.
- (3) The Council may at a cultural institution –
 - (a) make presentations, give lectures or performances of cultural significance or otherwise, whether relating to the living heritage or not, and make charges therefore; and
 - (b) sell, let, distribute or in any other manner dispose of any catalogue, publication, reproduction, postcard, colour slide, film, photo or any other item which is related to the activities of such cultural institution.

26. Cultural committee

- (1) The Council must appoint a cultural committee, the membership and constitution of which is to be decided upon by the Council, to oversee the general management and control of cultural institutions contemplated in section 25.
- (2) When appointing the members of a cultural committee, the Council must have regard to the underlying principles and objectives of the Acts, and must appoint persons who have the necessary expertise, knowledge and who are suitably qualified to make a constructive input to the committee's discussions.
- (3) The official appointed in terms of section 27 must fulfil such functions and duties as assigned to him or her by the cultural committee, and must report to the cultural committee at such times and on such matters as the cultural committee may by resolution decide.

CHAPTER IV: MISCELLANEOUS PROVISIONS

27. Enforcement officials

- (1) The Council must within its powers contemplated in section 19(a) appoint an official as Heritage Inspector as contemplated in section 50 of the National Resources Heritage Act, 1999, and such official has such powers, duties and functions as delegated to it in terms of said section.

- (2) The Council must appoint an official as Cultural Inspector, which inspector may be the same official appointed in terms of subsection (1), to implement and manage the provisions of these By-laws and such official has such powers, duties and functions as delegated to him or her by the Council, and a person commits an offence if he or she –
- (a) assaults, resists, obstructs, hinders, delays or interferes with an official in the exercise of his or her powers or the performance of his or her duties or functions or in any other way attempt to prevent the exercise of such powers or the performance of such duties or functions;
 - (b) offers any inducement to an official or makes any threat, whether of violence or otherwise, in relation to such official or a member of his or her family or a person dependent on him or her or to his or her property in order to persuade or prevent such official from exercising any of his or her powers or performing any of his or her duties or functions;
 - (c) not being an official, by words, conduct or demeanour pretends that he or she is an official; or
 - (d) not being an official, wears a uniform or part of a uniform or an insignia designed and intended for use by an official of the Umsobomvu Municipality, or an imitation of such uniform or insignia.

28. Costs

- (1) Should a person through his or her actions or activities in a cultural institution, including any appurtenances in the cultural institution, or in respect of anything contained in a cultural institution necessitate the Council to incur expenses, such as replacement or repair, for any damage in respect of such institution or thing, the Council may recover all costs incurred from that person, and if more than one person is liable for costs incurred, the liability must be apportioned as agreed among the persons concerned according to the degree to which each was responsible for the damage.
- (2) The costs recovered must be reasonable and may include, without being limited to, costs relating to labour, water, equipment, administrative and overhead costs incurred by the Council.

29. Penalties

- (a) A person who has committed an offence in terms of section 51 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999), is on conviction liable to such penalty as stipulated in section 51(2) or (3), whichever is applicable, of the Act.
- (b) A person who has committed an offence in terms of these By-laws is, on conviction, and subject to penalties prescribed in any other law, liable to a fine, or in default of payment, to imprisonment for a period not exceeding six months, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment, and in the case of a successive or continuing offence, to a fine for every day such offence continues, or in default of payment thereof, to imprisonment for a period not exceeding one month.

30. Authentication and service of notices and other documents

- (1) A notice issued by the Council in terms of these By-laws is deemed to be duly issued if it is signed by an authorised official.

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

31. Appeal

- (1) A person whose rights are affected by a decision of an official of the Council acting in terms of these By-laws may appeal against that decision by giving written notice of the appeal and reasons to the Municipal Manager within 21 days of the date of the notification of the decision.
- (2) The appeal authority contemplated in subsection (3) must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.
- (3) When the appeal is against a decision taken by –
- (a) a staff member other than the Municipal Manager, the Municipal Manager is the appeal authority;
 - (b) the Municipal Manager, the Speaker is the appeal authority; or
 - (c) a political structure or political officer bearer, or a Councillor, the Council is the appeal authority.
- (4) The appeal authority must commence with an appeal within six weeks of receipt of the notice of appeal and decide the appeal within a reasonable time.

32. Repeal of by-laws

- (1) The By-Laws enacted by Colesberg Transitional Local Council, Noupoort Transitional Local Council and Masizakhe Representative Council are hereby repealed.

- (2) Any permission obtained, right granted, condition imposed, activity permitted or anything done under a repealed law, shall be 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.

33. Short title and commencement

These By-laws may be cited as the Umsobomvu Heritage Resources and Cultural Institutions By-laws, and commence on the date of publication thereof in the Provincial Gazette.

SCHEDULE 1

(Section 9(7))

APPLICATION FOR CONSENT TO UNDERTAKE CERTAIN ACTIVITIES

..... *(full name of applicant)*
hereby applies in terms of the Umsobomvu Heritage Resources and Cultural Institutions
By-laws, 2004, for consent to undertake at

.....
(description of public amenity)

for the purpose of

.....
(give the reason why you wish to undertake the activity)

the activity of

.....
(full description of activity)

Date

Signed *(for applicant)*

.....
.....
.....

(address of applicant)

CONSENT

Above-mentioned person is hereby granted consent to undertake the activity as specified
in the specified public amenity.

CONDITIONS

.....
.....
.....

SIGNATURE OF COUNCIL

Name of Manager

Date.....

SCHEDULE 2

(Section 10(1))

APPLICATION FOR PERMIT

..... *(full name of applicant)*
hereby applies in terms of the Umsobomvu Public Amenities By-laws, 2004, for a permit
to undertake at

.....
(description of public amenity)

for the purpose of

.....
(give the reason why you wish to undertake the activity)

the activity of

.....
*(full description of activity such as the species and number or mass of the fauna or flora or the name or
description of anything else and the number thereof in respect of which the permit is granted)*

during

.....
(specify the dates and times)

Date

Signed *(for applicant)*

.....
.....
.....
.....
(address of applicant)

PERMIT

Above-mentioned person is hereby granted a permit to undertake the activity as specified
in the specified public amenity.

CONDITIONS

.....
.....
.....
(specify in detail the activities which the permit holder is allowed to undertake)

SIGNATURE OF COUNCIL

Name of Official

Rank:

Date:

By-law No. 12, 2009

**HIRING OF MUNICIPAL PREMISES AND AMENITIES
BY-LAW, 2009****BY-LAW**

To provide for the establishment and management of municipal premises and amenities in the Umsobomvu Municipality; and for matters connected therewith.

BE IT ENACTED by the Umsobomvu Municipality, as follows:-

TABLE OF CONTENTS

Section

1. Interpretation
2. Principles and objectives
3. Application for hiring
4. Cancellation, postponement or extension of reservation
5. Council's powers and duties
6. Duties of hirer
7. Termination of hire
8. Limitation of liability
9. Appeal
10. Penalties
11. Revocation of by-laws
12. Short title and commencement

Schedule

1. Interpretation

In by-laws, unless the context otherwise indicates –

“**activity**” means an undertaking, endeavour, project, enterprise or event of a similar nature;

“**amenities**” means amenities under the administration and control of the municipality and includes all appurtenances;

“**appurtenance**” means any fitting, installation, appliance, equipment, device, instrument, apparatus, utensil, tool whatsoever in the premises;

“**authorised official**” means an official to whom the municipality has delegated or assigned powers or functions;

“**building**” means a building which contains a hall, auditorium, theatre, assembly room, amphitheatre, lecture room, concert hall, community centre or similar place of assembly, but does not include a sporting arena;

“**Council**” means the Umsobomvu Municipal Council;

“**function**” means a reception, gathering, ceremony, occasion or event of a similar nature;

“**hirer**” means a person who applies for, pays the prescribed fee, and obtains the municipality's approval for the use of the amenities;

“**municipality**” means the Municipality of Umsobomvu and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in

connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

“**person**” means a natural or juristic person, and includes a voluntary association of natural or juristic persons;

“**premises**” means a land, a building or a structure or a portion of land, building or structure under control of the municipality and on which an activity or function is undertaken, but does not include sporting grounds;

“**prescribed fee**” means the fee prescribed by the municipality.

2. Principles and objectives

Council, as custodian of all buildings under its administration and control, and fully aware of its duty to make buildings available to the use of the residents in the municipal area, thus supporting and enhancing any efforts by the members of the community to fulfil their aspirations towards social, cultural and religious association, adopts these by-laws which aim at making available and maintaining the buildings for use by the community.

3. Application for hiring

- (1) A person who wishes to hire for use premises or amenities, must apply for the reservation thereof, and for these purposes must -
 - (a) complete the necessary application form and comply with all the other requirements and conditions which are specified in the application form;
 - (b) lodge two copies of the application form at the Municipal Manager’s offices;
 - (c) obtain the municipality’s approval before he or she makes use of the premises or amenities; and
 - (d) pay a deposit to an amount decided by the municipality.
- (2) An application must be lodged not less than six weeks before the date on which the premises or amenities are required by the person, or on shorter notice as the municipality may decide.
- (3) The application must contain the following particulars:
 - (a) Particulars of the premises or amenities;
 - (b) the period for which the premises or amenities are required;
 - (c) the date and time when the premises or amenities will be vacated;
 - (d) the expected number of people who will be attending the proposed function or activity, and the number of seats to be used;
 - (e) the intended use of the premises or amenities;
 - (f) if food or soft drinks will be sold on the premises;
 - (g) an undertaking by the person who has lodged the application that he or she will comply with all conditions imposed by the municipality and with the provisions of these by-laws; and
 - (h) an indemnity form, as contemplated in subsection 9.
- (4) The municipality, when it considers the application, may have, in addition to other relevant factors, due regard to the following:
 - (a) That the premises or amenities may be used for lawful purposes only;
 - (b) that the use of the premises will not constitute a nuisance or annoyance to other users of the premises or amenities or to the occupiers of neighbouring premises; and
 - (c) that the use of the premises will not constitute a danger to any person or property.
- (5) The municipality may approve the hiring of the premises or amenities subject to any condition it may deem expedient, or may refuse consent.

- (6) The municipality must, within seven days after the application form has been lodged, in writing notify the applicant if the application has been approved or refused, and -
 - (a) if the application is refused, the municipality must supply to the applicant the reasons why the application was refused; or
 - (b) if the application is approved, the municipality must forward a notice of approval and one set of the application form and other documents that were submitted, to the applicant, and must specify in the notice of approval the conditions to which the hiring of the premises or amenities are subject and the prescribed fee to be paid for the hiring of the premises or amenities.
- (7) The municipality must keep a register which is open to public inspection at all reasonable hours and which contains particulars of:
 - (a) The application which was made to the municipality for the hiring of the premises or amenities;
 - (b) the name and address of the applicant;
 - (c) the date of the application;
 - (d) the prescribed fee for the hiring of the premises or amenities;
 - (e) the decision of the municipality; and
 - (f) if the application was approved, the conditions relating to the use of the premises or amenities.
- (8) An applicant may not before the municipality's approval has been received by him or her, advertise or announce the function or activity for which he or she has lodged an application.
- (9) On application an applicant must complete and sign an indemnity form in favour of the municipality and the municipality's service providers.

4. Cancellation, postponement or extension of reservation

- (1) A person who has lodged an application for the reservation of premises or amenities, may cancel the application, and the following apply:
 - (a) Any prescribed fee paid for the hiring of the premises or amenities must be refunded;
 - (a) if a reservation is cancelled 30 days or more before the date of the reservation, the municipality must fully refund the hirer with the deposit already paid;
 - (b) if a reservation is cancelled less than 30 days but 15 days or more before the date of the reservation, the municipality must refund the hirer with 50% of the deposit already paid; and
 - (c) if a reservation is cancelled 14 days or less before the date of reservation, the hirer is not entitled to any refund of the deposit already paid.
- (2) After approval has been given by the municipality, a person may apply for the postponement of the reservation to a later date.
- (3) Approval by the municipality of the postponement does not result in a penalty or forfeiture of any deposit already paid.
- (4) Postponement may be refused if the premises or amenities have been reserved for the use by another person or the municipality.
- (5) A person may apply for an extension of the period of hire, and -
 - (a) the application for extension must be in writing and lodged at the Municipal Manager's offices;
 - (b) the provisions of section 3(2) do not apply; and
 - (c) the premises or amenities must be available, in that the municipality has not reserved the premises or amenities for the use by another person.

5. Municipality's powers and duties

- The municipality, having regard to the principles and objectives of these by-laws –
- (a) may, if practical, allow the hirer reasonable access to the premises or amenities before a function or activity commences to enable the hirer to make the necessary preparations for the function or activity;
 - (b) may let any other part of the premises for simultaneous use to a different hirer;
 - (c) may decide not to make available to the hirer the professional services of any of its officials;
 - (d) shall not render any services free of charge in connection with the hirer's function or activity;
 - (e) shall not, before or during the function or activity, provide storage amenities for the storage of any object in connection with the hirer's function or activity;
 - (f) may, at request of the hirer, supply additional equipment for use during the function or activity;
 - (g) may at all reasonable times enter the premises or amenities with the aim of –
 - (i) inspecting the premises or amenities;
 - (ii) ascertaining if the conditions of hire and the provisions of these by-laws are complied with;
 - (iii) maintaining, repairing, or improving the premises or amenities, and for these purposes the municipality may erect on or bring into the premises any structure or device, and the hirer has no claim to a reduction in the prescribed fee or deposit;
 - (h) may remove or direct to be removed from the premises or amenities a person who is intoxicated and whose behaviour is unseemly and causing a nuisance to other people on the premises or to people on or in neighbouring premises, or may instruct the hirer to prevent the entry into the premises of any such person, and failure to abide by the direction or instruction constitutes an offence;
 - (i) if an insurance premium is increased as a result of a contravention of section 6(2)(m) may claim any additional premiums from the hirer, and the hirer must immediately reimburse the municipality on receipt of the claim, and the municipality may, with the aim of covering any anticipated loss or damage which may result from a contravention of section 6(2)(m), require the hirer to take up insurance of the premises with an insurance company approved by the municipality;
 - (j) shall decide on the nature of municipal services to be provided to the hirer; and
 - (k) may authorise an official to attend a function or activity to ensure compliance with the provisions of these by-laws.

6. Duties of hirer

- (1) Before a hirer commences to use the premises or amenities, he or she must inspect the premises or amenities and all appurtenances, and should he or she find that the appurtenances are in a state of disrepair, he or she must immediately report this fact to the municipality, and failure to do so is deemed as an acceptance by the hirer that all the appurtenances are in a proper condition.
- (2) The hirer -
 - (a) may not use the premises or amenities for any other purpose than that for which approval was given;
 - (b) may not use any premises or amenities for which approval was not given;
 - (c) may not use the premises or amenities unless he or she has fully paid the prescribed fee;

- (d) may not sub-let the premises or amenities;
- (e) may not allow another person to occupy the premises;
- (f) may not without the approval of the municipality first having been obtained, cede, pledge or renounce in favour of another person any of the rights or obligations under these by-laws;
- (g) may not remove any appurtenances or any other property of the municipality from the premises;
- (h) may not drive or screw nails, screws or similar objects into the walls, doors or in any other place or into any object belonging to the municipality, on the premises;
- (i) may not apply paint to any window or on any appurtenance or other object belonging to the municipality, on the premises;
- (j) may not interfere or tamper with any electrical installation or appliance on the premises;
- (k) must ensure that persons attending an function or activity for which purpose the hirer has hired the premises of amenities, behave in a seemly manner and does not cause a nuisance to other occupiers of the premises or amenities, or neighbouring premises;
- (l) if he or she has on his or her request been supplied, by the municipality, with equipment for use during the function or activity, may not remove the equipment from the premises;
- (m) may not bring, allow or cause another person to bring onto, or may not keep or allow to be kept on, or may not undertake or allow any activity onto or on the premises or amenities any matter or thing which may invalidate or invalidates any insurance policy of the building or which may increase or increases the premium;
- (n) must, before vacating the premises or amenities, remove any article affixed or erected by him or her, such as, but not limited to flags, advertisements, posters, notices, signs and decorations;
- (o) should the function or activity requires the use of ushers, provide the ushers;
- (p) must control the admission of people to the premises or amenities, and, if applicable, the sale of tickets;
- (q) must ensure that at no time overcrowding takes place, and must adhere to the conditions, in the notice of approval, regarding the number of seats and persons allowed;
- (r) may not sell food or soft drinks on the premises or amenities without the municipality's, except if such activity forms an integral part of the function or activity;
- (s) ensure, at all times, that the premises or amenities are kept in a clean, sanitary and tidy condition;
- (t) must take the necessary precautions to keep drains, water installations, and sewage pipes clean and free of blockages, and must maintain these in such condition;
- (u) may not park or store or allow to be parked or stored any vehicle or object which may hamper the uninhibited access to or exit from an entrance, passage, and entrance hall;
- (v) may not allow the parking of vehicles anywhere else on the premises except than in the demarcated parking areas;
- (w) must comply with the municipality's fire protection regulations;

- (x) comply and ensure compliance by a person attending the function of activity, of any instruction issued by an authorised official of the municipality;
 - (y) may not bring into or keep on the premises or amenities or affix onto anything in the premises or amenities any object which is unsafe or which, due to its weight or size, may damage the premises or amenities; and
 - (z) may not bring onto or allow the bringing onto the premises by any person a fire-arm, knife, or any dangerous weapon of whatever kind.
- (3) A person commits an offence if he or she contravenes any one or more of the provisions of subsection (2)

7. Termination of hire

- (1) On termination of the hire the hirer and an authorised official of the municipality must, for the purpose of assessing the conditions of the premises or amenities, inspect the premises or amenities.
- (2) The hirer must –
- (a) return the premises or amenities to the municipality in the condition as when they were hired out to him or her;
 - (b) repair any damage or breakages;
 - (c) comply with any instructions by the municipality in respect of the cleaning of the premises or amenities; and
 - (d) vacate the premises or amenities within the period stated in the application form; and should the hirer fail to comply with -
 - (i) any of the provisions of paragraphs (a), (b) or (c), the municipality may replace, repair or make good any broken, missing or damaged appurtenances, appliances or any other object on the premises or amenities, and recover the costs from the hirer; and
 - (ii) the provisions of paragraph (d), the municipality may levy an additional fee for the period during which the hirer occupies the premises or amenities after the expiry of the period stipulated in the application form.
- (3) The municipality may cancel the hire of the premises or amenities under the following circumstances:
- (a) The premises or amenities are substantially unusable due to -
 - (i) destruction;
 - (ii) severe damage;
 - (iii) the absence of municipal services;
 - (b) the premises or amenities constitute a danger to human life or property; or
 - (c) should the municipality requires the premises or amenities for municipal purposes at the same time, however, the municipality may refund the prescribed fee or deposit that have already been paid to it in respect of the reservation.
- (4) Should the municipality decide to cancel a reservation, the municipality must, within a reasonable time notify, in writing, the hirer of its decision, however, in the instance where a notice is given in terms of paragraphs (a), the notice is deemed to be effective as from the date on which the destruction or damage took place.
- (5) Subject to the provisions of subsection (3)(c), a hirer has no claim against the municipality for loss of use of the premises or amenities or for damage arising from a cancellation in terms of subsection (3).
- (8) The municipality reserves the right to cancel a booking should the premises or amenities be required for municipal purposes at the same time, and the municipality is not liable to

pay compensation to the hirer should it, for these purposes, cancel a booking, however, the municipality may refund the prescribed fee and deposit that have already been paid to it in respect of the application.

8. Limitation of liability

- (1) The municipality is not liable for –
- (a) any theft, or loss of, or damage to any object whatsoever which the hirer or anyone else kept or deposited on the premises;
 - (b) any loss suffered by the hirer or anyone else arising from a failure or defect of amenities on the premises;
 - (c) any loss or damage suffered by, or shall not compensate the hirer or anyone else as a result of an interruption or insufficient supply of municipal services to the premises, or as a result of any activity by the municipality as contemplated in section 5(g)(iii); and
 - (d) any consequential loss, arising from whatever cause, suffered by the hirer or anyone else who makes use of the premises or amenities.

9. Appeal

- (1) A person whose rights are affected by a decision of an official may appeal against that decision by giving written notice of the appeal and reasons to the municipal manager within 21 days of the date of the notification of the decision.
- (2) The municipal manager must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.
- (3) When the appeal is against a decision taken by –
- (a) a staff member other than the Municipal Manager, the Municipal Manager is the appeal authority;
 - (b) the Municipal Manager, the Speaker is the appeal authority; or
 - (c) a political structure or political officer bearer, or a Councillor, Council is the appeal authority.
- (4) The appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable time

10. Penalties

A person who has committed an offence in terms of these by-laws is, on conviction, liable to a fine or in default of payment, to imprisonment for a period not exceeding 12 months, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment.

11. Revocation of by-laws

The By-Laws enacted by Colesberg Transitional Local Council, Noupoort Transitional Local Council and Masizakhe Representative Council are hereby repealed.

12. Short title and commencement

These By-laws can be cited as the Umsobomvu Hiring of Municipal Premises and Amenities By-laws, and commence on a date the date of publication thereof in the Provincial Gazette.

By-law No. 13, 2009

OUTDOOR SIGNS BY-LAW, 2009

BY-LAW

To provide for the management of outdoor signs in the Umsobomvu Municipality; and for matters connected therewith.

BE IT ENACTED by the Umsobomvu Municipality, as follows:-

Table of contents

- 1 Interpretation
- 2 Purpose of By-laws
- 3 Application
- 4 Policy framework
- 5 Areas of control
- Chapter 1: Signs, requirements and conditions that relate to each sign**
- 6 Signs and requirements
- 7 Schedules
- Chapter 2: Consent, and withdrawal or amendment of consent**
- 8 Consent
- 9 Deemed consent
- 10 Specific consent, application and factors which municipality may consider
- 11 Withdrawal or amendment of consent
- Chapter 3: Unauthorised signs, alteration of signs, departure from approved plan, exempt signs, prohibited signs, and temporary signs**
- 12 Display of unauthorised sign
- 13 Alteration of existing sign
- 14 Departure from approved form or plan
- 15 Exempt signs
- 16 Prohibited signs
- 17 Temporary signs
- Chapter 4: Safety, design and construction, maintenance, position, and illumination of signs**
- 18 Safety of sign
- 19 Design and construction of sign
- 20 Maintenance of sign
- 21 Position of sign
- 22 Illumination of sign
- Chapter 5: Miscellaneous provisions**
- 23 Public tenders
- 24 Authentication and service of orders, notices and other documents
- 25 Notice of compliance, removal, confiscation, destruction of signs, notice of contravention, costs, and related matters
- 26 Right of appeal
- 27 Offences
- 28 Transitional provision
- 29 Saving provision

- 30 Waiver
- 31 Repeal
- 32 Short title

Schedules

- Schedule 1: Super billboards
- Schedule 2: Custom-made billboards
- Schedule 3: Large billboards
- Schedule 4: Small billboards and tower structures
- Schedule 5: Large posters and signs on street furniture and lamp posts
- Schedule 6: Banners and flags
- Schedule 7: Suburban signs
- Schedule 8: Estate agents' boards
- Schedule 9: Sale of goods, property or livestock signs
- Schedule 10: Pavement posters and notices
- Schedule 11: Project boards
- Schedule 12: Temporary window signs
- Schedule 13: Street name advertisements signs
- Schedule 14: Neighbourhood watch signs and signs relating to similar schemes
- Schedule 15: Product replicas and three-dimensional signs
- Schedule 15: Sky signs
- Schedule 17: Roof signs
- Schedule 18: Flat signs
- Schedule 19: Projecting signs
- Schedule 20: Veranda, balcony, canopy, and underawning signs
- Schedule 21: Signs painted on walls and roofs
- Schedule 22: Window signs
- Schedule 23: Signs incorporated in the fabric of building
- Schedule 24: Signs on forecourts and pavements of business premises
- Schedule 25: Signs for residential-oriented land use and community services
- Schedule 26: On-premises business signs
- Schedule 27: Signs on towers, bridges and pylons
- Schedule 28: Signs on construction site boundary walls and fences
- Schedule 29: Sponsored road traffic projects signs
- Schedule 30: Service facility signs
- Schedule 31: Functional advertising signs by public bodies
- Schedule 32: Aerial signs
- Schedule 33: Vehicular advertising
- Schedule 34: Trailer advertising
- Schedule 35: Areas of control
- Schedule 36: Figures which illustrate position of particular signs
- Schedule 37: Penalty costs

1. Interpretation

In these By-laws, unless the context otherwise indicates -

“**advance sign**” means a sign indicating the direction or distance to a facility, locality, activity, service or enterprise;

“**advertisement**” means any visible representation of a word, name, letter, figure, object, mark or symbol or of an abbreviation of a word or name, or of any combination of such elements with the object of conveying information;

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

“**advertising structure**” means any physical structure built to display an advertisement;

“**aerial sign**” means any sign which is affixed to or produced by any form of aircraft and which is displayed in the air;

“**animation**” means a process whereby an advertisement’s visibility or message is enhanced by means of moving units, flashing lights or similar devices;

“**area of control**” means an area in which a degree of control is applied in accordance with the visual sensitivity of the area, the degree of landscape sensitivity of the area, and traffic safety conditions within the area;

“**balcony**” means a platform projecting from a wall, enclosed by a railing, balustrade or similar structure, supported by columns or cantilevered out and accessible from an upper-floor door or window;

“**basic landscape sensitivity**” indicates the visual or aesthetic sensitivity of each of the different landscapes with regard to outdoor advertisements and signs, each of which landscapes falling within a specific area of control;

“**billboard**”, commonly known as an advertising hoarding, means any screen or board larger than 18 square metres supported by a free-standing structure and which is to be used or intended to be used for the purpose of posting, displaying or exhibiting any advertisement;

“**bit of information**” refers to the basic unit for measuring the length of advertising messages and may consist of letters, digits, symbols, logos or abbreviations;

“**blind**” means a vertical screen attached to a shop-window or veranda in order to keep sun and rain from a shopfront or sidewalk and which may be rolled up when not in use;

“**building**” means any structure whatsoever with or without walls, with a roof or canopy and a means of ingress and egress underneath such roof or canopy;

“**canopy**” means a structure in the nature of a roof projecting from the facade of a building and cantilevered from that building or anchored otherwise than by columns or posts;

“**centre of economic activity**” means an urban area of high economic activity, and includes all business districts, regional and neighbourhood shopping centres;

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

“**combination sign**” means a single, free-standing advertising structure for displaying information on various enterprises and services at locations such as roadside service areas, urban shopping centres and other urban complexes;

“**copy**” means the complete advertising message to be displayed on the advertising structure;

“**Council**” means the Umsobomvu Municipal Council;

“**cut-outs**” also commonly known as ‘add-ons’ or ‘embellishments’, means letters, packages, figures or mechanical devices, which might extend beyond the rectangular area

- of a sign for greater attention value and which are attached to the face of an outdoor sign, and which can provide a three-dimensional effect;
- “deemed consent”** means approval by section 9 for the display of a sign, and for the display of which the municipality does not require specific consent;
- “degree of landscape sensitivity”** means a refinement of basic landscape sensitivity which may include, apart from a refined visual sensitivity, traffic safety conditions as a criterion for sensitivity rating, and it is expressed in terms of area of control;
- “device”** means any physical device which is used to display an advertisement or which is in itself an advertisement;
- “direction sign”** means a guidance sign provided under the South African Road Traffic Act and used to indicate to road users the direction to be taken in order that they may reach their intended destination;
- “displaying”** includes exhibiting, affixing or attaching of an advertisement or sign and the erecting of any structure if such structure is intended solely or primarily for the support of such advertisement or sign and an attempt to do any of aforesaid, and the word ‘display’ carries a similar meaning;
- “engineer”** means a person who is defined in section 1 of the Engineering Profession of South Africa Act, 1990 (Act No. 114 of 1990), as a certified engineer, engineering technician, professional engineer or professional technologist (engineering);
- “facade”** means the principal front or fronts of a building;
- “flashing sign”** means a sign in which the visibility of the contents is enhanced by the intermittently appearing and disappearing of the advertisement displayed, or the advertisement being illuminated with varying intensity or colours;
- “flat sign”** means a sign which is affixed to an external wall but not to a parapet wall, balustrade or railing of a veranda or balcony of a building used for commercial, office, industrial or entertainment purposes and which at no point projects more than 300 mm from the surface of such a wall and which may consist of a panel or sheet or of individual numbers, letters or symbols;
- “forecourt”** means is an outdoor area which forms a functional part of a building housing an enterprise, and may include the area at a filling station where the pumps are situated, a terrace in front of a restaurant or café, a sidewalk café, or a similar enterprise, and any enclosing fence, wall, screen or similar structure forms part of a forecourt, but does not include a sidewalk area, which is intended for pedestrian circulation, in front of a business premises;
- “free-standing sign”** means any immobile sign which is not attached to a building or to any structure or object intended to be used for the primary purpose other than advertising;
- “freeway”** means a road designated as a freeway by means of a road traffic sign;
- “gateway”** means a prominent entrance to or exit from an urban area or a specific part of an urban area consisting of man-made or natural features and creating a strong sense of arrival or departure;
- “height”** means the vertical distance between the uppermost edge of the sign and the level of the ground, footway or roadway immediately below such sign;
- “human living environment”** refers to all human settlements such as villages, towns or cities, which may consist of various components such as residential, employment and recreation areas and which require environmental management to provide services such as water, public spaces and waste removal and to protect the quality of the environment;

“**illuminated**” with reference to an advertising structure means that the advertising structure has been installed with electrical or other power for the purpose of illumination of the message displayed on the structure;

“**illuminated sign**” means a sign the continuous or intermittent functioning of which depends upon it being illuminated;

“**inflatable**” means a plastic or rubber object which is inflated with the purpose of drawing attention to itself and on which an advertisement is or is not displayed;

“**landscape sensitivity**” means the visual or aesthetic sensitivity of the landscape, and may include traffic safety conditions, with regard to outdoor advertisements and signs, and is expressed in terms of “basic landscape sensitivity” or “degree of landscape sensitivity”;

“**locality bound sign**” means a sign displayed on a specific site, premises or building and which refers to an activity, product, service or attraction located, rendered or provided on that premises or site or inside that building;

“**location sign**” means a guidance sign provided under the South African Road Traffic Act and used to identify places or locations which either provide reassurance during a journey, or identify destinations such as towns, suburbs or streets near the end of a journey;

“**main roof of a building**” means a roof of a building other than the roof of a veranda or balcony;

“**main wall of a building**” means any external wall of a building, but does not include a parapet wall, balustrade or railing of a veranda or a balcony;

“**mobile sign**” means an advertisement attached to or displayed on a vehicle, vessel or craft on land, on water or in the air;

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

“**non-locality bound sign**” means a sign displayed on a site, premises or building and which refers to an activity, product, service or attraction which is not located, rendered or provided on that premises or site or inside that building;

“**outdoor advertising**” means the act or process of notifying, warning, informing, making known or any other act of conveying information in a visible manner and which takes place out of doors;

“**person who displays a sign**” includes:

- (a) the owner of the sign;
- (b) the owner and occupier of the land or structure on which the sign is displayed;
- (c) the person to whose goods, trade, business or other concerns publicity is given by the sign;
- (d) the person who causes the sign to be displayed or who undertakes to maintain the sign; and
- (e) a body corporate;

“**poster**” means any placard announcing or attracting public attention to any meeting, event, function, activity or undertaking, or to the candidature of any person nominated for election to parliament, local government or any similar body, or to a referendum, or any placard advertising any product or service or announcing the sale of any goods, livestock or property;

“**projecting sign**” means any sign which is affixed to a main wall of a building which is used for commercial, office, industrial or entertainment purposes and which at any point

projects more than 300 millimetres from the surface of the main wall and is affixed at a right angle to the street line;

“road traffic sign” means a road traffic sign as defined in the Road Traffic Act, 1989 (Act No. 29 of 1989);

“roof sign” means a sign on the main roof of a building which has fifteen or less floors, which building is used or partly used for commercial, office, industrial or entertainment purposes;

“rural landscape” refers to areas of transition between developed urban areas and relatively unspoiled natural areas outside the Municipal area, such as peri-urban small-holdings of a rural nature with a low population density, and natural areas;

“sign” means -

- (a) an advertisement;
- (b) an object, structure or device which is in itself an advertisement or which is used to display an advertisement; or
- (c) an object, structure or device which is not in itself an advertisement or which is not necessarily or solely used to display an advertisement;

“sky sign” means a sign, which may form an important landmark, between 75 square metres and 150 square metres in size on top of a skyscraper in the Nelson Mandela Metropolitan Municipality;

“skyscraper” means any building, which has 15 or more storeys, used entirely or partially for industrial or commercial purposes;

“specific consent” means the written approval by the municipality under section 10 to display a sign;

“spectacular” means a custom-made billboard which incorporates special effects such as internal illumination, cut-outs and three-dimensional representations;

“street furniture” means public facilities and structures which are not intended primarily for advertising, but which are provided for pedestrians and commuters, and includes seating benches, planters, pavement litter bins, pole-mounted bins, bus shelters, pavement clocks, telephone booths, traffic signal control boxes, and drinking fountains;

“teardrop flag” means a sign in the shape of a feather or inverted teardrop which consists of a light-weight, flexible or rigid frame covered with material, and which is normally planted into the ground;

“temporary sign” means a sign not permanently fixed and not intended to remain fixed in one position;

“third-party advertising” means the advertising of goods which are not manufactured, produced, sold or delivered from a property on which the sign of those goods or services is displayed;

“trailer advertisement” means a sign which is temporarily or permanently attached to and positioned on a trailer or caravan or any other similar kind of vehicle which is used for the sole purpose of advertising;

“unauthorised sign” means a sign, the display of which is subject to specific consent and which is displayed without such consent;

“urban area” means a built-up area within the Umsobomvu Municipal area;

“urban landscape” means an urban area or any part of an urban area;

“vehicular advertising” means advertising on a self-driven vehicle which is normally driven on land or water and which is normally moving;

“veranda” means a structure in the nature of a roof attached to or projecting from the facade of a building and supported along its free edge by columns or posts;

“visual zone” means a zone visible from an urban freeway, but does not include visually isolated spaces behind buildings, structures or landscape features which cannot be seen from such a freeway;

“walking poster” means a poster or posters which is suspended from a person’s shoulders or attached to a person;

“window sign” means a sign which is permanently painted on or attached to the window-pane of a building;

2. Purpose of By-laws

The Umsobomvu Municipality must exercise its powers under these By-laws in the interests of amenity, public safety and business interests, and must take into account the considerations that -

- (a) signs or advertisements may not constitute a danger or nuisance to members of the general public, whether by way of obstruction, interference with traffic signals or with the visibility of the signals, light nuisance or otherwise;
- (b) signs or advertising that are displayed in its human living environment must be aesthetically pleasing, appropriate and placed at appropriate sites with an uncluttered effect, as the cluttering of signs at any one particular site is unacceptable;
- (c) its environment for tourism is characterised by a high standard of user-friendly signage and advertising which is satisfactorily integrated into the environment;
- (d) individual businesses have legitimate interests in the proper advertising of their businesses, wares and products, and that it is the duty of the municipality to balance the competing interests in a fair, equitable, flexible and responsible way;
- (e) material changes in circumstances are likely to occur, which may affect the municipality’s decisions regarding consent which it has granted for the display of a sign, and regarding zoning; and
- (f) no sign may -
 - (i) be detrimental to the environment or to the amenity of a human living environment by reason of size, shape, colour, texture, intensity of illumination, quality of design or materials or for any other reason;
 - (ii) be in its content objectionable, indecent or suggestive of indecency or prejudicial to the public morals;
 - (iii) unreasonably obscure, partially or wholly, any sign owned by another person previously erected and legally displayed; and
 - (iv) block views across vistas from prominent public places, or in gateways of urban areas.

3. Application

Subject to section 15, these By-laws apply to the display of any sign on any site in any of the areas of control in the Umsobomvu Municipality.

4. Policy framework

The policy underlying these By-laws is the South African Manual for Outdoor Advertising Control issued by the Department of Environmental Affairs and Tourism.

5. Areas of control

- (1) The areas of control as contained in Schedule 35 and as delineated in the Zoning By-laws, and as may be re-delineated by resolution of the municipality from time to time, pertain.
- (2) For the purposes of these By-laws the following areas of control exist:

- (a) Rural areas of maximum control;
 - (b) urban areas of maximum control;
 - (c) urban areas of partial control; and
 - (d) urban areas of minimum control.
- (3) A person who intends to display a sign must ensure that the sign may be displayed in a particular area of control.
- (4) The areas of control in which particular classes and types of signs may be displayed are identified in the Schedules which are specified in section 7.

CHAPTER 1

SIGNS, AND REQUIREMENTS AND CONDITIONS THAT RELATE TO EACH SIGN

6. Signs, requirements and conditions

The schedules in section 7 have effect and -

- (a) identify the class to which each of the different kinds of signs belong, and provide a general description of the characteristics and functions of each of the different kinds of signs;
- (b) lay down the specific conditions relating to the display of each of the different kinds of signs; and
- (c) where applicable, provide illustrations pertaining to particular signs.

7. Schedules

The figures which illustrate the position of particular signs are contained in Schedule 36, and the classes of signs, the signs, and the Schedules that relate to each of the signs are -

- (a) class 1: billboards and other high-impact free-standing signs, comprising -
 - (i) subclass 1(a), super billboards, schedule 1;
 - (ii) subclass 1(b), custom-made billboards, schedule 2;
 - (iii) subclass 1(c), large billboards, schedule 3; and
 - (iv) subclass 1(d), small billboards and tower structures, schedule 4;
- (b) class 2: posters and general signs, comprising -
 - (i) subclass 2(a), large posters and signs on street furniture and lamp posts, schedule 5;
 - (ii) subclass 2(b), banners and flags, schedule 6;
 - (iii) subclass 2(c), suburban signs, schedule 7;
 - (iv) subclass 2(d), temporary signs, comprising -
 - (aa) estate agents' boards, schedule 8;
 - (bb) sale of goods, property or livestock signs, schedule 9;
 - (cc) pavement posters and notices, schedule 10;
 - (dd) project boards, schedule 11; and
 - (ee) temporary window signs, schedule 12;
 - (v) subclass 2(e), street name advertisements signs, schedule 13;
 - (vi) subclass 2(f), neighbourhood watch signs and signs relating to similar schemes, schedule 14; and
 - (vii) subclass 2(g), product replicas and three-dimensional signs, schedule 15;
- (c) class 3: signs on buildings, structures and premises, comprising -
 - (i) subclass 3(a), sky signs, schedule 16;
 - (ii) subclass 3(b), roof signs, schedule 17;
 - (iii) subclass 3(c), flat signs, schedule 18;

- (iv) subclass 3(d), projecting signs, schedule 19;
- (v) subclass 3(e), veranda, balcony, canopy, and underawning signs, schedule 20;
- (vi) subclass 3(f), signs painted on walls and roofs, schedule 21;
- (vii) subclass 3(g), window signs, schedule 22;
- (viii) subclass 3(h), signs incorporated in the fabric of a building, schedule 23;
- (ix) subclass 3(i), signs on forecourts and pavements of business premises, schedule 24;
- (x) subclass 3(j), signs for residential-oriented land use and community services, schedule 25;
- (xi) subclass 3(k), on-premises business signs, schedule 26;
- (xii) subclass 3(l), signs on towers, bridges and pylons, schedule 27; and
- (xiii) subclass 3(m), signs on construction site boundary walls and fences, schedule 28;
- (d) class 4: signs for tourists and travellers, comprising -
 - (i) subclass 4(a), sponsored road traffic projects signs, schedule 29;
 - (ii) subclass 4(b), service facility signs, schedule 30; and
 - (iii) subclass 4(c), functional advertising signs by public bodies, schedule 31;
- (e) class 5: mobile signs, comprising -
 - (i) subclass 5(a), aerial signs, schedule 32;
 - (ii) subclass 5(b), vehicular advertising, schedule 33; and
 - (iii) subclass 5(c), trailer advertising, schedule 34.

CHAPTER 2 CONSENT, AND WITHDRAWAL OR AMENDMENT OF CONSENT

8. Consent

- (1) A sign may not be displayed without consent that was granted by the municipality -
 - (a) by section 9 (referred to in these By-laws as “deemed consent”); or
 - (b) by section 10 (referred to in these By-laws as “specific consent”).
- (2) Consent for the display of a sign includes consent for the use of the site for the purposes of the display, whether by the erection of structures or otherwise, however consent granted for the erection of an advertising structure cannot be construed as consent to use the structure for advertising purposes.
- (3) A person who displays a sign on Municipal land is a tenant at will.
- (4) Since new types of signs are continuously being developed, and since the use of existing signs may become undesirable, it is provided that -
 - (a) a person who intends to display a sign -
 - (i) for which no provision is made in these By-laws;
 - (ii) which does not fall within any of the categories of signs provided for in these By-laws; or
 - (iii) the display of which is of such nature that it does not fall within the ambit of what is understood as ‘display’ in these By-laws,must, before such a sign is displayed, apply for approval of the sign and for the display of the sign in terms of section 10, and the municipality may furthermore prescribe conditions applicable to the sign or the display of the sign; and
 - (b) The municipality may in writing require a person who is displaying a sign, the display of which is found by it to be undesirable, to remove or cease the display of the sign.
- (5) A lease of land within the jurisdiction of the municipality does not confer the right to use the land solely for the purpose of advertising.

9. Deemed consent

- (1) Deemed consent is hereby granted for the display of those particular classes and types of signs as specified in the Schedules, in the areas of control contemplated for each such class or type of sign.
- (2) The said deemed consent to display a sign is not absolute.
- (3) A person who intends to display a sign on private or municipal land and has deemed consent is exempt from the provisions of section 10, but must comply with sections 18, 19, 20, 21 and 22.
- (4) Upon a proposal made to it by the Planning Committee that a particular class or type of sign should not be displayed in a particular area of control or in a particular case, the municipality may by resolution direct that the deemed consent, which was granted for the display of a sign in that particular class does not apply in that particular area of control or in that particular case, and may by written notice, require the person who displays a sign, forthwith to remove the sign, or to file, within the time period specified in the notice, an application in terms of section 10.

10. Specific consent, application, factors which municipality may consider, and renewal

- (1) A person who intends to display a sign on private or Municipal land and who needs to obtain the specific consent of the municipality as specified in the Schedule that relates to the sign, must -
 - (a) complete the necessary application form and comply with all the other requirements and conditions which are specified in the application form;
 - (b) lodge two copies of the application form with the municipality;
 - (c) obtain the consent of the municipality before he or she may display or alter the sign; and
 - (d) comply with all the other provisions of these By-laws.
- (2) The municipality, when it considers the application, may have, in addition to other relevant factors, due regard to the following:
 - (a) That no sign should be so designed or displayed that it will -
 - (i) be detrimental to the environment or to the amenity of the neighbourhood because of size, intensity of illumination, quality of design or materials, or for another reason;
 - (ii) constitute a danger to any person or property;
 - (iii) obliterate other signs;
 - (iv) be unsightly or impact detrimentally upon an architectural design;
 - (v) impair the visibility of a road traffic sign; or
 - (vi) affect the safety of motorists or pedestrians;
 - (b) the size and location of the proposed sign and its alignment in relation to an existing sign on the same building or erf and its compatibility with the visual character of the area surrounding it;
 - (c) the fact that the proposed sign is to be located directly on or in the vicinity of trees, rocks, hill sides, other natural features and areas of civic and historic interest;
 - (d) the number of signs which is displayed or to be displayed on the erf or building concerned, and its legibility in the circumstances in which it is seen; and
 - (e) the merits of the sign if the sign is not appropriate to the type of activity on or zoning of the erf or site to which it pertains.

- (3) The municipality may require that additional drawings, calculations and other information be submitted on application and may require a certificate by an engineer. The certificate must give sufficient details -
 - (a) to enable the municipality to establish if the proposed means of securing, fixing or supporting of a sign is sufficient to resist all loads and forces to which it may be exposed; and
 - (b) regarding the sufficiency of the margin of safety against failure, in compliance with the provisions of Regulation B1 of the National Building Regulations and Building Standards Act, 1977 (Act No.103 of 1977).
- (4) The municipality may grant consent subject to any condition it may deem expedient, or may refuse consent.
- (5) The municipality must, within 60 days after the application form has been lodged, to the applicant notify in writing if consent has been refused or granted, and -
 - (a) if consent is refused, the municipality must in writing convey to the applicant the reasons why the consent was refused; and
 - (b) if consent is granted, the municipality must forward a notice of approval and one set of the application form and other documents that were submitted by the applicant to the applicant, and specify in the notice of approval the duration of the term of the consent.
- (6) A sign must be displayed within 12 months after the date on which the municipality granted consent, otherwise the consent expires.
- (7) The municipality must keep a register which is open to public inspection at all reasonable hours and which contains particulars of -
 - (a) the application which was made to the municipality for specific consent for the display of a sign;
 - (b) the name and address of the applicant;
 - (c) the date of the application;
 - (d) the type of sign concerned; and
 - (e) any conditions relating to the display of the sign.
- (8) When a time period, which was specified in the approval expires, an application for renewal must, prior to the expiry, be submitted for consideration of approval should a person who displays a sign intends to continue the display of the sign, and should the municipality refuse consent to display the sign, the person who displays the sign must forthwith cease to display the sign.

11. Withdrawal or amendment of consent

- (1) If a sign or its display -
 - (a) does not comply with any one or more of the provisions of these By-laws;
 - (b) is in a state of disrepair;
 - (c) constitutes a danger to members of the public; or
 - (d) is undesirable in terms of section 8(4)(b),
the municipality may at any time, and if necessary to do so to remedy a substantial injury to the amenity of the locality, decide to take any one or more of the following actions:
 - (i) to withdraw its consent for the display of a sign;
 - (ii) to amend any condition relating to the display of a sign;
 - (iii) to impose a further condition to the display of a sign; or
 - (iv) to order that the display of the sign be discontinued.
- (2) The municipality must serve a notice of its decision on the person who displays the sign,

and the notice must -

- (a) specify a period within which the sign is to be removed, or within which the use of the site is to be discontinued, and contain a full statement of the reasons why the display of the sign must be terminated; or
- (b) specify any amendment to a condition relating to the display of the sign, and if applicable a time period relating to the amendment; or
- (c) specify any further condition which is imposed, and if applicable a time period relating to the further condition; or
- (d) if consent for the display of the sign is withdrawn, inform the person who displays the sign to remove the sign immediately, and
- (e) specify the sign or the site to which it relates.

CHAPTER 3

UNAUTHORISED SIGNS, ALTERATION OF SIGNS, DEPARTURE FROM APPROVED PLAN, EXEMPT SIGNS, PROHIBITED SIGNS, AND TEMPORARY SIGNS

12. Display of unauthorised sign

- (1) No person may display an unauthorised sign on private or municipal land.
- (2) A person who displays an unauthorised sign on private or municipal land must, after service on him or her of a notice of compliance in terms of section 25(2) to that effect, immediately cease to display the sign.
- (3) If, before the date specified in the notice, the person satisfies the municipality that he or she has complied with the provisions of these By-laws, the municipality may withdraw the notice.

13. Alteration of existing sign

- (1) No person may, without the prior approval of the municipality, alter an existing sign on private or municipal land in instances where the display of the sign is subject to specific consent.
- (2) A person who alters such a sign displayed on private or municipal land must, after service on him or her of a notice of contravention in terms of section 25(2) to that effect, immediately cease or cause to cease any alteration to the existing sign.

14. Departure from approved form or plan

- (1) No person, having obtained specific consent for the display of a sign on private or municipal land, may do anything in relation to the sign which is a departure from any form or plan approved by the municipality.
- (2) A person must, after the service upon him or her of a notice of contravention in terms of section 25(2) to that effect, immediately discontinue or cause to be discontinued such departure.

15. Exempt signs

Display of the following sign is exempt from the provisions of these By-laws:

- (a) A sign which is displayed in an arcade and which is not aimed at road users;
- (b) any price ticket which is smaller than 0,01 square metres on an item that is displayed in a shop-window;

- (c) a sign which is displayed inside a building at a distance of more than two metres from any window or external opening through which it may be seen from outside the building and which is not aimed primarily at attracting the attention of road users;
- (d) a road traffic sign which is displayed in terms of an Act of Parliament, Provincial legislation, or By-law;
- (e) a sign which is displayed as required in terms of an Act of Parliament, Provincial legislation, or By-law;
- (f) a banner or flag that is carried through the streets as part of a procession;
- (g) a national flag, which is hoisted on a suitable flagpole, with nothing attached to the flag and with no advertising material attached to the flagpole;
- (h) on municipal land, a sign which is displayed on the initiation of the municipality in terms of an adjudicated tender or concession, and a sign which is owned by the municipality; and
- (i) a sign displayed inside a sports stadium and which is not visible from outside the stadium.

16. Prohibited signs

- (1) The following signs may not be displayed in any area of control:
 - (a) a teardrop flag;
 - (b) an inflatable;
 - (c) a walking poster; and
 - (d) a trailer advertisement.
- (2) No vehicle to which is attached or on which is displayed an advertisement, may be parked in any area of control with the sole purpose of drawing the public's attention to the advertisement attached to or displayed on the vehicle.
- (3) No sign may be displayed in an area identified in Schedule 36.
- (4) No person or business may without the written consent of the municipality, in any manner and with or without the object of informing the public of any -
 - (a) opinion, event or phenomenon of whatever nature, be it factual or fictional, be it past, present or future, or
 - (b) product, commodity, or merchandise, be it in existence or not, disseminate to any person or attach to any object a leaflet, handbill or any similar article in any public place or area within the municipality's jurisdiction.
- (5) A person who intends undertaking an activity specified in subsection (4) must complete and submit the necessary application form, and the municipality may -
 - (a) reject the application, in which case the dissemination or attachment of the leaflet, handbill or article is prohibited; or
 - (b) approve the application on such conditions as the municipality deems fit.

17. Temporary signs

- (1) The display, at a special event such as a sporting event and a festival, of a temporary sign containing the name of the sponsor is subject to specific consent, and the sign -
 - (a) may be displayed for a period of one week before such event and for the duration of the event;
 - (b) must be dismantled within three days after the conclusion of the event;
 - (c) may be displayed in all areas of control; and
 - (d) must be located within the boundaries of the demarcated area in which the event takes place.

- (2) A temporary advance sign may be displayed, and the display of the sign is subject to specific consent.

CHAPTER 4
SAFETY, DESIGN AND CONSTRUCTION, MAINTENANCE, POSITION, AND
ILLUMINATION OF SIGNS

18. Safety of sign

- (1) No advertisement or advertising structure may -
- (a) constitute a danger to any person or property;
 - (b) be so placed or contain an element as to distract the attention of a driver of a motor vehicle in a manner likely to lead to unsafe driving conditions;
 - (c) be illuminated to the extent that it causes discomfort to or inhibits the vision of an approaching pedestrian or driver of a motor vehicle;
 - (d) except a sign displayed with a street name or a location name sign of class 2(c), 2(e) and 4(c), be attached to a road traffic sign or signal, be combined with a road traffic sign or signal, obscure a road traffic sign or signal, create confusion with a road traffic sign or signal, interfere with the functioning of a road traffic sign or signal, or create a road safety hazard;
 - (e) obscure a pedestrian's or motor vehicle driver's view of a pedestrian, a road or rail vehicle or a feature of the road, railway or pavement such as a junction, bend and a change in width;
 - (f) project over a pedestrian or cycle circulation route, unless the clear height of such sign exceeds 2,4 metres;
 - (g) obstruct any fire-escape or the means of egress to a fire-escape, or obstruct or interfere with any window or opening required for ventilation purposes; or
 - (h) exceed the minimum clearance with regard to overhead power lines as prescribed in regulation 15 of the Electrical Machinery Regulations, No R1593 in GG. 11458, 12 August 1988, with the further provision that permission must be obtained from the relevant supply authority before any advertising structure may be erected in a power-line servitude.
- (2) A sign or advertisement positioned along a road and specifically targeting the road user must be concise and legible and must comply with the following requirements:
- (a) No sign displaying a single advertisement or message may exceed 15 "bits" of information, and no combination sign or any other sign displaying more than one advertisement or message may contain more than six "bits" of information per enterprise, service or property, or per individual advertisement or message displayed on the combination sign, and "bit" values must be calculated as follows:
 - (i) A word of up to eight letters inclusive have a bit value of 1;
 - (ii) a number of up to four digits inclusive have a bit value of 0,5;
 - (iii) a number consisting of five to eight digits have a bit value of 1; and
 - (iv) a symbol, logo or abbreviation has a bit value of 0,5.
 - (b) A letter or digit must have a minimum size of 50 millimetres and must increase in size by 25 millimetres for every 15 meters distance away from a viewer.^a

^a Example:

- (i) A letter or digit on a sign which is normally not more than 15 metres away from the viewer, may not be smaller than 50; millimetres;

- (c) No message may be spread across more than one sign or sign panel.

19. Design and construction of sign

(1) A sign -

- (a) must be constructed and executed and finished in a workmanlike manner, and structural details should be in accordance with existing generally accepted and tested designs, or designed by an engineer;
- (b) may not be detrimental to or have a negative aesthetic impact on the urban design, streetscape or the character of the surrounding area by way of the design of the structure or device;
- (c) must have a neat appearance and must consist of durable materials in accordance with the function, nature and permanence of the advertisement, sign or structure, and materials such as cloth, canvas, cardboard, paper or synthetic cardboard should be used only when essential to the nature and function of a particular sign;
- (d) must have a neat appearance in terms of advertisement content and signwriting and an untidy handwritten message should be avoided as far as possible;
- (e) may not with an electrical services provision and any other accessory deface a building facade;
- (f) must be rigidly and securely attached, supported or anchored in a safe manner so that unwanted movement in any direction is prevented;
- (g) must be capable of effectively securing, supporting and maintaining not less than twice its mass with the addition of any force to which the sign may be subjected, including wind pressure;
- (h) wherever necessary in accordance with the nature of the sign and when attached to brickwork, masonry or concrete, must be securely and effectively attached thereto by means of bolts securely embedded in such brickwork, masonry or concrete or passing through the same and secured on the opposite side; and
- (i) when attached to a conservation-worthy building, must be attached with the necessary expert advice in order to prevent damage to the building.

(2) An advertiser or contractor -

- (a) may not use water-soluble adhesive, adhesive tape or similar material to display or secure any sign or advertisement;
- (b) may not display or secure any sign or advertisement elsewhere than on a billboard, board or any structure provided for this purpose;
- (c) must have all exposed metalwork of any sign painted or otherwise treated to prevent corrosion, and all timber treated to prevent decay; and
- (d) must have measures taken to prevent the entry of water into and the accumulation of water or moisture on or in any sign or any part of its supporting framework, brackets or other members.

(3) (a) All glass used in signs, other than glass tubing used in neon and similar signs must be safety glass at least three millimetres thick.

-
- (ii) a letter or digit on a sign which is normally between 16 and 30 metres away from the viewer, may not be smaller than 73; millimetres;
 - (iii) a letters or digit on a sign which is normally between 31 and 45 metres away from the viewer, may not be smaller than 100 millimetres;
 - (iv) a letter or digit on a sign which is normally between 46 and 60 metres away from the viewer, may not be smaller than 125 millimetres, and so forth.

- (b) Glass panels used in signs may not exceed 0,9 square metres in area and must be securely fixed in the body of the sign, structure or device independently of all other panels.
- (4) Every illuminated sign and every sign in which electricity is used -
 - (a) must have a power cable and conduit containing an electrical conductor positioned and fixed so that it is not unsightly;
 - (b) must be constructed of material which is not combustible;
 - (c) must be provided with an external switch in an accessible position whereby the electricity supply to the sign may be switched off; and
 - (d) must be wired and constructed in accordance with and subject to the provisions of the Umsobomvu Electricity by-laws.
- (5) (a) No person may, in the course of displaying or removing any sign, advertisement structure or device, cause damage to any tree, electrical standard or service or other public installation or property.
 - (b) Signage, or its brackets, on lamp posts may not cover or damage any markings such as codes or symbols on the poles.
 - (c) Protective sleeves must protect the paintwork on electric lamp posts against possible damage which may be caused by brackets securing advertising signs against such poles, and the design of these brackets and the signage must be approved by the City Electrical Engineer for each type of sign and lamp post to be used.

20. Maintenance of sign

- (1) Maintenance of signs and their structures on Municipal land is the responsibility of the person who displays the sign, excluding the municipality, and should the municipality carry out any maintenance work as result of poorly maintained signs being attached, the municipality may claim the cost of such repairs from the person who displays the sign.
- (2) A sign must -
 - (a) where possible, be located at a height that discourages vandalism;
 - (b) be serviced, cleaned and repainted on a regular basis; and
 - (c) be maintained in good repair and in a safe and proper condition according to the highest standards as regards quality of structures, posting and sign-writing.

21. Position of sign

- (1) A sign -
 - (a) may not be displayed on a road island or road median, with the exception of a sign in class 2(a), 2(d)(iii) and Identilights in class 2(e);
 - (b) may not be suspended across a road, with the exception of -
 - (i) a sign in class 3(l); and
 - (ii) a banner in class 2(b) suspended across an urban road other than a freeway and as part of a streetscaping project;
 - (c) may not be displayed within or suspended above a road reserve or within a distance of 50 metres outside the road reserve boundary of a freeway, with the following exceptions and provided that these exceptions, subject to subsection (1)(a), do not allow for the display of a sign on a road island or road median but only for the display of a sign on the side of a road reserve:
 - (i) A sign in class 2(d)(iv) that concern road construction and a sign in class 4(a) and 4(c) may be displayed within a road reserve;

- (ii) a sign in class 2(e) may be displayed within a road reserve of a proclaimed main road other than a freeway and cognisance must be taken of the architectural styles of sensitive areas;
 - (iii) a sign in class 2(d)(iv) that does not concern road construction may be displayed within a road reserve other than a freeway, but only next to the actual development site and only if sufficient space is not available on such a site;
 - (iv) a sign in classes 2(a), 2(b), 2(c), 2(f), 3(d), 3(e) and 4(d) may be displayed within an urban road reserve other than a freeway;
 - (v) a sign in class 2(d)(iii) and a sign on a bridge in class 3(l) may be displayed within an urban road reserve other than a freeway but only in an area of partial control and an area of minimum control;
 - (vi) a sign in classes 3(c), 3(d) and 3(e) may be displayed within 50 metres of the boundary of a freeway if the main building housing an enterprise is within 50 metres from the road reserve of a freeway and if there is no other appropriate means of indicating that particular enterprise;
 - (vii) a sign in class 2(d)(i) may be displayed in a road reserve other than a freeway, subject to specific controls; and
 - (viii) a sign in classes 1, 3(f), 3(g), 3(i) and 3(k) may not be displayed in any urban road reserve;
- (d) may not be displayed within the specified distances of on-ramps and off-ramps and overhead traffic signs on freeways as illustrated in figure 1 in schedule 35, except where an enterprise is situated within such a prohibited area and it is not possible to indicate that particular enterprise by means of an appropriate sign outside the prohibited area; and
- (e) may not be displayed within a restricted area at an urban street corner as illustrated in figure 2 in schedule 35, with the exception of sign types 2(d)(v), 2(e), 3(c), 3(d), 3(e), 3(g) and 3(h), and provided furthermore that an illuminated sign displayed within a restricted area at a signalised street corner as illustrated in figure 3 in schedule 35 must have a clear height of at least six metres if such sign contains the colours red, green or amber.
- (2) No advertising signage may be affixed to a lamp post, except a sign in classes 2(a), 2(d)(iii) and 4(c).

22. Illumination of sign and electronic sign

- (1) The following maximum luminance levels per square meter are applicable to a sign, except for the daylight illumination of a Super Billboard:
- (a) In the instance where the illuminated area is less than 0,5 square metre, the maximum luminance level is 1000 candela per square metre;
 - (b) in the instance where the illuminated area is between 0,5 square metre and 2 square metres, the maximum luminance level is 800 candela per square metre;
 - (c) in the instance where the illuminated area is between 2 square metres and 10 square metres, the maximum luminance level is 600 candela per square metre; and
 - (d) in the instance where the illuminated area is 10 square metres or more, the maximum luminance level is 400 candela per square metre.
- (2) The light source emanating from a floodlight may not be visible to traffic travelling in either direction.
- (3) Floodlighting must be positioned to ensure effective distribution and minimise light wastage or 'spill'.

- (4) The municipality may require traffic monitoring of any internally illuminated sign.
- (5) An electronic sign containing third-party advertising -
 - (a) may only be displayed in an area of partial and minimum control;
 - (b) must be less than 2,1m², which size may be waived up to a maximum size of 4,5m² in any such area upon receipt of an Environmental and Heritage Impact Assessment showing that no detrimental impact will be caused by the proposed display; and
 - (c) may not have subliminal flashes.
- (6) The municipality may require a Traffic Impact Assessment to be conducted on any electronic sign, the results of which must indicate that no detrimental impact on traffic is envisaged, and the municipality may require subsequent traffic monitoring of any electronic sign.

CHAPTER 5 MISCELLANEOUS PROVISIONS

23. Public bids

- (1) Should the municipality so decide, the municipality must, in terms of the municipality's Supply Chain Management by-laws, and subject to the provisions of the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000) and the Regulations to the Act, adjudicate one successful bid, for each standard advertising type aiming to provide non-locality-bound advertising space for a private sector service, product or any other message on municipal land.
- (2) The successful tenderer, known as the contractor -
 - (a) is responsible for the display of an advertising sign in terms of the provisions of these By-laws and in terms of conditions agreed on in his or her contract with the municipality; and
 - (b) is responsible for the removal of any illegally displayed sign of the same class for which that particular contract has been awarded.
- (3) Should a contractor fail to comply with the provisions of (2)(a) and (b) or with the contract conditions, the municipality must serve a final notice on the contractor to rectify compliance with the provisions or contract conditions, and should the contractor not comply within two months after final notice has been served -
 - (a) the municipality has the right to relieve the contractor of his or her contract after which -
 - (i) the contractor has no right to a sign already displayed; and
 - (ii) the municipality may deal with the sign in accordance with sections 25(4), (6), (7), (8), (9) and (10); and
 - (b) the municipality may re-advertise the relevant contract for public competition in terms of the municipality's Supply Chain Management by-laws, and subject to the provisions of the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000) and the Regulations to the Act.

24. Authentication and service of notices and other documents

- (1) A notice or other document requiring authentication by the municipality must be signed by the municipal manager or by a duly authorised officer of the municipality, such authority being conferred by resolution of the municipality or by a by-law or regulation, and when issued by the municipality in terms of these By-laws is deemed to be duly issued if it is signed by an officer authorised by the municipality.

- (2) Any notice or other document that is served on a person in terms of these By-laws is regarded as having been served –
- (a) when it has been delivered to that person personally;
 - (b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of 16 years;
 - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic and an acknowledgment of the posting thereof from the postal service is obtained;
 - (d) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided by paragraphs (a), (b) or (c);
 - (e) if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the property or premises, if any, to which it relates;
 - (f) in the event of a body corporate, when it has been delivered at the registered office of the business premises of such body corporate; or
 - (g) when it has been delivered, at the request of that person, to his or her e-mail address.
- (3) Service of a copy is deemed to be service of the original.
- (4) When any notice or other document must be authorized or served on the owner, occupier or holder of any property or right in any property, it is sufficient if that person is described in the notice or other document as the owner, occupier or holder of the property or right in question, and it is not necessary to name that person.
- (5) Any legal process is effectively and sufficiently served on the municipality when it is delivered to the municipal manager or a person in attendance at the municipal manager's office.^b

25. Notice of compliance, removal, confiscation, destruction of signs, and related matters

- (1) Where the display of a sign does not comply with section 18, 19, 20, 21 or 22, the person who displays the sign must alter the sign so that it complies with section 18, 19, 20, 21 or 22, and where -
- (a) there is a change in ownership or occupancy of premises on which the sign is displayed;
 - (b) there is a change in the nature of the business, industry, trade or profession which is conducted on the premises;
 - (c) traffic signal lights are erected in a place where previously there had been no traffic signal lights, but where there is currently being displayed a sign; or
 - (d) there is an alteration in the level or position of a street, footway or kerb;
- the person who displays a sign must immediately remove the sign.
- (2) The municipality may serve a notice of compliance on the owner of a sign to remove a sign within a specified time, or to carry out, within a specified time, such alteration to it or to do such work as may be specified in the notice, if the sign which is displayed is unauthorised, or does not conform to a provision of section 18, 19, 20, 21, or 22, or does not comply with a condition imposed in the Schedule that relates to the sign.
- (3) The notice of compliance must -

^b See section 115 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000)

- (a) specify, at the time when the notice is issued, the name and residential and postal address, if either or both of these be known, of the person on whom the notice is served;
 - (b) state the particulars of the contravention;
 - (c) where applicable, specify the time within which a sign is to be removed, or an alteration is to be carried out, or such work as specified is to be done;
 - (d) subject to section 26, specify the fine payable as penalty in respect of that contravention and the place where the fine may be paid; and
 - (e) inform the person on whom the notice was served that he or she may, within 28 calendar days of the date of service of the notice -
 - (i) pay the fine; or
 - (ii) inform the municipality in writing that he or she elects to be tried in court on a charge of having committed an offence under section 26(1)(c).
- (4) If a person fails to comply with a notice of contravention or any other notice served by the municipality on him or her, the municipality may enter upon the land upon which the sign to which the notice relates, is being displayed and remove, confiscate, and destroy the sign.
- (5) The municipality may, without prior notice remove, confiscate, and destroy a sign if the sign constitutes a danger to life or property, or is objectionable, or if one or more of the provisions of these By-laws is contravened.
- (6) The municipality, when it removes and confiscates or destroys the sign, is not required to compensate a person in respect of the sign in any way for loss or damage which results from its action.
- (7) Costs that are incurred by the municipality when it removes, confiscates or destroys a sign or does alterations or other works may be recovered from the person on whom the notice was served, or if a deposit has been paid in respect of the sign the costs may be deducted from the deposit, unless the person to whom a notice was given proves -
- (a) that he or she did not, at the time when he or she received the notice, nor at any time thereafter, display the sign; or
 - (b) that he or she did not take any active part in displaying the sign and did not grant any person permission to display it and did not receive any valuable consideration in connection with the displaying of the sign, and that he or she does not manufacture an article, or own, control or manage a business or undertaking to which the sign relates.
- (8) The penalty costs when the municipality removes a sign are specified in the Umsobomvu Customer Care and Revenue Management by-laws.
- (9) Should the municipality decide not to destroy a sign, the original owner may repurchase a sign, which has been removed and confiscated. The repurchasing prices are according to the general tariff regulations of the municipality.
- (10) The municipality may dispose of a sign which is not repurchased within two weeks.

26. Offences

- (1) A person commits an offence if he or she -
- (a) fails to comply with -
 - (i) any requirement which is set out in a notice of contravention in terms of section 25(2) that was served on him or her;

- (ii) a condition that was imposed on him or her;
 - (iii) any requirement set out in a notice in terms of sections 8(4)b), 9(4) or (11)(2);
 - (b) knowingly makes a false statement to a municipal officer, or in respect of an application;
 - (c) displays a sign that does not comply with any one or more of the provisions of sections 18, 19, 20, 21, 22, or conditions imposed in the Schedule that relates to the sign;
 - (d) displays an unauthorised sign;
 - (e) displays a sign in contravention of sections 25(1), 8(4)(a), 10(8), 16(1) to (4), or 17; or
 - (f) disseminates or attaches a leaflet, handbill or article in contravention of section 16(5)(a).
- (2) Upon conviction of a first offence, the person is liable to a fine, and should the person does not pay the fine, he or she may be imprisoned for a period not exceeding two months.
- (3) Upon conviction of a second or subsequent offence, the person is liable to a fine.
- (4) Upon conviction of a continuing offence the person is liable to a fine for every day during which the offence continued.
- (5) Upon conviction for the display of an unauthorised sign, the person is liable to a fine per sign displayed.

27. Right of appeal

- (1) A person who is of the opinion that his or her rights are affected by a decision of a municipal officer may appeal against that decision by giving written notice of the appeal and reasons to the municipal manager within 21 days of the date of the notification of the decision.
- (2) The municipal manager must promptly submit the appeal to the appropriate appeal authority mentioned in subsection (4).
- (3) The appeal authority must consider the appeal and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.
- (4) When the appeal is against a decision taken by –
- (a) a municipal officer other than the municipal manager, the municipal manager is the appeal authority;
 - (b) the municipal manager, the Speaker is the appeal authority; or
 - (c) a political structure or political office bearer or a councillor, a committee of councillors who were not involved in the decision and who were appointed by the municipality for this purpose is the appeal authority.
- (5) An appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable time.^c

28. Transitional provision

- (1) The person who displays a sign must, within six months after the commencement of these By-laws, ensure that the sign complies in all respects with the provisions of these By-laws, and the municipality reserves the right to remove the sign immediately if the sign does not comply with these provisions after six months.

^c See section 62 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000)

- (2) The person who displays a sign, the display of which is prohibited in terms of section 16, must remove the sign within seven days after the commencement of these By-laws.
- (3) The person who displays a litter bin must, despite subsection (1), ensure that the display of the bin complies in all respects with these By-laws, specifically those provisions and conditions contained in item 3(7) of Schedule 5, and the municipality reserves the right to remove the bin within seven days after the commencement of these By-laws if the display does not comply with the stipulated provisions and conditions.

29. Saving provision

Subject to section 32, nothing which is contained in these By-laws is to be construed as to affect in any way rights that belong to, or duties which are imposed on the municipality as the body in whom ownership is lawfully vested of or who has control over any street or other place or thing within its area of jurisdiction.

30. Waiver

- (1) The municipality may, upon the written request by a person, which request is to be directed to the municipal manager, and after consideration of the merits of the request, waive compliance with or relax the provisions of any one or more of the provisions of these By-laws.
- (2) The municipality must serve a written notice of waiver, which is signed by the municipal manager upon the person concerned. The notice must cite -
 - (a) the provision that is waived or relaxed; and
 - (b) the extent to which it has been waived.
- (3) The municipality must keep a record which contains a copy of the notice. The public may, at all reasonable hours, inspect this record at the offices of the municipality.

31. Repeal

- (1) The By-Laws enacted by Colesberg Transitional Local Council, Noupoort Transitional Local Council and Masizakhe Representative Council are hereby repealed.
- (2) Any permission obtained, right granted, condition imposed, activity permitted or anything done under a repealed law, shall be 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.
- (3) Any application lodged in terms of the By-laws repealed in terms of subsection (1) and pending before the municipality at the commencement of these By-laws, must be dealt with in terms of these By-laws.

32. Short title

These By-laws are called the Umsobomvu Outdoor Signs (Advertising and other) By-laws, 2009 and commences on the date of publication thereof in the Provincial Gazette.

SCHEDULE 1
Super billboards (Class 1(a))

1. A sign may be displayed in an urban area of minimum control only.
2. Display of a sign is subject to specific consent.
3. A sign may be displayed only after an environmental impact assessment, which includes visual, social and traffic safety aspects, has been undertaken and has been submitted by the applicant to the municipality and which has been approved by the municipality.
4. A sign may not exceed a maximum size of 60 square metres and a maximum height of 12 metres.
5. A sign must be displayed perpendicular to the direction of oncoming traffic.
6. A minimum distance of five kilometres between signs displayed on the same side of the road must be maintained.
7. (a) No sign may be erected within a radius of 200 metres from the centre of an intersection on an arterial road, or within a radius of 100 metres from the centre of an intersection on any lower order road in such a manner as to be oriented towards such an intersection.
(b) The distances represented in Figure 1, Schedule 35 must be increased by 25 percent.
8. Subject to the provisions of section 18(1)(c), 19(4), 21(e) and 22, illumination and animation of a sign is allowed.
9. A sign must be placed on a base, which has been designed and erected in accordance with conditions which the municipality may impose in terms of section 10(4).
10. The municipality may approve for the display of a sign for a period ranging from one to five years, but may not grant approval for an indefinite period.
11. The municipality may approve the display of one sign only per 500000 residents in the Umsobomvu Municipality.

SCHEDULE 2
Custom-made billboards (Class 1(b))

1. A sign may be displayed in an urban area of minimum control only.
2. Display of a sign is subject to specific consent.
3. A sign may be displayed only after an environmental impact assessment, which includes visual, social and traffic safety aspects, has been undertaken and has been submitted by the applicant to the municipality and which has been approved by the municipality.
4. A sign may not exceed a maximum size of 36 square metres and a maximum height of 7,5 metres, except as otherwise approved by the municipality in terms of section 10(4).
5. The clear height of the advertising structure may not be less than 2,4 metres.
6. The provisions of sections 21(1)(a) – 21(1)(c), and the following conditions apply to the position of a sign:
 - (a) No more than one sign may be displayed on a site;
 - (b) a sign consisting of a single board must be displayed perpendicular to or at an angle of 30 degrees to the direction of oncoming traffic;
 - (c) where two boards are joined together, the sign must be displayed with the axis of symmetry perpendicular to the direction of oncoming traffic;
 - (d) a maximum of two signs may be displayed at a road intersection;
 - (e) the display of a billboard is not permitted within a radius of 100 metres from the centre of an intersection on an arterial road and within a radius of 50 metres from the centre of an intersection on any lower-order road; and
 - (f) spectacles displayed along roads must be spaced at the following minimum distances:

- (i) on a road with a speed limit of 81 kilometres per hour and higher, there must be a minimum distance of 250 metres between signs;
 - (ii) on a road with a speed limit between 61 kilometres per hour and 80 kilometres per hour, there must be a minimum distance of 200 metres between signs; and
 - (iii) on a road with a speed limit below 60 kilometres per hour, when the signs are in view of each other and on the same side of the road, there must be a minimum distance of 120 metres between signs.
7. A sign displayed in the vicinity of a signalised intersection may not contain the colours red, amber or green if such colours will constitute a road safety hazard.
8. The provisions of sections 18(1)(c), 19(4), 21(e), 22, and the following conditions apply to the illumination and animation of a sign:
- (a) Internal and external illumination is allowed;
 - (b) the following maximum luminance levels are prescribed by the municipality:
 - (i) if the illuminated area is 0,5 square metre in size or smaller a maximum level of 1000 candela per square metre;
 - (ii) if the illuminated area is between 0,5 square metre and two square metres in size a maximum level of 800 candela per square metre;
 - (iii) if the illuminated area is between two square metres and 10 square metres in size a maximum level of 600 candela per square metre; and
 - (iv) if the illuminated area is larger than 10 square metres in size a maximum level of 400 candela per square metre;
 - (c) the light source emanating from floodlights may not be visible to traffic travelling in either direction;
 - (d) floodlighting must be positioned to ensure effective distribution of light and minimize light wastage or 'spill'; and
 - (e) no animation is allowed.
9. A sign must be placed on a base, which has been designed and erected in accordance with conditions which the municipality may impose in terms of section 10(4).
10. The municipality may grant approval for the display of a sign for a period ranging from one to five years, but may not grant approval for an indefinite period.

SCHEDULE 3 Large billboards (Class 1(c))

1. A sign may be displayed in an urban area of minimum control only.
2. Display of a sign is subject to specific consent.
3. A sign may be displayed only after an environmental impact assessment, which includes visual, social and traffic safety aspects, has been undertaken and has been submitted by the applicant to the municipality and which has been approved by the municipality.
4. No sign may exceed a maximum size of 36 square metres and a maximum height of 7,5 metres.
5. The clear height of the advertising structure may not be less than 2,4 metres.
6. The provisions of section 21(1)(a) – 21(1)(d), and the following conditions apply to the position of a sign:
 - (a) No more than one sign may be displayed per site;
 - (b) an advertisement consisting of a single board must be displayed perpendicular to or at an angle of 30 degrees to the direction of oncoming traffic;
 - (c) where two billboards are joined together, the sign must be displayed with the axis of

- symmetry perpendicular with the direction of oncoming traffic;
- (d) billboards displayed along roads must be spaced at the following distances:
 - (i) on a road with a speed limit of 81 kilometres per hour and higher the distance between signs may not be less than 250 metres;
 - (ii) on a road with a speed limit between 61 kilometres per hour and 80 kilometres per hour the distance between signs may not be less than 200 metres; and
 - (iii) on a road with a speed limit below 60 kilometres per hour, when the signs are in view of each other and on the same side of the road, the distance between signs may not be less than 120 metres;
 - (e) a maximum of two billboards may be displayed at a road intersection; and
 - (f) no billboard may be displayed within a radius of 100 metres from the centre of an intersection on an arterial road and within 50 metres from the centre of an intersection on any lower-order road.
7. A sign displayed in the vicinity of a signalised intersection may not contain the colours red, amber or green if such colours will constitute a road safety hazard.
 8. A sign may be paper-posted, any may also be sign written, posted with vinyl or a combination of all three.
 9. The provisions of section 18(1)(c), 19(4), 21(e), 22, and the following conditions apply to the illumination and animation of a sign:
 - (a) Internal and external illumination is allowed;
 - (b) the following maximum luminance levels are prescribed by the municipality:
 - (i) if the illuminated area is 0,5 square metre in size or smaller a maximum level of 1000 candela per square metre;
 - (ii) if the illuminated area is between 0,5 square metre and two square metres in size a maximum level of 800 candela per square metre;
 - (iii) if the illuminated area is between two square metres and 10 square metres in size a maximum level of 600 candela per square metre; and
 - (iv) if the illuminated area is larger than 10 square metres in size a maximum level of 400 candela per square metre;
 - (c) the light source emanating from floodlights may not be visible to traffic travelling in either direction;
 - (d) floodlighting must be positioned to ensure effective distribution and minimize light wastage or 'spill', and external illumination may not constitute a road safety hazard or cause undue disturbance; and
 10. No animation of a sign is allowed.
 11. A sign must be placed on a base, which has been designed and erected in accordance with conditions which the municipality may impose in terms of section 10(4).
 12. The municipality may grant approval for the display of a sign for a period ranging from one to five years, but may not grant approval for an indefinite period

SCHEDULE 4

Small billboards and tower structures (Class 1 (d))

1. A sign may be displayed in an urban area of partial control and an urban area of minimum control only.
2. Display of a sign in an urban area of minimum control is subject to deemed consent.
3. Display of a sign in an urban area of partial control is subject to specific consent, but if the sign forms part of the parking layout of a business centre and is not directed at road users, the display is subject to deemed consent.

4. A sign may be displayed only after an environmental impact assessment, which includes visual, social and traffic safety aspects, has been undertaken and submitted by the applicant to the municipality and has been approved by the municipality.
5. When a sign is displayed on a sport's field –
 - (a) the sign may not face any residential building; and
 - (b) only one six square metres sign may be displayed per street frontage.
6. A billboard may not exceed a maximum size of six square metres, and a maximum height of 3,5 metres.
7. A billboard must have a clear height of not less than 1,5 metre.
8. A panel or board on a tower structure may not exceed a maximum size of 4,5 square metres.
9. The clear height of a tower structure may not be less than 2,4 metres, and the maximum height of such a structure may not be more than five metres.
10. Subject to item 1(5) of this Schedule, and section 21(1)(c)(viii), a sign must be internally oriented and may not be aimed at a road user outside the shopping centre or transport node.
11. The illumination and animation of a sign is permitted and is subject to the provisions of sections 18(1)(c), 19(4), 21(e), 22, and the additional provision that such illumination or animation does not constitute a road safety hazard or cause undue disturbance.
12. A tower structure provided in a larger pedestrian area may be used only as a focal point, and must be of a high visual standard and must harmonise with the surrounding buildings and streetscape.
13. A sign must be placed on a base, which has been designed and erected in accordance with conditions which the municipality may impose in terms of section 10(4).
14. The municipality may grant approval for the display of a sign for a period ranging from one to five years, but may not grant approval for an indefinite period.
15. A sign may be used to display only general and non-locality-bound advertisements of products, activities and services in parking areas of shopping centres and at important transport nodes such as railway stations, bus stations and airports, and may not identify or identify the location of specific enterprises at such centres or nodes.^d

SCHEDULE 5

Large posters and advertisements on street furniture (Class 2(a))

1. A sign may be displayed in an urban area of maximum control, an urban area of partial control, and an urban area of minimum control only.
2. Display of a sign in an urban area of maximum control and an urban area of partial control is subject to specific consent.
3. Display of a sign in an urban area of minimum control is subject to deemed consent.
4. A permanent lamp post sign may be displayed within a provincial main road, but may not be displayed on a freeway which extends through an urban area of partial control and an urban area of minimum control.
5. Specific consent is required for the display of a litter bin.
6. A litter bin may not be placed in a residential area.

^d On-Premises Business Signs: Class 3(k) may be used to identify or identify the location of specific enterprises at centres or nodes.

7. A poster sign and an advertisement on street furniture may not exceed three square metres in area, provided that where a poster sign is double sided and faces in more than one direction, the total area may not exceed six square metres.
8. A poster structure and street furniture carrying an advertisement may not exceed a maximum height of five metres.
9. A permanent lamp post advertisement may not exceed a size of 0,5 square metre and may not extend further than one metre away from the pole.
10. A lamp post advertisement may contain the company or product name, a directional arrow and the phone number or street name only, and lettering may not be smaller than 50 millimetres.
11. The provisions of sections 18(1)(d), 19(4), 21(1)(a) – 21(1)(c), 21(1)(e), and the following conditions apply to the position of a sign:
 - (a) An advertising sign on street furniture may be displayed within an urban road reserve other than a freeway;
 - (b) a poster sign may not extend closer than 300 square millimetres to the vertical line of the kerb of a cycle path or footpath and poster signs may not be less than 30 metres apart;
 - (c) street furniture may not be used or positioned for the primary or sole purpose of advertising;
 - (d) street furniture may not be placed in such a way as to obstruct any pedestrian movement;
 - (e) permanent lamp post advertisements may not be displayed closer than every third lamp post, and may not be displayed on lamp posts within restricted areas of intersections as indicated in Figures 2 and 3;
 - (f) a maximum of two signs, one in each direction, per lamp post on a centre median may be displayed, but the signs may not be displayed on a lamp post where another sign is already affixed;
 - (g) litter bins may not be less than 100 meters apart;
 - (h) a litter bin may not be less than one metre from the kerb of a street;
 - (i) a litter bin may not be positioned on a street corner; and
 - (j) display of a sign on a litter bin must be directed to pedestrians and not to vehicular traffic.
12. A sign displayed in the vicinity of signalised intersections may not contain the colours red, amber or green if such colours will constitute a road safety hazard.
13. Subject to the provisions of section 18(1)(c), 19(4), 21(e) and 22, illumination and animation of a sign is allowed in an urban area of partial control and an urban area of minimum control.
14. Display of a standardized pole-mounted poster is allowed only if it does not have a negative visual impact on the character of an area.
15. Creative and visually pleasant structures may be used for displaying large posters in road reserves in order to make a positive contribution to streetscaping.
16. Street furniture and advertising furniture higher than three metres may be used only as focal points.
17. A person may not display a permanent lamp post advertisement on a lamp post, unless the City Electrical Engineer has first approved the design of the permanent lamp post advertisement which is to be displayed on a particular type of lamp post.

SCHEDULE 6
Banners and flags (Class 2(b))

1. A banner or flag may not be displayed in a rural area of maximum control.
2. Display of a banner or flag in an urban area of maximum control and an urban area of partial control is subject to specific consent.
3. Display of a banner or flag in an urban area of minimum control is subject to deemed consent.
4. Display of a banner or flag, for the purpose of streetscaping, in an urban area of minimum control is subject to specific consent.
5. Subject to item 21, the display of a national flag of any country is excluded from conditions stipulated in this Schedule, and such flag may be displayed in all areas of control.
6. A maximum of two banners or flags may be displayed per event, enterprise or function in a rural area of maximum control and an urban area of maximum control.
7. A maximum of four banners or flags may be displayed per event, enterprise or function in an urban area of partial control and an urban area of minimum control.
8. A maximum of ten banners or flags may be displayed per shopping centre of which the floor area, excluding the parking area, is 2000 square metres or larger.
9. A banner or flag displayed in an urban area of maximum control may not be larger than five square metres, and a banner or flag displayed in an urban area of partial control and an urban area of minimum control may not be larger than six square metres, while the total sign area per event, function or enterprise may not exceed seven square metres in an urban area of maximum control and 12 square metres in an urban area of partial control and an urban area of minimum control.
10. A character or symbol on a flag or banner may not be more than 0,75 metre in height.
11. The provisions of section 21(1)(a) and (b), 21(1)(c)(iv) and (v), and the following conditions apply to the position of a banner or flag:
 - (a) A banner or flag must be attached to or suspended between poles or other supports on the site, or against the building where the function or event is to be held or where the enterprise is located or on such other site as the municipality may permit;
 - (b) a banner or flag may be displayed within all urban road reserves, but may not be displayed on a freeway, and a banner may only be suspended across a road or street as part of an urban streetscaping project; and
 - (c) a banner may be attached to a building or to a special streetscaping structure provided for this purpose.
12. The colour or texture of a banner that is attached to a building in an urban area of maximum control must blend with such building.
13. No illumination or animation of a banner or a flag is permitted.
14. Display of a banner or flag is subject to the safety requirements as provided for in section 18(1), and the condition that a banner or flag may not be attached in a manner so as to interfere with or constitute a danger to passing vehicular or pedestrian traffic.
15. A banner or a flag used for streetscaping must form a harmonious and well-designed part of the total streetscape.
16. A flag must be attached to a single flag-staff projecting vertically from a premises or projecting vertically, horizontally or at an angle from a building.
17. No banner or flag may be displayed for more than two weeks before the date of the function or event advertised, and no such banner or flag is permitted to remain in position for more than three days after the conclusion of such function or event.
18. A banner or flag may not be used for purposes other than:

- (a) Advertising functions and events conducted for religious, educational, social welfare, animal welfare, sporting, civic or cultural purposes, or functions or events relating to municipal, provincial or parliamentary elections or referenda;
 - (b) displaying the name, corporate symbol and nature of enterprises; or
 - (c) streetscaping urban areas such as pedestrian malls and gateways.
19. Only a locality-bound banner or flag may be used for advertising a function, event and enterprise, except when incorporated in a streetscaping project.
 20. A banner or flag may not be used for advertising a sales promotion or a commercial product or event.
 21. A national flag may not carry on the flag or flag-staff any advertisement or subject matter additional to the design of the flag

SCHEDULE 7 **Suburban advertisements (Class 2(c))**

1. A sign may be displayed in an urban area of maximum control, an urban area of partial control and an urban area of minimum control only.
2. Display of a sign is subject to specific consent.
3. A suburb name sign may not be displayed on a freeway.
4. The sign must be rectangular and 0,4 metre in height and of equal length to the suburb name sign.
5. The sign must be smaller and less conspicuous than the suburb name sign.
6. The provisions of section 21(1)(a), (d), (e), and the following conditions apply to the position of a sign:
 - (a) A sign may be displayed within the road reserves of a proclaimed main road, but may not be displayed on a freeway; and
 - (b) a suburb name sign positioned on a road island, median or within the restricted area as indicated in figure 2, Schedule 35 may not be used to carry a suburban advertisement.
7. No colours that may cause confusion with road traffic signs may be used.
8. The background of the advertising sign may not be retro-reflective or fluorescent.
9. No illumination or animation of a sign is permitted.

SCHEDULE 8 **Estate agents' boards (Class 2(d)(i))**

1. A sign may be displayed in all areas of control.
2. Display of a sign is subject to deemed consent.
3. A sign may consist of a single board, or may consist of two duplicate boards joined at an angle of 120 degrees.
4. The maximum size of a sign is as follows:
 - (a) In a residential area in an area of maximum and partial control, a total area of 0,55 square metre for a single board, or a total area of 0,65 square metre for two joined boards;
 - (b) in an agricultural or commercial area (including centres of economic activity outside urban areas) in an area of maximum and partial control, a total area of two square metres for a single board, or 2,3 square metres a total area for two joined boards; and
 - (c) in an area of minimum control, a total area of 2,8 square metres for a single board, or a total area of 3,2 square metres for two joined boards.

5. Only one sign per estate agent may be displayed per premises.
6. Not more than two estate agents may display their signs simultaneously on the same premises.
7. The sign may be –
 - (a) placed at or fixed to the building concerned only;
 - (b) attached to the boundary fence of the premises concerned only; or
 - (c) displayed within the boundaries of such premises only.
8. A sign may, subject to the following conditions, be displayed within a road reserve:
 - (a) The sign may only be displayed between 16:00 on a Friday and 8:00 on a Monday;
 - (b) the sign may only be planted on a grass verge at least 1,5 metre from the kerb line and not within gaps in kerbing and paving blocks; and
 - (c) the sign may not be displayed within restricted areas as indicated in figure 2, Schedule 35.
9. If an agency is selling more than one property within a residential area, only one direction sign may be displayed at the turn-off of the main feeder road, and only one sign may be displayed at each subsequent turning.
10. No sign may at any point project more than 1,3 metre from the wall of the building or structure to which it is affixed.
11. A sign may not be displayed on the centre median of a road.
12. No limitations are imposed as to the colour or texture of a sign.
13. Illumination or animation of a sign is not permitted.
14. Display of a sign is subject to the design and construction requirements as provided for in section 19(1), (2) and (3).
15. A sign may contain the name, logo, address and telephone number of the selling or letting agent, and the words 'For Sale' or 'To Let' only.
16. A sign may not contain the words 'Sold', 'Bought', or 'Let' or words of a similar import.
17. No flag, balloon or any other object which has as aim the drawing of the attention of a person to the sign, may be displayed.
18. A sign may not be used for commercial advertising.

SCHEDULE 9

Sale of goods or livestock (Class 2(d)(ii))

1. A sign may be displayed in all areas of control.
2. Display of a sign is subject to deemed consent.
3. Only one sign per sale may be displayed.
4. The maximum size of a sign is as follows:
 - (a) In an urban area of partial control, two square metres ; and
 - (b) in an urban area of minimum control, 2,8 square metres.
5. No part of a sign may be higher than three metres above the ground.
6. Subject to the provisions of section 21(1)(e), a sign may be displayed on the premises or property where the advertised sale is to be held, or may be attached to the boundary fence of such property or premises only.
7. No limitations are imposed on the colour or texture of a sign.
8. Illumination or animation of this sign type is not permitted.
9. The provisions of section 19(1)(b), (d), (f) and 19(5)(a) apply to the design and construction of a sign.
10. A sign must be removed not later than seven days after the auction or sale.
11. A sign may not be used for commercial advertising.

SCHEDULE 10
Pavement posters and notices (Class 2(d)(iii))

1. A sign may displayed in an urban area of partial control and an urban area of minimum control only.
2. Display of a sign is subject to specific consent.
3. No person may advertise a commercial product, service, or event by means of a pavement poster or notice.
4. Consent may be granted only to newspaper publishers to advertise the headline stories of the main newspapers, and to non-profit-making organisations, such as charities, institutions, educational bodies, and sporting bodies.
5. A poster may not exceed 0,55 square metre in size.
6. A poster must be a minimum of two metres below any light fixture.
7. The provisions of section 21(1)(a), 21(1)(e), and the following conditions apply to the position of a sign:
 - (a) A poster for a political campaign may be displayed on electric light standards only;
 - (b) a poster may not be displayed on power line standards, road traffic signs and signals, walls, columns and posts of verandas and balconies, electricity boxes, trees or bridges; and
 - (c) a poster may not cover any municipal markings or painted stripes on lamp posts.
8. No limitations are imposed on the colour or texture of a sign.
9. Illumination or animation of a sign is not permitted.
10. A poster of a political nature displayed on an electric light standard must be fixed to the standard by means of a suitable cord, and no metal clamps or wire may be used.
11. A poster other than of a political nature must be displayed in a durable frame with a plastic or perspex cover and must be permanently affixed to a lamp post by an adjudicated advertising agency, and the frame must be affixed by means of an easily removable metal clamp to allow municipal officials unrestricted access to lamp posts for maintenance purposes.
12. No steel or aluminium ladders may, in the process of attaching the poster to a standard, be placed against the standard on which the poster is to be erected.
13. The number of posters displayed for election campaigns is limited to a maximum of three posters per post or standard, or two on posts where a permanent sign or its frame is already affixed to a post.
14. The number of all other kinds of posters displayed is limited to a maximum of not more than one poster for every third post or standard in one direction.
15. The name of the organisation, the date of the function and the venue must appear on the poster in letters not smaller than 50 millimetres in height.
16. A poster, with the exception of a parliamentary or municipal election or referendum poster, may be displayed only 14 days prior to the event, and must be removed within seven days of the passing the event.
17. A poster relating to a parliamentary or municipal election or referendum may be displayed from the date of proclamation in the Government Gazette of an upcoming referendum or election to the end of the fourteenth day after the date of the election or referendum, at which date the poster, its backing boards and cord or string must be removed.
18. A sign may not be used for commercial advertising.

SCHEDULE 11
Project boards (Class 2(d)(iv))

1. A sign may be displayed in all areas of control.
2. Display of a sign is subject to specific consent in a rural area of maximum control and in an urban area of maximum control.
3. Display of a sign is subject to deemed consent in an urban area of partial control and in an urban area of minimum control.
4. A project board may not exceed 1,5 square metre per consultant or contractor, whether displayed as part of a combined project board or individually.
5. A combined project board may not exceed nine square metres in total.
6. An individual or single board may be displayed only if no other consultants or contractors are involved, or if a combined project board has already been erected.
7. A sign describing the type of development may not exceed three metres in height and –
 - (a) may not, in an urban area of maximum control, exceed 4,5 square metres in size, and;
 - (b) may not, in any other area of control, exceed six square metres in size.
8. The provisions of section 21(1)(a), (c)(i) and (iii), and the following conditions apply to the position of a sign:
 - (a) Only one advertisement per contractor or consultant may be displayed per street frontage of a site;
 - (b) only one advertisement per contractor or consultant per project may be displayed in a rural area of maximum control;
 - (c) only one sign describing the type of development may be displayed per premises;
 - (d) a project board must be positioned within property boundaries only; and
 - (e) a project board concerning road construction may be positioned in any road reserve, including a freeway.
9. No limitations are imposed on the colour or texture of a sign.
10. Illumination or animation of a sign is not permitted.
11. A sign may describe the building or structure being erected, or other work or activity being carried out while the project is in progress only, and the names of the contractors or consultants concerned in such work or activity, and the branches of the industry or the professions of the contractors or consultants may be listed.
12. A project board may be displayed during the period only that the construction works are in progress on the site.
13. Where a sign describes the type of development being carried out on a site, details concerning the type of accommodation being provided, the floor space available and the name, address and telephone number of the developer or his agent may be contained in the sign.
14. A sign may not be used for commercial advertising.

SCHEDULE 12
Temporary window signs (Class 2(d)(v))

1. A sign may be displayed in all areas of control.
2. Display of a sign is subject to deemed consent.
3. The total area of all temporary signs, which are painted on or attached to the windows of a specific enterprise may not exceed –
 - (a) 10 percent of the total ground-floor window area of such enterprise in an urban area of

- maximum control;
 - (b) 25 percent of the total ground-floor window area of such enterprise in an urban area of partial control; and
 - (c) 50 percent of the total ground-floor window area of such enterprise in an urban area of minimum control.
4. Display of a sign is limited to ground-floor windows.
 5. No limitations are imposed on the colour or texture of a sign.
 6. Subject to the provisions of section 18(1)(c), 19(4), 21(e) and 22, no internally illuminated signs displayed inside a building in an urban area of maximum control may be visible from outside the building.
 7. Display of a sign is subject to the safety requirements as provided for in sections 18(1)(a), (b), (c), (e), (g), and 18(2)(a), (b), and (c).
 8. Price tags smaller than 0,01 square metre on items inside buildings are excluded from this class.
 9. A sign may not be used for commercial advertising.

SCHEDULE 13 Street name advertisements (Class 2(e))

1. Identilights may be displayed in urban areas along proclaimed main roads and in those roads reserves, which are determined by the municipality from time to time, within an urban area of partial control and an urban area of minimum control only.
2. Identilights may not be displayed in residential areas.
3. Directory sign boards may be displayed within recognised industrial areas only.
4. Display of street name advertisements is subject to specific consent.
5. The advertising and street name sections must be rectangular in shape.
6. In the case of an Identilight –
 - (a) the street name section –
 - (i) must be below the advertising section, but not closer than 200 millimetres to the advertising section; and
 - (ii) may not have a clear height of less than 2,1 meters; and
 - (b) the advertising space may not be smaller than 0,8 square metre, and may not exceed one square metre.
7. In the case of a directory sign board the following guidelines apply:
 - (a) The maximum height of the sign may not exceed 3,3 metres;
 - (b) the maximum width of the sign may not exceed 2,1 metres; and
 - (c) the maximum length of a panel may not exceed 1,05 metre.
8. The illuminated parts of the sign must be above the level of standard pole-mounted traffic lights and may not extend over the road surface.
9. The provisions of section 21(1)(a) and (c)(ii), and the following conditions apply to the position of a sign:
 - (a) A street name advertisement may be displayed at an intersection only, with a maximum of two illuminated signs displayed per intersection; and
 - (b) an Identilight may be displayed within an urban road reserve other than a freeway, and on a road median.
10. Static illumination is allowed, but the colours red, amber and green may not be used at signalised traffic intersections.
11. The street name must be in black letters on a yellow background.

12. Subject to the conditions of section 18(1)(c), 19(4), 21(e) and 22, the following conditions apply to the illumination and animation of a sign:
 - (a) Internal illumination of both sections of the sign is permitted, on the condition that the degree of illumination intensity must be equal for both parts of the sign;
 - (b) no form of animation is permitted; and
 - (c) a sign may not flash.
13. A street name on the advertising space must be smaller and less conspicuous than the street name on the actual street name panel, and the layout of the advertising panel must be such that there may not be any confusion with the street name on the street name panel of the sign.
14. Advertising on a directory signboard may include the name and logo only of the industry, and a standard directional arrow.
15. The name only of the street may appear on the street name panel and the words "Street", "Avenue", "Way", or words with a similar denotation may not be used.
16. A street name advertisement should be aimed primarily at advertising and identifying:
 - (a) A shopping centre and groups of shops in an arcade or plaza;
 - (b) a community facility as provided for in the UMSOBOMVU Municipal Zoning Scheme;
 - (c) a parking area; or
 - (d) a larger and more prominent enterprise and institution, such as an apartment store, a bank and financial institution, an industry, a filling station, and an hotel.

SCHEDULE 14

Neighbourhood watch and similar schemes (Class 2(f))

1. A sign may displayed in all areas of control.
2. Display of a sign is subject to deemed consent.
3. A sign may not exceed 0,35 square metre in area.
4. The clear height of a sign may not exceed three metres.
5. In urban areas only one sign may be displayed per street boundary of a stand or subdivision, and the sign must be firmly affixed to the building, boundary wall, fence or gate on the street frontage, or must be displayed within the boundaries of the stand.
6. A neighbourhood watch sign may be displayed within a road reserve other than a freeway at the point of entry to the watch area, but a sign may not be positioned on a road island, road median, or inside a restricted area at street corners as represented in Figure 2, Schedule 35.
7. No limitations are imposed on the colour or texture of a sign.
8. Illumination or animation of a sign is not permitted.

SCHEDULE 15

Product replicas and three-dimensional signs (Class 2(g))

1. A sign may be displayed in an urban area of partial control and an urban area of minimum control only.
2. A sign may not be displayed on municipal land.
3. Display of a sign in an urban area of partial control is subject to specific consent.
4. Display of a sign in an urban area of minimum control is subject to deemed consent.
5. An individual sign may not exceed a size of three cubic metres in an urban area of partial control, and a size of six cubic metres in an urban area of minimum control.
6. Only two signs per enterprise may be attached to buildings or displayed on individual premises, and a sign may not exceed a total sign area of three cubic metres in an urban area

- of partial control, and a total sign area of six cubic metres in an urban area of minimum control.
7. The highest point of any free-standing sign may not exceed 3,5 metres in an urban area of partial control, and five metres in an urban area of minimum control.
 8. A sign attached to a building may not be displayed above the bottom edge of the second-floor window, and may not extend above the level of the underside of the eaves or gutter of the building.
 9. A sign may not be placed in front of, or obstruct the view from any window or any other external opening of a building.
 10. Items 6 and 7 do not apply to entertainment districts.
 11. Signs aimed at the road user must be spaced at the following minimum distances when in view of each other and on the same side of the road:
 - (a) On a road with a speed limit of 81 kilometres per hour and higher the distance between signs may not be less than 250 metres;
 - (b) on a road with a speed limit between 61 kilometres per hour and 80 kilometres per hour the distance between signs may not be less than 200 metres; and
 - (c) on a road with a speed limit below 60 kilometres per hour the distance between signs may not be less than 120 metres.
 12. No limitations are imposed on the colour or texture of a sign.
 13. Subject to the provisions of section 18(1)(c), 19(4) and 22, illumination or animation of a sign is allowed.
 14. A product replica may not dominate prominent architectural features of a building, with the exception of buildings in entertainment districts.

SCHEDULE 16
Sky signs (Class 3(a))

1. A sign may displayed in an urban area of partial control and an urban area of minimum control only.
2. A sign may be displayed only after an environmental impact assessment, which includes visual, social and traffic safety aspects, has been undertaken and has been submitted by the applicant to the municipality and which has been approved by the municipality.
3. A sign may not exceed a maximum size of 150 square metres.
4. A maximum of only one sign per skyscraper may be displayed.
5. The municipality, having regard to the outcome of an impact assessment, and having taken into consideration factors such as the size and character of the business centre and surrounding area, the lifestyle of the local community, and the nature of host skyscraper, shall specify the size of a sign and the number of signs which may be displayed, and a person who intends to display a sign may not display a sign in contravention of the municipality's specifications.
6. A sign may not project in front of a main wall of a host building so as to extend in any direction beyond the roof of such a building.
7. A sign may not obstruct the view from any other building or a prominent viewpoint in the City.
8. In the instance where cluttering of signs occurs, the municipality may by written notice in terms of section 11(2) require the person who displays a sign to remove the sign within a specified period.
9. No limitations are imposed on the colour or texture of a sign.
10. Subject to the provisions of sections 19(1)(c), 19(4) and 22, illumination of a sign is allowed.

11. A sign must be designed by a structural engineer.
12. The municipality may approve the display of a sign for a period not exceeding five years.
13. The advertisement contents of an approved sign may not be changed without approval by the municipality based on an additional impact assessment submitted to and approved by the municipality.

SCHEDULE 17
Roof signs (Class 3(b))

1. A sign may be displayed in an urban area of partial control and an urban area of minimum control only.
2. Display of a sign is subject to specific consent.
3. Only a locality-bound sign may be displayed.
4. A sign may not be so affixed that the bottom of the sign is more than 1,2 metre above the nearest portion of the roof beneath it.
5. A sign must be constructed in a straight line, except in the case of a V-construction, where the two sides forming the sides of the V must be of equal length, and the distance between the sides at the open end furthest from the apex of the V may not exceed the length of the sides.
6. A sign may not exceed in size the following areas:
 - (a) The maximum area of a sign may not exceed two square metres when the height of the sign above ground level is under six metres;
 - (b) the maximum area of a sign may not exceed four square metres when the height of the sign above ground level is between six metres and nine metres;
 - (c) the maximum area of a sign may not exceed eight square metres when the height of the sign above ground level is between nine metres and 12 metres;
 - (d) the maximum area of a sign may not exceed 12 square metres when the height of the sign above ground level is between 12 metres and 18 metres; and
 - (e) the maximum area of a sign may not exceed 18 square metres when the height of the sign above ground level is greater than 18 metres.
7. In the case of a V-construction sign the above areas apply separately to the two vertical faces of the sides forming the V.
8. A sign may not exceed 300 millimetres in thickness, except in the case of a V-construction sign.
9. Only one sign may be displayed per building.
10. A sign may not project in front of a main wall of a building so as to extend in any direction beyond the roof of such building.
11. In an urban area of partial control, a sign must be placed well below the ridge of a pitched roof so as not to form part of the skyline of such building.
12. No limitations are imposed on the colour or texture of a sign.
13. Subject to the provisions of section 18(1)(c), 19(4) and 22, illumination of a sign is allowed.

SCHEDULE 18
Flat signs (Class 3(c))

1. A sign may be displayed in an urban area of maximum control, an urban area of partial control and an urban area of minimum control, and at centres of economic activity in an urban area of minimum control.
2. Display of a sign is limited to buildings utilised for commercial, office, industrial or entertainment purposes, and larger accommodation facilities.
3. A non-locality bound sign may not be displayed on a building used mainly for residential purposes or for community services, or a community institution, a small enterprise and a practice on residential premises, or a small-scale residential-oriented accommodation.
4. Only a locality-bound sign may be displayed in a rural area of maximum control and an urban area of maximum control.
5. The requirements concerning consent are as follows:
 - (a) Display of a sign in a rural area of maximum control and an urban area of maximum control is subject to specific consent;
 - (b) display of a sign in an urban area of partial control and an urban area of minimum control is subject to specific consent for a non-locality bound sign;
 - (c) display of a sign in an urban area of partial control and an urban area of minimum control is subject to specific consent for a locality-bound sign above first-floor level; and
 - (d) display of a sign in an urban area of partial control and an urban area of minimum control is subject to deemed consent for a locality-bound sign at first or ground-floor level.
6. A sign in excess of 36 square metres in size may be displayed only after an environmental impact assessment, which includes visual, social and traffic safety aspects, has been undertaken and has been submitted to and approved by the municipality.
7. In an urban area of partial control and an urban area of minimum control, flat signs may be displayed at ground or first-floor level in accordance with the commercial, industrial or entertainment character of such zones, but the aesthetic control of the signs will be determined by the municipality from time to time
8. The maximum size for a sign is as follows:
 - (a) In the case of a locality-bound sign, the total sign area for an enterprise may not exceed 20 percent of a specific ground-floor facade of the enterprise where the enterprise is situated in an urban area of maximum control;
 - (b) in the case of a locality-bound sign, the total sign area for an enterprise may not exceed 30 percent of a specific ground-floor façade of the enterprise where the enterprise is situated in an urban area of partial control and an urban area of minimum control;
 - (c) in the instance of a shopping centre, wall units on which flat signs are displayed may not exceed 30 percent of a specific facade of the shopping centre, excluding office levels; and
 - (d) in the case of a non-locality-bound sign, the sign may not exceed 72 square metres, and the actual size of the sign will depend on the size of the specific side wall and on factors such as the character of the building and the streetscape as a whole.
9. The maximum projection of any part of a sign over a footway or ground level is 75 millimetres where the sign is less than 2,4 metres above the sidewalk or ground level immediately below the sign, and 300 millimetres where the sign is more than 2,4 metres above such footway or ground level.
10. No more than one sign per enterprise may be displayed in a rural area of maximum control and an urban area of maximum control, and no more than two flat signs per enterprise may be displayed in an urban area of partial control and an urban area of minimum control.
11. A sign may consist of a panel or sheet or of individual numbers, letters or symbols.

12. A sign may not cover a window or any other external opening of a building, or obstruct the view from such opening.
13. A sign may not extend above the top or beyond either end of a wall.
14. A sign may be attached to a flat wall surface only.
15. A non-locality-bound sign may be attached to the side wall of a building only.
16. A locality-bound sign may not be displayed above the lower edge of a visible second-floor window in a specific building façade, but a locality-bound sign for the following enterprises or function is excluded from this condition:
 - (a) A bank and a financial institution;
 - (b) a larger apartment store;
 - (c) a larger hotel;
 - (d) a larger industry;
 - (e) a government institution;
 - (f) a shopping centre; and
 - (g) a building's name.
17. Items 12 – 16 of this Schedule do not apply to entertainment areas.
18. A sign may at no point project more than 300 square millimetres from the surface of the main wall.
19. No limitations are imposed on the colour or texture of a sign.
20. Subject to the provisions of section 18(1)(c), 19(4) and 22, illumination of a sign is allowed.
21. A wall unit designed to display a flat sign at a shopping centre must be designed in such a way as to form a structural and architectural whole with the building of the shopping centre.

SCHEDULE 19 Projecting signs (Class 3(d))

1. A sign may be displayed in an urban area of maximum control, an urban area of partial control, and an urban area of minimum control, and at centres of economic activity in a rural area of maximum control.
2. Display of a projecting sign is limited to a building utilised for commercial, office, industrial or entertainment purposes and to a larger accommodation facility.
3. A sign may not be displayed on a building used for residential purposes or for community services or community institutions, a small enterprise and a practice on residential premises, or a small-scale residential-oriented accommodation.
4. Only a locality-bound sign may be displayed.
5. Consent requirements are as follows:
 - (a) Display of a sign in a rural area of maximum control and an urban area of maximum control is subject to specific consent;
 - (b) display of a sign above first-floor level in an urban area of partial control and an urban area of minimum control is subject to specific consent; and
 - (c) display of a sign below the lower edge of a visible second-floor window in an urban area of partial control and an urban area of minimum control is subject to deemed consent.
6. A projecting sign may not be affixed at a clear height of less than 2,4 metres.
7. A projecting sign may not exceed 300 millimetres in thickness.
8. The maximum sizes and dimensions of signs displayed in an urban area of maximum control are as follows:
 - (a) Where the clear height of the sign is below six metres, the maximum size of the sign may not exceed 1,2 square metre, the maximum horizontal width may not exceed one metre, and the maximum vertical length may not exceed 1.5 metre; and

- (b) where the clear height of the sign is above six metres, the maximum size of the sign may not exceed four square metres, the maximum horizontal width may not exceed 1,5 metre, and the maximum vertical length may not exceed three metre.
9. The maximum size and dimension of a sign displayed in an urban area of partial control and an urban area of minimum control is as follows:
- (a) Where the clear height of the sign is below six metres, the maximum size of the sign may not exceed 2,4 square metres, the maximum horizontal width may not exceed 1,5 metres, and the maximum vertical length may not exceed three metres; and
- (b) where the clear height of the sign is above six metres, the maximum size of the sign may not exceed eight square metres, the maximum horizontal width may not exceed two metres, and the maximum vertical length may not exceed five metres.
10. Only one sign may be displayed per enterprise facade.
11. In an urban area of partial control and an urban area of minimum control, a projecting sign may be displayed below the lower edge of a visible second-floor window in accordance with the commercial, industrial or entertainment character of such area, and the aesthetic control of the sign will be determined by the municipality from time to time.
12. The display of a projecting sign above the lower edge of a visible second-floor window is limited to the following enterprises or function:
- (a) A bank and a financial institution;
- (b) a larger apartment store;
- (c) a larger hotel;
- (d) a larger industry;
- (e) a government institution;
- (f) a shopping centre; and
- (g) a building's name.
13. A sign may not be affixed otherwise than at right angles to the street line.
14. A sign may not extend beyond the top of the main wall to which it is affixed or above the level of the top of any parapet wall, or above the level of the underside of the eaves or gutter of a building from which the sign projects.
15. A sign may be suspended above a sidewalk and thus above an urban road reserve.
16. A sign with a clear height of less than six metres may not project at any point more than 800 millimetres from the surface of the main wall to which it is affixed, or more than one half of the width of the sidewalk immediately below such sign, whichever is the smaller dimension.
17. A sign may not be affixed in any way other than the top and the bottom of the sign being in the same vertical plane.
18. No limitations are imposed on the colour or texture of a sign.
19. Subject to the provisions of section 18(1)(c), 19(4) and 22, illumination of a sign is allowed.
20. The provisions of section 21(1)(e) apply with regard to an illuminated sign within a restricted area on a street corner.
21. The supports of a sign must be neatly constructed as an integral part of the design of the sign, or else must be concealed from view.
22. A person who intends to display a projecting sign with a clear height of more than six metres, must submit a structural drawing to the municipality for consideration and approval by the municipality.

SCHEDULE 20

Veranda, balcony, canopy and underawning signs (Class 3(e))

1. A sign may be displayed in an urban area of maximum control, an urban area of partial control, an urban area of minimum control, and at centres of economic activity in a rural area of maximum control.
2. Display of a sign in –
 - (a) a rural area of maximum control is subject to specific consent;
 - (b) an urban area of maximum control is subject to specific consent;
 - (c) an urban area of partial control is subject to deemed consent; and
 - (d) an urban area of minimum control is subject to deemed consent.
3. If a sign is affixed flat onto or painted on –
 - (a) a parapet wall;
 - (b) balustrade;
 - (c) railing of a veranda;
 - (d) railing of a balcony;
 - (e) the fascia of a veranda;
 - (f) a beam over veranda columns; or
 - (g) a fascia of a roof structure without walls,
such sign may not –
 - (i) project at any point more than 100 millimetres from the surface to which it is affixed;
 - (ii) exceed a depth of 750 square millimetres and a length of 2,4 metres; and
 - (iii) extend above or below or beyond any of the extremities of the parapet wall, balustrade, railing, beam or fascia, as the case may be.
4. Not more than one of the signs contemplated in item 3(a) – (g) may be displayed per enterprise facade, except in the case of an enterprise with a facade exceeding 20 metres in length, in which case –
 - (a) more than one sign may be displayed;
 - (b) the signs must be spaced at a minimum of six metres intervals; and
 - (c) the total sign length per enterprise facade is limited to four square metres.
5. A sign on a balcony may not be displayed above the lower edge of any visible second-floor window.
6. An underawning sign –
 - (a) must be aimed at pedestrians;
 - (b) must be fixed at right angles to the street line;
 - (c) must have a minimum clear height of 2,4 metres;
 - (d) may have a maximum sign length of two metres; and
 - (e) may have a maximum sign area of one square metre on each face with a maximum of two square metres in total sign area.
7. No more than one underawning sign may be displayed per enterprise facade, except in the case of an enterprise facade which exceeds 20 metres in length, in which case more than one sign may be displayed, and the signs must be spaced at a minimum of six metres intervals.
8. A sign on top of a veranda roof –
 - (a) may be placed on top of a veranda roof only where such a veranda does not have an appropriate parapet wall, balustrade, railing, fascia or beam on which a sign may be affixed;
 - (b) must be set parallel to the end of the veranda that faces the street or as near thereto as the configuration of the veranda roof will permit;

- (c) may not extend beyond the extremities of the veranda roof, nor project beyond the rear of any veranda roof gutter;
 - (d) may not cover any window or obstruct the view from any such window; and
 - (e) may not exceed a maximum area of one square metre.
9. Signs on top of veranda roofs on adjacent buildings must be aligned with each other in order to form a straight line.
 10. Only one sign may be displayed on top of a veranda roof per enterprise facade.
 11. The following conditions apply to a sign painted on or affixed to a supporting column, pillar or post, as the case may be:
 - (a) A sign must be painted on or affixed flat onto the supporting column, pillar or post;
 - (b) a projecting sign may be affixed to a column, pillar or post supporting a roof over fuel pumps at a filling station or roadside service area only, and may not exceed one square metre per sign face or two square metres per total sign area;
 - (c) a sign affixed flat onto a supporting column, pillar or post may not project more than 50 millimetres from the surface to which it is affixed;
 - (d) a sign affixed flat onto a supporting column, pillar or post may not extend beyond any of the extremities of such a column, pillar or post;
 - (e) a sign affixed flat onto a non-rectangular supporting structure must be curved to fit the form of such structure;
 - (f) only one sign may be displayed per pillar, post or column, and this applies also to a sign projecting from a pillar, post or column supporting a roof at fuel pumps; and
 - (g) no posters or placards may be pasted onto a supporting column, pillar or post.
 12. A canopy sign must form an integral part of the canopy or blind without dominating the canopy structure or blind.
 13. A sign may be suspended above a sidewalk and therefore above an urban road reserve, but may not be displayed on a freeway.
 14. No limitations are imposed on the colour or texture of a sign.
 15. subject to the provisions of sections 18(1)(c), 19(4), 22 and 21(1)(e), no illuminated sign or sign designed to reflect light may be attached to or displayed at a street intersection on any splayed or rounded corner of a veranda, canopy or balcony, unless the clear height of the sign is six metres.
 16. This Schedule applies to the display of a sign on a roof structure covering fuel pumps, and the display of a sign attached to a roof structure pillar at a filling station and roadside service area.

SCHEDULE 21

Signs painted on walls and roofs (Class 3(f))

1. A sign may displayed in an urban area of partial control and an urban area of minimum control only.
2. Display of a sign is subject to specific consent.
3. A sign painted onto the facade or roof of a building may not exceed 20 percent of the ground floor facade of the enterprise to which such sign pertains.
4. The total area of all signs painted onto the side walls of a building may not exceed 36 square metres, and the actual size of a sign will depend on the size of the side wall concerned and on other factors, such as the character and appearance of the building and the streetscape as a whole.
5. The provisions of section 21(1)(e), and the following conditions apply to the position of a sign:

- (a) A non-locality-bound sign may not be displayed on the side wall of a building;
 - (b) a locality-bound sign may be displayed on a facade wall, roof and side wall; and
 - (c) a sign painted onto the facade of a building may be displayed at a position below the lower edge of any visible second-floor window only.
6. No limitations are imposed on the colour or texture of a sign.
 7. Illumination of a sign is not permitted.

SCHEDULE 22
Window signs (Class 3(g))

1. A sign may be displayed in all areas of control, and at centres of economic activity in a rural area of maximum control.
2. A sign may be displayed on ground-floor windows only.
3. Display of a sign is subject to deemed consent.
4. The total area of all permanent signs painted on or attached to the windows of a specific enterprise may not exceed –
 - (a) 10 percent of the total ground-floor window area of such enterprise in an urban area of maximum control;
 - (b) 25 percent of the total ground-floor window area of such enterprise in a rural area of maximum control and an urban area of partial control; and
 - (c) 50 percent of the total ground-floor window area of such enterprise in an urban area of minimum control.
5. A sign may not be displayed above ground-floor level.
6. In an urban area of maximum control colours must be in harmony with the rest of the building and the general streetscape.
7. No limitations are imposed in other areas of control.
8. No internally illuminated signs inside a building may be visible from outside the building in an urban area of maximum control.

SCHEDULE 23
Advertisements incorporated in the fabric of a building (Class 3(h))

1. A sign may be displayed in all areas of control.
2. Display of a sign is subject to specific consent.
3. No specific limitations are set on the shape, size and height of a sign, however the building, or structure, or any external face of the building or structure may not be used principally for the display of signs.
4. No sign displayed may distract the attention of a driver in a manner likely to lead to unsafe driving conditions.
5. A sign must be in balance with the scale of the building and must be visually and architecturally integrated into the building or structure.
6. A sign must be maintained properly.
7. No sign may be displayed in such a manner as to be detrimental to or have a negative aesthetic impact on the urban design, streetscape or character of the environment.

SCHEDULE 24

Advertisements on forecourts of business premises Class 3(i)

1. A sign may be displayed in an urban area of maximum control, an urban area of partial control, and an urban area of minimum control, and on forecourts in centres of economic activity in a rural area of maximum control.
2. Display of a sign is subject to deemed consent.
3. An individual free-standing forecourt sign may not –
 - (a) exceed 1,64 square metres in size if it is a single-sided sign; and
 - (b) exceed 3,28 square metres in size if it is a double-sided sign.
4. The total area for all free-standing forecourt advertisements displayed may not exceed five square metres on each forecourt frontage to a premises.
5. The total area for all free-standing advertisements displayed on the forecourts at filling stations and roadside service areas may not exceed eight square metres per forecourt frontage.
6. The maximum size of a non-free-standing sign attached to a fuel pump, vending machine and a similar non-advertising structure at a filling station and service area, may not exceed 0,15 square metre.
7. The provisions of section 21(1)(e), and the following conditions apply to the position of a sign:
 - (a) A notice, sign or advertisement must be free-standing with the exception of an additional sign area attached to a fuel pump and similar non-advertising structure at a filling station and roadside service;
 - (b) display of a sign is not permitted inside a road reserve;
 - (c) a forecourt sign may not be positioned in such a way as to interfere with pedestrian circulation; and
 - (d) a sign must be aimed at passing pedestrians and the users of the forecourt space concerned and may not be aimed at passing motorists.
8. No limitations are imposed on the colour or texture of a sign.
9. Subject to sections 18(1)(c), 19(4), and 22, illumination of a sign is allowed.
10. No animation of a sign is allowed.
11. A hand-written message is allowed on a board provided for writing messages on.

SCHEDULE 25

Miscellaneous signs for residential-oriented land use and community services (Class 3(j))

1. A sign may be displayed in all areas of control.
2. Display of a sign is subject to deemed consent.
3. The following conditions apply to the display of direction and warning signs and notices such as "Beware of the dog", and "Burglar Alarm":
 - (a) A sign may not exceed a total area of 0,08 square metre per premises; and
 - (b) if there is more than one entrance to the premises on different road frontages, a total sign area of 0.16 square metre may be displayed, with not more than 0,08 square metre per frontage.
4. The following conditions apply to the display of a sign indicating the name and the nature of an accommodation facility, including a bed-and-breakfast establishment, a crèche or any other pre-school caring centre, within an area with a residential character:
 - (a) One sign with a maximum area of one square metre per premises may be displayed;

- (b) if there are more than one entrance to the premises on different road frontages, two signs with a combined maximum area of 1,5 square metre each may be displayed with each on a different frontage;
 - (c) where a solid supporting structure is provided, the maximum area per sign, including the supporting structure, may not exceed three square metres and the sign panel or lettering may not occupy more than 50 percent of the total sign area;
 - (d) where more than one smallholding or farm share the same unnumbered or private access route a combination sign or collective board must be provided which will allow for one square metre per farm or smallholding; and
 - (e) where more than one enterprise share the same premises, a combination sign or collective board must be provided which allows for one square metre per enterprise.
5. Where a sign indicates the name and nature of home occupation from a place of residence, an accommodation facility, or the name of a proprietor, partner or practitioner, one sign with a maximum area of 0,08 square metre may be displayed per premises.
6. The following conditions apply to a sign indicating the name and nature of an institution or other community facility:
- (a) A sign with a maximum area of three square metres may be displayed per premises;
 - (b) if there are more than one entrance to the premises on different road frontages, two signs with a maximum area of three square metres each may be displayed, with each on a different frontage;
 - (c) where a solid supporting structure forms part of the sign, the total sign area may be enlarged to six square metres, and the actual sign panel or lettering may not occupy more than 50 percent of the total sign area; and
 - (d) where more than one institution or community facility share the same premises, a combination sign or collective board may be displayed which allows for two square metres per institution or community facility.
7. Where a sign indicates a street number, one sign may be displayed per road frontage of each premises, with a minimum letter size of 150 millimetres and a maximum size of 350 millimetres.
8. The highest point of any single free-standing sign may not extend three metres above ground level, and the highest point of any combination sign may not extend four metres above ground level.
9. The name or logo, or both the name and logo of the sponsor of a sign may be displayed on the name signs of smallholdings only, and may not occupy more than one-third of the total area of the sign.
10. A sign may be displayed on the premises to which it specifically refers, or on the boundary wall or fence or gate of such premises only.
11. A farm or smallholding name sign may be displayed next to the entrance of the access road to the homestead, or alternatively may be affixed to the gate at the entrance of such access road.
12. Where several smallholdings share the same unnumbered or private access road –
- (a) a collective board or combination sign may be displayed at the entrance to the access road, but no smallholding name sign may be displayed if any official traffic sign bearing a destination or route number is displayed at the entrance to such access road; or
 - (b) a combination sign or collective board may be provided which will allow for one square metre per farm or smallholding.
13. Where several smallholdings share an access road, a sign indicating the property numbers in question only may be displayed, and not a combination sign indicating property names and names of owners.

14. The provisions of section 21(1)(e) apply with regard to a restricted area on a street corner, and display of a sign in this class is allowed inside such a restricted area only if there is no other appropriate way of displaying the sign, however the sign may not be displayed inside a road reserve.
15. The colour or texture of a sign must, wherever possible, harmonise with the building on the premises.
16. No animation of a sign is permitted.
17. No illumination of a sign is permitted in a rural area of maximum control.
18. The illumination of signs in urban areas of control must comply with the provisions of sections 18(10)(c), 19(4) and 22.
19. The design and construction of a sign, a sign, and a supporting structure must harmonise, wherever possible, with the buildings and other structures on the premises as regards materials, colour, texture, form, style and character.
20. A free-standing sign may only be displayed when it is not practical or visually acceptable to attach a sign to a building, boundary wall, boundary fence, gate or gate structure.

SCHEDULE 26

On-premises business signs (Class 3(k))

1. For the purposes of this Schedule, the term ‘premises’ in the definition of “locality bound sign” includes a shopping centre, or industrial estate as a whole, or a communal parking area together with related enterprises.
2. A sign may be displayed in all areas of control.
3. Display of a sign is subject to specific consent.
4. A sign may only be displayed in the following instances:
 - (a) Where the building housing an enterprise is situated relatively far back from the road or street onto which it faces, and a passing motorist or pedestrian may have difficulty in noticing a sign affixed to such building;
 - (b) where it is not structurally possible or visually feasible to display an appropriate sign on a building, such as a sign in class 3(c), 3(d) or 3(e);
 - (c) where a sign is needed to locate the entrance to business premises or the private access road to a business; or
 - (d) where a free-standing combination sign may prevent a proliferation of signs.
5. Only one sign per enterprise may be displayed on a combination sign.
6. If there is more than one entrance to premises on different road frontages, two signs or advertising panels may be displayed per enterprise, each on a different road frontage.
7. Display of a sign at a farm stall or an access road to a farm or smallholding in an urban area of maximum control is subject to the following conditions:
 - (a) A maximum sign area of two square metres is permitted, provided that where a sign is affixed to a non-advertising structure such as a boundary wall, gate or gate structure, the sign may not occupy more than 50 percent of the structure to which it is affixed;
 - (b) a sign may not extend above or beyond any of the extremities of the structure to which it is affixed;
 - (c) where a solid advertising structure is used, the maximum area per sign, including the supporting structure, may not exceed four square metres, and the sign panel or lettering may not occupy more than 50 percent of the total sign area; and
 - (d) where a sign is incorporated in a combination sign displayed at an access road, the maximum sign panel area may not exceed 1,5 square metre.

8. Display of a sign, excluding a sign displayed in terms of item 3(c) above, in an urban area of maximum control is subject to the following conditions:
 - (a) A maximum sign area of 4,5 square metres is permitted, provided that where a sign is affixed to a non-advertising structure such as a boundary wall or gate structure, it may not occupy more than 50 percent of the structure to which it is affixed;
 - (b) a sign may not extend above or beyond any of the extremities of the structure to which it is affixed;
 - (c) where a solid advertising structure is used, the maximum area per sign, including the supporting structure, may not exceed nine square metres, but the actual sign panel or lettering may not occupy more than 50 percent of the total sign area; and
 - (d) where a sign is incorporated in a combination sign, the maximum sign panel area per sign panel may not exceed three square metres.
9. Display of a sign in an urban area of partial control and an urban area of minimum control is subject to the following conditions:
 - (a) A maximum area of six square metres per sign is permitted, provided that where a sign is affixed to a non-advertising structure such as a boundary wall or gate structure it may not occupy more than 50 percent of the structure to which it is affixed;
 - (b) a sign may not extend above or beyond any of the extremities of the structure to which it is affixed;
 - (c) where a solid advertising structure is used, the maximum area per sign, including the supporting structure, may not exceed 12 square metres, but the actual sign panel or lettering may not occupy more than 50 percent of the total sign area; and
 - (d) where a sign is incorporated in a combination sign, the maximum sign panel area per sign panel may not exceed of 4,5 square metres.
8. The following conditions apply to the height of a sign:
 - (a) The highest point of a single-freestanding sign at a farm stall and a farm access road in an urban area of maximum control may not exceed a height of three metres above ground level, and that of any other sign may not exceed four metres;
 - (b) the highest point of a combination sign at a farm stall and a farm access road in an urban area of maximum control may not exceed a height of four metres above ground level, and that of any other combination sign may not exceed seven metres;
 - (c) the highest point of a single-freestanding sign in an urban area of partial control and an urban area of minimum control may not exceed a height of four metres above ground level; and
 - (d) the highest point of a combination sign in an urban area of partial control and an urban area of minimum control may not exceed a height of 10 metres above ground level.
9. The name or logo, or both the name and logo of the sponsor of an on-premises business sign may not occupy more than one-third of the total area of a sign, and it must refer to products and services available on those specific premises or at that specific enterprise.
10. A sign displayed in an urban area of partial control and an urban area of minimum control may not have in its design any letters, figures, symbols or similar features over 0,75 metre in size.
11. A sign displayed in an urban area of maximum control may not have in its design any letters, figures, symbols or similar features over 0,35 metre in size.
12. A sign displayed may not serve as an advance sign and may be displayed only on the premises where the business is conducted.
13. Where a business or enterprise, such as a stall or guest-house is situated on a large property such as a large smallholding, the sign must be placed in the immediate vicinity of the enterprise if such enterprise is adjacent to or visible from a public road, but if the enterprise

- is not adjacent to or visible from a public road, the sign must be placed at the entrance of the private access road to the enterprise.
14. A sign indicating a roadside enterprise, such as a farm stall or a roadside café may not be closer than five metres from a road reserve fence, and such enterprise must have direct access to the public road.
 15. A combination sign displayed at a shopping centre or industrial estate and which contain a large amount of information must be designed and located with care so as not to create a traffic safety hazard because of an information overload.
 16. No sign may obstruct the view from any adjacent building.
 17. No limitations are imposed on the colour or texture of a sign.
 18. The provisions of section 18(1)(c), 19(4), 21(e), 22, and the following conditions apply to the illumination and animation of a sign:
 - (a) Internal and external illumination is permitted in an urban area of partial control and an urban area of minimum control;
 - (b) external illumination only is permitted in an urban area of maximum control; and
 - (c) animation is prohibited in all areas of control.
 19. A sign may contain only -
 - (a) the name and nature of the business or enterprise on the premises;
 - (b) the brand-name and nature of the goods for sale or goods produced;
 - (c) the nature of services provided; and
 - (d) the name of the person or persons who owns or own the business or who provides or provide the goods or services at the premises, or the firm or firms which owns or own the business or which provides or provide the goods or services at the premises.
 20. The design and construction of a sign must be aimed at the prevention of proliferation of signs at shopping centres, other premises, or access roads housing or leading to several enterprises, and -
 - (a) individual signs must be incorporated in a combination sign, and the design of a combination sign must be of a high standard and must harmonise with the architecture of the shopping centre or other buildings or structures, such as entrance gates;
 - (b) messages displayed on the individual panels or boards of a combination sign must be concise and legible; and
 - (c) signs displayed at access roads to farms or smallholdings must be co-ordinated with class 3(j) signs indicating smallholding names in order to form a single combination sign, and the necessary harmony must be achieved by using the same form, letter type and colour for the various parts of the combination sign.

SCHEDULE 27

Signs on towers, bridges and pylons (Class 3(I))

1. Display of a sign is permitted in an urban area of partial control and an urban area of minimum control only.
2. Display of a sign is subject to specific consent.
3. Subject to the provisions of section 21(1)(b), a sign may not be displayed in an urban area of maximum control on a bridge across a freeway.
4. Written permission for the display of a sign on a bridge in an urban area of partial control and an urban area of minimum control must be obtained from the Provincial Roads Engineer or his delegated authority prior to the display of the sign.
5. A maximum of two signs may be displayed on a tower, bridge or pylon.

6. The maximum aggregate sign area per tower, bridge or pylon may not exceed 36 square metres.
7. In the instance where a sign is displayed on a pylon, the pylon without the sign must be such that the entire assembly can be wholly contained within a notional vertical cylindrical figure with a diameter of six metres and a height of 12 metres.
8. In the instance where a sign is displayed on a pylon, no protruding part of the sign may be less than 2,4 metres above the highest point of the existing ground level immediately below such pylon or sign.
9. No sign may extend beyond the top of a tower.
10. No sign may extend above, below, or beyond any of the extremities of a bridge.
11. No sign may be affixed to any structural column of a bridge.
12. A sign may not project more than 300 millimetres from the main wall of a tower, or from a bridge structure.
13. No limitations are imposed on the colour or texture of a sign.
14. Subject to the provisions of section 18(1)(c), 19(4) and 22, illumination or animation may be permitted in an urban area of minimum control, provided such illumination or animation does not constitute a road safety hazard, or cause undue disturbance.

SCHEDULE 28

Signs on construction site boundary walls and fences (Class 3(m))

1. A sign may be displayed in an urban area of partial control and an urban area of minimum control only, subject to the following conditions:
 - (a) The sign must conceal an unsightly condition arising out of the use to which the property is lawfully being put; and
 - (b) the sign must be making a positive contribution to the visual environment.
2. Display of a sign is subject to specific consent.
3. The size of a sign may not exceed a total area of 18 square metres, and the height of a sign may not exceed three metres.
4. The provisions of section 21(1)(d) and (e), and the following conditions apply to the position of a sign:
 - (a) A sign may not be placed on the top of a fence or wall unless it is positioned to rest directly thereon; and
 - (b) a sign may not project more than 100 millimetres to the front of the wall or fence to which it is affixed.
5. No limitations are imposed on the colour or texture of a sign.
6. Illumination or animation of a sign is not permitted.
7. A sign may not be painted or pasted directly onto a construction site boundary wall or fence, and poster signs in this class must be enclosed within definite panels similar to those described in item 11 of class 2(d)(iii), and must be uniform in size and level.
8. Signs displayed on a fence or wall must be treated as a visual unity, and wherever possible, class 2(d)(iv) project boards, if displayed, should also be incorporated in this unified design.
9. A sign must always make a positive contribution to a particular streetscape.
10. A sign may be displayed for the duration only of the construction work.

SCHEDULE 29
Sponsored road traffic projects (Class 4(a))

1. A sign may be displayed in all areas of control.
2. Display of a sign in a rural area of maximum control and an urban area of maximum control is subject to specific consent.
3. Display of a sign in an urban area of partial control and an urban area of minimum control is subject to deemed consent.
4. A sign may not exceed 4,5 square metres in size, and no part of the sign may be higher than three metres above ground level.
5. A sign may contain the name of the project, and the name or logo, or the name and logo of the sponsor only, and the name or logo, or both the name and logo of the sponsor of a project may not occupy more than one-third of the total area of a sign.
6. In the case of an advertisement displayed on an SOS call-box, a duplicate advertisement may be attached to each side of the call-box, and its size is limited to 0,04 square metre on each side of the call-box.
7. Signs displayed on the same side of the road, excluding SOS call-boxes, may not be closer than five kilometres from each other.
8. No limitations are imposed on the colour or texture of a sign.
9. Illumination or animation of a sign is not permitted.

SCHEDULE 30
Service facility signs (Class 4(b))

1. A sign may be displayed in all areas of control.
2. Display of a sign is subject to specific consent.
3. A person who displays a sign must, before the sign is displayed, enter into a lease agreement with the municipality for the lease of the site on which the sign is to be displayed.
4. A combination sign may not exceed the following dimensions:
 - (a) A height of seven metres and a width of two metres, if displayed in an urban area of control;
 - (b) a height of 10 metres and a width of three metres, if displayed on a freeway; and
 - (c) a height of 20 metres and a width of six metres, if displayed in a rural area of maximum control.
5. A maximum of eight advertising panels is allowed per combination sign.
6. Only one business, enterprise, or service may be displayed per advertising panel.
7. An advertising panel may not exceed the following sizes:
 - (a) 4,5 square metres in an urban area of control;
 - (b) six square metres on a freeway; and
 - (c) 18 square metres in a rural area of maximum control.
8. Only one combination sign as permitted in this class may be displayed on the premises of a filling station or roadside service area.
9. The provisions of section 21(1)(d) and (e), and the following conditions apply to the position of a sign:
 - (a) A sign may not be displayed closer than –
 - (i) 50 metres to the road reserve boundary of any road in a rural area of maximum control;
 - (ii) 50 metres to the road reserve boundary of a freeway; and
 - (iii) five metres to the road reserve boundary of any other urban road; and

- (b) a sign may, at the risk of the owner and subject to the approval of the Provincial Roads Engineer or his delegate, be displayed on the boundary of the site where such sign abuts a Provincial Main Road.
- 10. No limitations are imposed on the colour or texture of a sign.
- 11. The provisions of section 19(11)(c), 19(4), 22, and the following conditions apply to the illumination and animation of a sign:
 - (a) A sign may be illuminated only if the business provides a 24-hour service;
 - (b) a facility with limited after-hours services may illuminate its signs during its business hours only; and
 - (c) no animation of a sign is permitted.
- 12. Should a person wish to display a sign which exceeds the sizes stipulated in item 7, he or she must submit a proposal to the municipality for approval by the municipality, which proposal must include -
 - (a) a location plan;
 - (b) detail drawings of the sign; and
 - (c) and an engineer's certificate verifying that the sign was designed by a structural engineer.
- 13. A sign on a combination sign may refer to the name or logo of a business, company or person providing a service only, and may indicate the type of service provided.
- 14. Only a locality-bound sign may be displayed.
- 15. A sign in this class may be displayed at a service facility adjacent to and directly accessible from the public road at which such sign is directed.
- 16. A supplementary sign displayed at a roadside service area and which does not form part of a combination sign permitted under this class may be used for internal direction and orientation only, and may not be aimed at passing motorists.

SCHEDULE 31

Functional signs by public bodies (Class 4(c))

1. A sign may be displayed in all areas of control.
2. Display of a sign is subject to deemed consent.
3. A sign may not exceed 0,55 square metre in size.
4. A larger sign may be displayed, if justified by specific circumstances.
5. A sign permitted by this class may be displayed inside a road reserve, but may not be displayed on a freeway.
6. No limitations are imposed on the colour or texture of a sign.
7. Subject to the provisions of sections 18(1)(c), 19(4) and 22, illumination may be provided if there is a need for information or directions to be read during hours of darkness.
8. A sign may not be used for the purposes of commercial and competitive advertising.
9. The logo of the service provider must be displayed on a sign.

SCHEDULE 32

Aerial signs (Class 5(a))

1. A sign may displayed in all areas of control.
2. Display of a sign is subject to specific consent.
3. Except with the written permission of the Commissioner of Civil Aviation, no -
 - (a) captive balloon;
 - (b) craft for parasailing;
 - (c) kite;

- (d) hang-glider;
 - (e) model or radio-controlled aircraft; or
 - (f) aircraft towed behind a vehicle or vessel for the purpose of flight, may be flown at a height of more than 45 metres from the surface, the surface being measured from ground level, or from the surface on which a towing vehicle or vessel is travelling, to the top of the craft.
4. No shape or size restrictions are imposed.
 5. Except with the written permission of the Commissioner of Civil Aviation, and on condition that such aircraft may not take off from or land on a public road, none of the objects specified in section 2(1) above may –
 - (a) be flown closer than five nautical miles from the aerodrome reference point of an aerodrome;
 - (b) be flown above a public road; and
 - (c) in the case of an aircraft, be towed behind a vehicle or vessel.
 6. An advertisement on a captive balloon or on any other captive craft may not be displayed within the visual zone along a freeway.
 7. No limitations are imposed on the colour or texture of a sign.
 8. Illumination or animation of a sign is not allowed, with the exception of an illuminated airship when moored.
 9. With the exception of a moored airship, a sign may be displayed in daylight hours only.
 10. A sign may not be displayed for a period exceeding two consecutive weeks in a calendar year.
 11. A captive balloon may not be flown without the written approval of the Commissioner of Civil Aviation, which approval will be considered by the Commissioner only after permission by the municipality has been granted.
 12. No unmanned free balloon may be flown without the written permission of the Commissioner of Civil Aviation and the municipality.
 13. A manned free balloon must meet the conditions laid down by the Commissioner of Civil Aviation before it may be flown within controlled airspace.
 14. An airplane and airship may not be flown below the minimum height, as stipulated by aviation regulations, without permission by the Commissioner of Civil Aviation.

SCHEDULE 33
Vehicular advertising (Class 5(b))

1. A sign may displayed in all areas of control.
2. Display of a sign is subject to deemed consent.
3. No vehicle may be used for the sole purpose of advertising.
4. No animation is allowed.
5. Illumination of advertisements are limited to the following instances:
 - (a) An internally illuminated sign which indicates that a taxi is for hire; and
 - (b) a retroreflective sign with the colour red to the back, the colour yellow to the side, and the colour white to the front of a vehicle.

SCHEDULE 34
Trailer Advertising (Class 5(c))

1. A trailer may be parked in an urban area of partial control and an urban area of minimum control only.
2. The parking of a trailer is subject to specific consent.

3. A trailer may not be towed on a freeway and may not be towed on any other urban road during peak-hour traffic, peak-hours being the hours between 07:15 and 08:15, and 16:15 and 17:30.
4. A trailer sign may not exceed an individual sign face area of 18m² and a combined sign face area of 36m².
5. A trailer sign positioned on a particular site for a period exceeding two consecutive days per month shall be deemed to be a billboard and shall be subject to the guidelines applicable to class 1(c).
6. No animation is allowed.
7. Illumination is limited to retro-reflective signs with the colours red to the back, yellow to the side and white to the front of the trailer.
8. No person may tow, with the sole aim of advertising, an advertisement trailer through any public street if such trailer hinders or obstructs traffic in such street or is likely to do so.
9. A trailer may not be parked –
 - (a) inside a road reserve;
 - (b) within a distance of 50m outside the road reserve of a freeway;
 - (c) inside a restricted area at street corners; or
 - (d) in such a way as to block the visibility of a motorist.
- (c) General safety conditions listed under 3.1.2 apply.

SCHEDULE 35
(Section 5(1))

AREAS OF CONTROL

(TO CONTAIN A GRAPHIC REPRESENTATION OF MUNICIPAL AREA)

SCHEDULE 36
(Section 7)

FIGURES ILLUSTRATING POSITION OF PARTICULAR SIGNS

SCHEDULE 37
(Section 25(8))

PENALTY COSTS FOR REMOVAL OF SIGNS

Class 1: Billboards and other high-impact free-standing

Signs

Class 1(a): Super billboards (Schedule 1)	As per current budget
Class 1(b): Custom-made billboards (Schedule 2)	As per current budget
Class 1(c): Large billboards (Schedule 3)	As per current budget
Class 1(d): Small billboards and tower structures (Schedule 4)	As per current budget

Class 2: Posters and general signs

Class 2(a): Large posters and advertisements on street furniture (Schedule 5)	As per current budget
Class 2(b): Banners and flags (Schedule 6)	As per current budget
Class 2(c): Suburban advertisements (Schedule 7)	As per current budget
Class 2(d): Temporary advertisements	
Class 2(d)(i): Estate agents' boards (Schedule 8)	As per current budget
Class 2(d)(ii): Sale of goods or livestock (Schedule 9)	As per current budget
Class 2(d)(iii): Pavement posters and notices (Schedule 10)	As per current budget
Class 2(d)(iv): Project boards (Schedule 11)	As per current budget
Class 2(d)(v): Temporary window signs (Schedule 12)	As per current budget
Class 2(e): Street name advertisements (Schedule 13)	As per current budget
Class 2(f): Neighbourhood watch and similar schemes (Schedule 14)	As per current budget
Class 2(g): Product replicas and three-dimensional signs (Schedule 15)	As per current budget
<i>Class 3: Signs on buildings, structures and premises</i>	
Class 3(a): Sky signs (Schedule 16)	As per current budget
Class 3(b): Roof signs (Schedule 17)	As per current budget
Class 3(c): Flat signs (Schedule 18)	As per current budget
Class 3(d): Projecting signs (Schedule 19)	As per current budget
Class 3(e): Veranda, balcony, canopy and underawning signs (Schedule 20)	As per current budget
Class 3(f): Signs painted on walls and roofs (Schedule 21)	As per current budget
Class 3(g): Window signs (Schedule 22)	As per current budget
Class 3(h): Advertisements incorporated in the fabric of a building (Schedule 23)	As per current budget
Class 3(i): Advertisements on forecourts of business premises (Schedule 24)	As per current budget
Class 3(j): Miscellaneous signs for residential-oriented land use and community services (Schedule 25)	As per current budget
Class 3(k): On-premises business signs (Schedule 26)	As per current budget
Class 3(l): Signs on towers, bridges and pylons (Schedule 27)	As per current budget
Class 3(m): Signs on construction site boundary walls and fences (Schedule 28)	As per current budget

Class 4: Signs for the tourist and traveller

Class 4(a): Sponsored road traffic projects (Schedule 29)

As per current budget

Class 4(b): Service facility signs (Schedule 30)

As per current budget

Class 4(c): Functional signs by public bodies (Schedule 31)

As per current budget

Class 5: Mobile signs

Class 5(a): Aerial signs Schedule 32

As per current budget

Class 5(b): Vehicular advertising (Schedule 33)

As per current budget

Class 5(c): Trailer advertising (Schedule 34)

As per current budget

**By-law No. 14, 2009 PREVENTION OF NUISANCES AND KEEPING OF
ANIMALS BY-LAW, 2009**

BY-LAW

**To provide for the prevention of nuisances and the keeping of animals in the
Umsobomvu Municipality; and for matters connected therewith.**

BE IT ENACTED by the Umsobomvu Municipality, as follows:-

TABLE OF CONTENTS

1. Definitions
2. Application of by-law

CHAPTER I: GENERAL PROVISIONS RELATING TO PUBLIC NUISANCES

3. Behaviour and conduct

**CHAPTER 1I: GENERAL PROVISIONS RELATING TO KEEPING OF
ANIMALS**

4. Permission to keep animals
5. Plans for structures and management
6. Consideration of application and imposition of conditions
7. Visibility of structures on premises
8. Wavering of requirements and withdrawal of authorisations
9. Validity of authorisations
10. Duties of owner or keeper of animal
11. Animals kept in unsatisfactory manner
12. Destruction of animals
13. Hawking of animals

**CHAPTER III: PROVISIONS RELATING TO KEEPING OF DOGS, CATS AND
PETS**

Part 1 – General Provisions relating to dogs, cats and pets

14. Number of dogs and cats
15. Breeders of dogs and cats
16. Breeders of pets
17. Conditions and restrictions
18. Withdrawal of permission
19. Dogs or cats in public places

Part 2 – Specific provisions relating to dogs

20. Control of dogs

**CHAPTER IV: DOG KENNELS, CATTERIES, PET SHOPS AND PET
PARLOURS**

21. Permission to operate

CHAPTER V: CO-OPERATION BETWEEN MUNICIPALITIES

22. Service delivery agreements

CHAPTER VI: POWERS OF MUNICIPALITY IN CASE OF OMISSION BY
DISTRICT MUNICIPALITY

23. Failure or omission by District Municipality

CHAPTER VII: GENERAL PROVISIONS

24. Right of entry and inspection
25. Service of documents and process
26. Transitional provisions
27. Appeal
28. Penalties
29. Exemptions
30. Repeal of by-laws
31. Short title and commencement

1. Definitions

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

“**animal**” means any equine, bovine, sheep, goat, poultry, camel, dog, cat, or other domestic animal or bird, or any wild animal or reptile which is in captivity or under the control of a person, or insects such as, but not limited to, bees which is kept or under control of a person, but excluding any pet;

“**bird**” means a pigeon, peafowl, pheasant, partridge, canary, budgerigar, parrot, ostrich and any other domesticated bird or wild bird which is in captivity or under control of a person;

“**cattery**” means any establishment where cats are bred or boarded;

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

“**kennel**” means any establishment that has as its business the breeding, training or boarding of dogs and includes pounds whether operated by the State or otherwise;

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

“**municipal manager**” is the person appointed by the municipality in terms of Section 82 of the Municipal Structures Act, 1998 (Act 117 of 1998) and includes any person –

(a) acting in such position; and

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

“**owner**” –

(a) in relation to an animal, includes the person having the possession, charge, custody or control of such animal;

(b) in any case where a property is subject to a registered lease, the lessee of such property;

(c) in cases where the person in whom the legal title is vested is insolvent or deceased, or is of unsound mind or whose estate has been assigned for the benefit of his creditors, the

person in whom the administration of the property is vested as trustee, executor, curator or assignee, or administrator;

(d) in cases where the owner as above described is absent, the agent or person receiving the rent of the property in question;

(e) in any case where the property is beneficially occupied under a servitude or right similar thereto, the occupier of such property;

“**pet**” means a tame animal which is kept in a household for companionship or amusement;

“**pet parlour**” means an establishment where pets are groomed;

“**petshop**” means an establishment where pets are kept for trading purposes;

“**poultry**” means any fowl, goose, ostrich, duck, pigeon, dove, turkey, muscovy, guinea-fowl, peacock or peahen or bird whether domesticated or wild;

“**premises**” means –

(a) land or a portion of land, whether or not a building or structure has been constructed or erected on such land or portion thereof; or

(b) a building, structure, tent or caravan and the land on which it is situated and includes any vehicle, carriage, ship or boat;

“**public nuisance**” means any act, omission or condition on any premises, including any building, structure or growth thereon, which is offensive or dangerous, or which materially interferes with the ordinary comfort, convenience, peace or quiet of other people or which adversely effects the safety of the public;

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

(a) is vested in the municipality;

(b) the public has the right to use; or

(c) is shown on a general plan of a township filed in a deeds registry or a Surveyor-General’s office and has been provided for or reserved for the use of the public or the owners of erven in such township;

“**responsible authority**” means the Umsobomvu Municipality or any national or provincial department that may in terms of its powers and functions impose conditions or restrictions in respect of the keeping of animals;

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

(a) the verge of any such road, street or thoroughfare;

(b) any bridge, ferry or drift traversed by any such road, street or thoroughfare; and

(c) any other work or object forming part of or connected with or belonging to such road, street or thoroughfare;

“**structure**” means any stable, shed, pigsty, kraal, aviary, paddock, covering structure, poultry house, enclosure, run, loft or building used for human shelter or the keeping or enclosing of animals.

2. Application of by-law

- (1) The provisions of sections 4(1), 14(1), 15(1), 21(1) and 24 do not apply to –
 - (a) premises or land which is used for bona fide agricultural purposes; or
 - (b) premises or land identified by the municipality where the keeping of animals or the operation of pet parlours, pet shops or catteries and kennels is permitted and indicated as such in an approved spatial development framework and zoning scheme.

- (2) A person who keeps animals on premises contemplated in subsection (1) (a) and (b), is not exempt from the provisions of any other by-law of the municipality or legislation with regard to the inception or bringing about of a public nuisance.

CHAPTER I GENERAL PROVISIONS RELATING TO PUBLIC NUISANCES

3. Behaviour and conduct

- (1) Notwithstanding the provisions of any other by-law no person shall –
- (a) do work on any premises or use any building or land for purposes calculated to disfigure such premises or to interfere with the convenience or comfort of other people or to become a source of danger to any person and should this provision being ignored, the municipality may instruct that such work or use be discontinued forthwith and that the previous condition be reinstated;
 - (b) carry on any trade, business, profession or hobby on any premises in the municipal area which may be a source or become a source of discomfort or annoyance to other people;
 - (c) deposit, leave, spill, drop or place any fruit or vegetable peels, broken bottles, glass, refuse or thing which is offensive or likely to cause annoyance, danger or injury to persons in or upon any premises, street or public place;
 - (d) allow the fencing of any premises to fall into a state of disrepair or to become unsightly or dilapidated;
 - (e) allow any building or structure or any portion thereof on any premises to fall into a dilapidated, neglected or unsightly state, or fail to maintain the roof-water disposal system, pipes, sewers, drains, water fittings, waste water fittings, water closet fittings and all other appurtenances forming part of or attached to any building or structure in good and sound repair, or fail to maintain the walls of any building or structure free from dampness;
 - (f) use or cause or permit to be used any stoep and/or verandah of any shop or business premises or vacant land adjoining such shop or business premises for the purpose of storing, stacking, dumping, disposing, displaying or keeping articles or merchandise;
 - (g) use or cause or permit any shop or business premises or vacant land adjoining such shop or business premises or any portion thereof which is open or visible to the public for the purpose of storing, stacking, dumping, disposing, or keeping any waste material, refuse, cartons, crates, containers or other articles of a like nature;
 - (h) enclose or cause or permit the enclosing of any stoep or verandah of any shop or business premises by means of movable or immovable structures, objections, articles or devices otherwise than by such means as the municipality may approve;
 - (i) cause or allow the disturbance of the ordinary comfort, convenience, peace or quiet of other people by the utilisation or use of electrical appliances, machinery, malfunctioning air conditioning units or similar appliances or equipment.
 - (j) defoul, misuse or damage a toilet provided in a public building or public place;

- (k) carry or convey, or cause or permit to be carried or conveyed through or in any street or public place, any objectionable material or thing, liquid or solid, which is or may become offensive or dangerous or injurious to health, unless such objectionable material or thing is covered with a suitable material to prevent the creation of any nuisance;
- (l) accumulate, dump, store or deposit any article or thing of whatsoever nature, which is waste material or likely to constitute an obstruction in any street, public place or built-up or vacant premises or land. Where such action takes place with the consent of the municipality and any conditions of approval are ignored or complaints are received from the general public, the municipality may take action in terms of sub-section (2);
- (m) allow any erf to be overgrown with bush, weeds or grass or other vegetation, except cultivated trees, shrubs and grass, to such an extent that it may be used as a shelter by vagrants, wild animals or vermin or may threaten the safety of any member of the community;
- (n) by an action directly or indirectly or by negligence allow that a public nuisance be created or continued;
- (o) bathe or wash himself or any animal or article or clothing or any other article or thing in any public stream, pool or water trough or at any public hydrant or fountain or at any place which has not been set aside by the municipality for any purpose;
- (p) at any time during the day or night disturb the public peace in any public or private place or premises or a street by making unseemly noises or by shouting, insistent hooting, wrangling or quarrelling, or by collecting a crowd or by organising any demonstration or by fighting or challenging to fight, or by striking with or brandishing or using in a threatening manner any stick or other weapon or by any other riotous, violent or unseemly behaviour at any time of the day or night, or by loitering in any street or public place or by gathering in crowds on pavements;
- (q) advertise wares or services in any street or public place by means of any megaphone, loudspeaker, or similar device or by insistent shouting, striking of gongs, blowing of horns or ringing of bells;
- (r) in or upon any property or premises disturb the public peace in the neighbourhood of such premises by making therein or thereon any unseemly noises, or by shouting, wrangling, quarrelling and singing or by playing therein or thereon a musical instrument or use or permit to be used any musical instruments, radios, television sets or the like or any loudspeaker or other device for the reproduction or amplification of sound, in such manner or at such a time or in such circumstances that the sound thereof is audible beyond the boundaries of such property or premises in such a manner that it creates a public nuisance and materially interfere with the ordinary comfort, convenience, peace or quiet of other people;
- (s) in any street or public place use any abusive or threatening language or commit any act which may or is calculated to cause a breach of the public peace;
- (t) cleanse or wash any vehicle or part in any street or public place;

- (u) discharge any fire-arm, airgun or air pistol on any premises except premises or land zoned for agricultural purposes and which does not form part of a general plan for a township.
- (2) (a) In the event of a contravention of section 3(a) to (n), the municipality may issue a notice on the owner or occupier or the alleged offender to terminate the action or to abate the nuisance created. In the event of non-compliance with such order and without prejudice to the municipality's right to prosecute, the municipality may take the necessary steps to remove the cause or source of the nuisance and any costs incurred in connection therewith shall be recoverable from the person responsible for the nuisance or the owner or occupier or the premises on which the nuisance originates or is being continued, whether or not such owner or occupier is responsible therefore
- (b) Where the municipality has evidence that any vacant or developed premises or land in the vicinity of a street is being used for any purposes by unauthorised persons or that any of the materials or things mentioned in subsection (1) are being dumped or deposited on such premises or , it may serve notice in writing on the owner or occupier thereof requiring him to enclose or fence it in to its satisfaction by a date specified in the notice. Every such enclosure or fence shall be not less than two metres in height and shall be of such a nature and so constructed that it will effectively prevent the entry of unauthorised persons and the dumping or depositing thereon of materials and things.
- (3) For the application of this by-law, any action or condition on any premises, including any building, structure or vegetation thereon, which endangers the safety of any person or property or which is untidy, annoying, troublesome, offensive or disturbing to the peace of other people, shall be considered a public nuisance.
- (4) Any person who contravenes or fails to comply with any provisions of this section or fails to comply with any notice lawfully given thereunder shall be guilty of an offence.

CHAPTER II

GENERAL PROVISIONS RELATING TO KEEPING OF ANIMALS

4. Permission to keep animals

- (1) No person shall keep or permit to be kept on any premises or property any animals, excluding pets, without the written permission of the municipality.
- (2) For the purpose of managing the keeping of animals on premises, the municipality may determine the number of bee hives, as well as the kind, number and sex of animals that may be kept and the areas within which the keeping of such animals and bees shall be prohibited.
- (3) In order to consider an application in terms of subsection (1), the municipality may obtain the input or comments of the owners or occupants or surrounding premises.
- (4) A person who contravenes subsection (1) or who fails to comply with a determination in subsection (2) commits an offence.

5. Plans for structures and management

- (1) An application to keep animals must be submitted on an application form obtainable from the municipality, and be accompanied by a detailed site plan

indicating all existing or proposed structures and fences on the premises for which the permit is required.

- (2) Detailed plans, according to specifications obtainable from the municipality, of structures in which it is proposed to keep animals must accompany the application in section 4 and such plans must be approved by the municipality.
- (3) Where possible, an exposition of the numbers, kinds and gender of animals must accompany the plans in subsection (2).

6. Consideration of application and imposition of conditions

- (1) The municipality may, after consideration of –
 - (a) the input or comments obtained in terms of section 4(3);
 - (b) the location, geographical features or size of the premises in respect of which the application is submitted;
 - (c) the documents and expositions submitted in terms of section 5; or
 - (d) any other information relating to the application, refuse to grant consent or grant consent.
- (2) Where consent is refused, the municipality must furnish the applicant with the reasons for such refusal and at the same time advise him or her of the right of appeal in terms of section 27.
- (3) Where consent is granted, the municipality may impose conditions.

7. Visibility of structures on premises

- (1) All structures in which animals are kept shall be suitably screened from any street.
- (2) A person who fails to comply with subsection (1) commits an offence.

8. Wavering of requirements and withdrawal of authorisations

Notwithstanding the aforementioned provisions, the municipality may after considering conditions particular to the property and on condition that no objection is received from the owners or occupants of surrounding premises, waive any or all of the requirements of this part and impose other conditions if appropriate and may further withdraw any consent in terms of section 6(3) if any of the conditions therein are not adhered to.

9. Validity of authorisations

All authorisations to keep animals granted in terms of any by-law or regulation repealed shall be deemed to have been granted in terms of this by-law.

10. Duties of owner or keeper of animal

- (1) The owner of an animal or the keeper thereof –
 - (a) may not cause or allow an animal to interfere with the ordinary comfort, convenience, peace or quiet of other people;
 - (b) must provide such animal with bedding, shelter, water and proper food daily; and
 - (c) must at all times maintain the premises on which an animal is kept, and all appurtenances in good repair and in neat condition so as to prevent the occurrence of a public nuisance.
- (2) A person who contravenes a provision of subsection (1) commits an offence.

11. Animals kept in unsatisfactory manner

- (1) Whenever animals kept on any premises, whether or not such premises have been approved by the municipality under this by-law, are a public nuisance, the

municipality may by written notice require the owner or occupier of such premises, within a period to be stated in such notice but not less than 24 hours after the date of such notice, to remove the cause of and to abate such nuisance and to carry out such work or take such steps necessary for the said purpose.

- (2) A person who fails to comply with a notice contemplated in subsection (1) commits an offence.

12. Destruction of animals

- (1) The municipality may order the destruction of an animal which is –
(a) dangerous or ferocious; or
(b) injured or diseased to such an extent that it would be humane to do so.
- (2) An animal to be destroyed in terms of subsection (1) must be destroyed with such instruments or appliances and in such a manner as to inflict as little suffering as possible.
- (3) A person who fails to comply with an order contemplated in subsection (1) or who contravenes subsection (2) commits an offence.

13. Hawking of animals

- (1) No person may hawk an animal –
(a) in a street or public place; or
(b) in or from a movable structure or vehicle.
- (2) A person who contravenes subsection (1) commits an offence.

**CHAPTER III
PROVISIONS RELATING TO KEEPING OF DOGS, CATS AND PETS**

Part 1 – General Provisions relating to dogs, cats and pets

14. Number of dogs and cats

- (1) Subject to the provisions of section 15, no person may, without the permission of the municipality, keep on any premises –
(a) more than two dogs; and
(b) more than two cats.
- (2) An application for permission in terms of subsection (1) must be submitted on an application form obtainable from the municipality and must contain an exposition of the breed, gender and number of dogs or cats applied for.
- (3) A restriction imposed under section 17 on the number of animals that may be kept on premises does not apply for a period of 10 weeks after the birth of a litter from an animal kept in terms of a permit.
- (4) A person who contravenes subsection (1) commits an offence.

15. Breeders of dogs and cats

- (1) A breeder of dogs who wishes to keep more than two dogs or a breeder of cats who wishes to keep more than two cats must obtain permission from the municipality.
- (2) An application in terms of subsection (1) must be submitted in the form prescribed by the municipality and must contain an exposition of the race, gender and number of dogs or cats applied for.
- (3) Plans and specifications of structures in which it is proposed to keep the dogs or cats as well as a site plan indicating all existing or proposed structures and fences on the premises for which the permit is required, must accompany the

application in subsection (1) and such plans must be approved by the municipality.

- (4) A person who fails to obtain the permission of the municipality as contemplated in subsection (1) commits an offence.

16. Breeders of pets

- (1) A person who breeds with pets must obtain the approval of the municipality.
(2) The provisions of section 15(2),(3) and (4) are with the necessary adjustment applicable to an application in terms subsection (1).
(3) A person who contravenes subsection (1) commits an offence.

17. Conditions and restrictions

The municipality's consent in terms of sections 4, 14(1), 15(1) and 16(1) shall be granted subject to such conditions and restrictions as the municipality, in consultation with another responsible authority, may deem fit to impose.

18. Withdrawal of permission

- (1) Where a person contravenes or fails to adhere to a condition or restriction contemplated in section 17, the municipality may, after hearing that person, withdraw its consent and may order the removal of animals from the premises for care and safekeeping by an animal welfare organisation or pound.
(2) Any costs incurred by the municipality for the removal and safekeeping of animals contemplated in subsection (1), shall be recovered from the owner or keeper of such animals.

19. Dogs or cats in public places

- (1) The owner or keeper of a dog or cat may not bring or allow it in a street or public place unless the dog is kept on a leash by a responsible person or the cat is under the physical control of the owner.
(2) Except in the event of a blind person being lead by a guide dog, a person in charge of a dog in a street or public place, must remove any faeces left by the dog by wrapping it in paper or plastic and disposing of it in a receptacle provided for litter or refuse.
(3) A person who contravenes any of the provisions of subsection (1) or (2) commits an offence.

Part 2 – Specific provisions relating to dogs

20. Control of dogs

- (1) No person may –
- (a) permit a bitch on heat owned or kept by him or her to be in a street or public place without supervision;
 - (b) urge a dog to attack, worry or frighten any person or animal, except where necessary for the defence of such first-mentioned person or his or her property;
 - (c) keep a dog if the premises where such a dog is kept, is not properly and adequately fenced to keep such dog inside when it is not on a leash; or
 - (d) permit a dog owned or kept by such person –
 - (i) to trespass on private property;
 - (ii) to constitute a hazard to traffic using any public road;

- (iii) to constitute or to his knowledge be likely to constitute a source of danger or injury to a person outside the premises on which such dog is kept; or
- (iv) to be a source of danger to employees of the municipality entering upon such premises for the purpose of carrying out their duties. A notice to the effect that a dog is being kept on such premises must be displayed in a conspicuous place.
- (e) keep any dog which –
 - (i) by barking, yelping, howling or whining;
 - (ii) by having acquired the habit of charging any vehicles, animals, poultry, pigeons or persons outside any premises where it is kept; or
 - (iii) by behaving in any other manner, interferes materially with the ordinary comfort, convenience, peace or quiet of neighbours.
- (2) The municipality may seize and impound at a place designated by the municipality, a dog which is found in a street or public place in contravention with the provisions of this by-law.
- (3) A dog impounded in terms of subsection 2 may be released to the owner of such dog upon payment of a fee determined by the municipality.
- (4) A person who contravenes a provision of subsection (1) commits an offence.

CHAPTER IV **DOG KENNELS, CATTERIES, PET SHOPS** **AND PET PARLOURS**

21. Permission to operate

- (1) No kennel, cattery, pet shop or pet parlour may be operated without the permission of the municipality, which permission may be subject to conditions.
- (2) Application for permission must be done on an application form obtainable from the municipality.
- (3) The person operating a kennel, cattery, pet shop or pet parlour may not conduct the business in such a manner so as to cause any nuisance or annoyance to other people.
- (4) A person who contravenes subsection (1) or (3) commits an offence.

CHAPTER V **CO-OPERATION BETWEEN MUNICIPALITIES**

22. Service delivery agreements

In an effort to achieve optimal service delivery in terms of this by-law, the municipality may enter into agreements with the district municipality with which legislative and executive powers is shared, in respect of the following:

- (a) The practical arrangements with regard to the execution of the provisions of this by-law;
- (b) the imposition and enforcement of conditions with regard to any application in terms of this by-law, in so far as such conditions pertain to the functions and powers performed by the district municipality;
- (c) the recovery of costs and expenses related to any action in terms of this by-law;
- (d) subject to the provisions of section 86 of the Local Government: Municipal Structures Act, 2000 (Act 32 of 2000), mechanisms for the settlement of disputes

- with regard to execution of powers or functions in terms of this by-law or the matters on which have been agreed;
- (e) any other matter regarded necessary by the parties to achieve optimal service delivery in terms of this by-law.

**CHAPTER VI
POWERS OF MUNICIPALITY IN CASE OF OMISSION BY
DISTRICT MUNICIPALITY**

- 23. Failure or omission by District Municipality**
- (1) If the municipality is of the opinion that optimal service delivery referred to in section 22 in its area of jurisdiction is impeded by the refusal or omission by the district municipality to execute any of the practical arrangements envisaged in section 22(a), it may serve written notice on such district municipality to give effect or adhere to such arrangement within reasonable time, and upon failure to adhere to such notice, the municipality may proceed to give effect to such arrangement.
- (2) Any expenses or cost incurred by the municipality in giving effect to any arrangement referred to in subsection (1) may be recovered from the district municipality.

**CHAPTER VII
GENERAL PROVISIONS**

- 24. Right of entry and inspection**
- (1) Any duly authorised employee of the municipality is authorised to inspect any premises within the municipal area in order to determine whether there is compliance with the provisions of this by-law.
- (2) When entering a premises in terms of subsection (1), the authorised employee must on request by any person, identify him-/herself by producing written proof of authorisation.
- (3) The authorised employee may be accompanied by a person reasonably required to assist in conducting the inspection.
- (4) Any person who fails to give or refuses access to any authorised employee if he requests entrance on any land or premises, or obstructs or hinders him in the execution of his duties under this by-law, or who fails or refuses to give information that he may lawfully be required to give to such employee, or who gives false or misleading information knowing it to be false or misleading, shall be guilty of an offence.
- 25. Service of documents and process**
- (1) Whenever a notice, order, demand or other document is authorised or required to be served on a person in terms of this by-law, it shall be deemed to have been effectively and sufficiently served on such person –
- (a) when it has been delivered to him personally;
- (b) when it has been left at his place of residence or business in the Republic with a person apparently over the age of sixteen years;
- (c) when it has been posted by registered or certified mail to his last known residential or businesses address in the Republic and an acknowledgment of the posting thereof is produced;

- (d) if his address in the Republic is unknown, when it has been served on his agent or representative in the Republic in the manner provided by paragraph (a), (b) or (c); or
 - (e) if his address and agent in the Republic are unknown, when it has been posted in a conspicuous place on the immovable property (if any) to which it relates.
- (2) When any notice, order, demand or other document as aforesaid is authorised or required to be served on a person by reason of his being or having been the owner or occupier of or holding some other right in respect of immovable property, it shall not be necessary to name him but it shall be sufficient if he is therein described as the owner, occupier or holder of such immovable property or other right, as the case may be.

26. Transitional provisions

A person who, at the commencement of this by-law, owns a larger number of animals than the number contemplated in section 4(2), may continue to keep such larger number of animals, but may not replace any animal in excess of that number should one or more of the animals die or be disposed of, unless permission is obtained from the municipality for exceeding that number.

27. Appeal

- (1) A person whose rights are affected by a decision taken by a political structure, political office bearer, councillor or staff member of a municipality in terms of a power or duty delegated or sub-delegated by a delegating authority to the political structure, political office bearer, councillor or staff member, may appeal against that decision by giving written notice of the appeal and reasons to the municipal manager within 21 days of the date of the notification of the decision.
- (2) The municipal manager must promptly submit the appeal to the appropriate appeal authority mentioned in subsection (4).
- (3) The appeal authority must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.
- (4) When the appeal is against a decision taken by –
 - (a) a staff member other than the municipal manager, the municipal manager is the appeal authority;
 - (b) the municipal manager, the executive committee or executive mayor is the appeal authority, or, if the municipality does not have an executive committee or executive mayor, the council of the municipality is the appeal authority; or
 - (c) a political structure or political office bearer, or a councillor –
 - (i) the municipal council is the appeal authority where the council comprises less than 15 councillors; or
 - (ii) a committee of councillors who were not involved in the decision and appointed by the municipal council for this purpose is the appeal authority where the council comprises more than 14 councillors.
- (5) An appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable period.
- (6) The provisions of this section do not detract from any appropriate appeal procedure provided for in any other applicable law.

28. Penalties

A person who has committed an offence in terms of these by-laws is, upon conviction, liable to –

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

29. Exemptions

Notwithstanding the provisions of this by-law, the municipality may exempt any person and/or class of persons from any or all of these requirements and may impose any other requirements it deems appropriate.

30. Repeal of by-laws

- (1) The By-Laws enacted by Colesberg Transitional Local Council, Noupoot Transitional Local Council and Masizakhe Representative Council with regard to Prevention of Public Nuisances and Keeping of Animals are hereby repealed.
- (2) Any permission obtained, right granted, condition imposed, activity permitted or anything done under a repealed law, shall be 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.

31. Short title and commencement

This by-law shall be known as the Prevention of Public Nuisances and Keeping of Animals By-law and shall come into operation on the date of publication thereof in the Provincial Gazette.

By-law No. 15, 2009

ROADS AND TRAFFIC BY-LAW, 2009

BY-LAW

To provide for the management of Roads and Traffic in the Umsobomvu Municipality; and for matters connected therewith.

BE IT ENACTED by the Umsobomvu Municipality, as follows:-

Under of section 156 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), section 11 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) and section 80A of the National Road Traffic Act, (Act 93 of 1996) the Umsobomvu Municipality, enacts as follows:-

Table of contents

1. Definitions
2. Principles and objectives

CHAPTER 1: GENERAL PROVISIONS RELATING TO USE OF ROADS*Part 1: Pedestrians*

3. Duties of pedestrians

Part 2: Traffic lanes

4. Use of traffic lanes
5. Vehicle not to be driven on sidewalk or footpath

Part 3: Parking

6. Control of parking
7. Parking in loading zone
8. Parking at bus stop
9. Parking in public road
10. Parking upon traffic island
11. Parking by dealer
12. Parking of repaired vehicle
13. Parking of heavy vehicles and caravans
14. Exemption of medical practitioners and nurses from parking restrictions

Part 4: Obstruction on and work in public roads and public places, and water discharged onto public road

15. Obstruction
16. Damage to public road, and excavation in public road
17. Damage to or destruction of public road surface
18. Work in public road or public place
19. Work done within two metres of public road
20. Bridges and crossings over gutters and sidewalks
21. Building materials in public roads and public places
23. Discharge of water on public road
23. Overflow of water into public roads and public places

Part 5: Escorting of abnormal vehicles, events, processions, and shows

24. Escort of abnormal vehicles
25. Races and sports events
26. Processions and gatherings
27. Control of amusement shows and devices
28. Tariffs for assistance with racing events, sporting events, processions and other gatherings in general

Part 6: Animals and animal drawn vehicles

29. Animal and animal drawn vehicle on public road

Part 7: Collections and handbills

30. Collections and distribution of handbills

Part 8: Trolleys

31. Trolleys

Part 9: Wires and fencing

32. Barbed wire, dangerous and electrical fencing

Part 10: Miscellaneous prohibitions

33. Cleaning, repairing and cleanliness of public road
34. Loitering and queuing on public road
35. Poison in public roads or public places
36. Skating, games, and nuisances
37. Advertisements visible from public road
38. Trees
39. Dumping of waste
40. Article placed in building facing public road
41. Outspanning in public roads
42. Openings and doors on public roads
43. Miscellaneous prohibitions

Part 11: Closure and constructions and naming of public roads, numbering of premises, and direction of traffic

44. Closure of public roads and public places
45. Construction, maintenance, naming and declaration of public roads and public places
46. Numbering of premises

CHAPTER 2: PARKING METERS

47. Municipality may install parking meters
48. Method of parking
49. Payment for parking
50. Municipality may prevent parking at parking bay
51. Tampering with parking meter
52. Prescribed coin only to be deposited
53. Unlawful operation of parking meter
54. Unlawful parking
55. Exemptions

CHAPTER 3: PARKING GROUNDS

Part 1: General provisions

56. Municipality not liable for loss or damage
57. Interference with attendant
58. Payment of prescribed fee
59. Trading
60. Observance of signs
61. Parking and removal of vehicle

62. Abandoned vehicle
63. Damage to notices
64. Negligent and dangerous driving
65. Entering or remaining in parking ground
66. Tampering with vehicle
67. Defacing coupon
68. Defective vehicle
69. Cleaning of vehicle
70. Refusal of admission
71. Parking hours and classes of vehicles
72. Reservation by Municipality
- Part 2: Mechanically controlled parking ground*
73. Parking of vehicle in mechanically controlled parking ground
74. Removal of vehicle from mechanically controlled parking ground
- Part 3: Pay and display parking ground*
75. Parking of vehicle in pay and display parking ground
76. Miscellaneous offences in respect of pay and display parking ground

CHAPTER 4: PARKING ATTENDANTS

77. Prohibition
78. Registration of organisation by Municipality
79. Conditions
80. Registration fee payable
81. Garments and identification of parking attendants
82. Conduct of organisations
83. Conduct of parking attendants
84. Cancellation or suspension of registration
85. Vicarious responsibility and liability of organization

CHAPTER 5: TAXIS AND BUSES

Part 1: Special parking places for taxis, permits and decals

86. Establishment of, and permits for, special parking places for taxis
87. Application for taxi rank permit
88. Issuing of taxi rank permit
89. Renewing of taxi rank permit
90. Temporary substitution of taxi rank permit
91. Transfer of taxi rank permit
92. Issue, display and duplication of decals
93. Payment of taxi rank permit fees
94. Amendment of particulars of taxi rank permit
95. Outstanding payments
96. Taxi rank permit for partnership
97. Taxi rank permit to be produced on demand
98. Suspension or withdrawal of taxi rank permit
99. Procedure for proposed suspension or withdrawal of taxi rank permit
100. Change of address
101. Amendment of the particulars on a taxi rank permit

Part 2: Taxi associations, taxi forum, and taxi facilities

102. Taxi forum
103. Classes of taxi facilities
104. Taxi parking

105. Use of taxi ranks
106. Prohibition on parking of taxi at stopping place
107. Regulation and control of taxi facilities
108. Servicing and washing taxis at taxi facilities
- Part 3: General use and operation of taxis*
109. Preventing engagement of taxi
110. Conveying dangerous or offensive articles in taxis
111. Disinfecting taxi after conveying passengers with infectious or contagious diseases
112. Boarding and alighting of taxis
113. Queues at facilities
114. Payment of fares
115. Rights and duties of passengers when a taxi becomes defective
116. Animals
117. Actions prohibited on a taxi
118. Behaviour prohibited at taxi rank
- Part 4: Metered taxis*
119. Taximeters
120. Metered fares
121. Tariffs to be displayed on taxis
122. Position of meter
123. Operation of meter
124. Meter indicators
125. Starting of meter
126. Taxi called but not engaged
127. Meter seals to be kept intact
128. Meter tolerances
129. Interference with meter prohibited
130. Meters liable to be tested at any time
131. Charge for testing meters
132. Meters may be condemned
133. Taxi signs for metered taxis
- Part 5: Bus facilities and permits, and operation of buses*
134. Establishment of bus facilities
135. Application and issue of bus permits, fees, display of decals, suspension and withdrawal of permit
136. General use and operation of buses
137. Distinguishing of demarcated stops and stands for buses
138. Duty of driver to stop
139. Boarding and alighting from bus
140. Parking at stopping places for buses and destination signs
- Part 6: Enforcement*
141. Permit to be produced on demand
142. Unauthorised handing over or abandonment of bus or taxi
- Part 7: Miscellaneous provisions*
144. Change of address of permit holder
145. Property left in passenger-carrying vehicles

CHAPTER 6: MISCELLANEOUS PROVISIONS

146. Obeying and interfering with officer
147. Appeal

- 148. Municipality may act and recover costs
 - 149. Presumptions
 - 150. Permit to act as a car guard
 - 151. Motor vehicle attendant
 - 152. General prohibitions
 - 153. Penalties
 - 154. Saving and transitional provision
 - 155. Revocation of by-laws
 - 156. Short title and commencement
- Schedule

1. Definitions

(1) In these By-laws, unless the context otherwise indicates –

"animal" means any equine, bovine, sheep, goat, poultry, camel, dog, cat, or other domestic animal or bird, or any wild animal or reptile which is in captivity or under the control of a person, or insects such as, but not limited to, bees which is kept or under control of a person;
"approved" means approved by the Municipality and **"approval"** has a corresponding meaning;

"authorised officer" means an inspector of licences, examiner of vehicles, examiner for driver's licences, traffic warden or a traffic officer, and includes any other person whom the Minister by regulation has declared to be an authorised officer;

"authorized official" means any employee of the Municipality who is acting within the scope of his or her duties on behalf of the Municipality and who is in uniform or with distinctive badge and appointment certificate of his office;

"authorised person" means a person nominated by an organization and authorised by the Municipality;

"balcony" means a platform projecting from a wall, enclosed by a railing, balustrade or similar structure, supported by columns or cantilevered out and accessible from an upper-floor door or window;

"bib" or **"jacket"** means a garment which fits around the chest of a person, which garment has a recognizable insignia identifying the person as a parking attendant and which is approved by the Municipality;

"bridge" means a bridge as contemplated in the National Road Traffic Act, 1996 (Act 93 of 1996);

"bus" means a motor vehicle designed or lawfully adapted by a registered manufacturer in compliance with the National Road Traffic Act, 1996 (Act 93 of 1996), to carry more than 35 seated persons, excluding the driver, and includes a bus train;

"bus facility" means a stand or demarcated stopping place where passengers may board or alight from a bus for which a permit has been issued;

"bus train" means a bus which –

- (a) consists of two sections that connect to form a unit;
- (b) can swivel in a horizontal plane at the connections between such sections;
- (c) is designed or adapted solely or principally for the conveyance of the driver and at least 100 other persons; and
- (d) has a continuous passageway over its length;

"caravan" means any vehicle permanently fitted out for use by persons for living and sleeping purposes, whether or not such vehicle is a trailer;

"Chief Traffic Officer" means the Municipality's Chief Traffic Officer to whom any function, power or duty has been delegated, and includes any other officer under his or her control;

"combined parking meter" means an appliance in which more than one parking meter is contained;

"**dealer**" means a person who, for gain, carries on the business selling, buying, exchanging or garaging vehicles;

"**decal**" means a colour-coded sticker or other means of identification issued by the Municipality to the holder of a taxi rank permit;

"**demarcated parking bay**" means a place referred to in section 80A of the National Road Traffic Act, 1996 (Act 93 of 1996), as a space laid out and marked in a public road or public place, the time and occupation by which a vehicle is intended to be recorded by a parking meter;

"**demarcated stopping place or stand**" means the stand for a bus as contemplated in section 137;

"**donation**" means any amount of money that a driver gives to a parking attendant on a voluntary basis for services rendered by the parking attendant;

"**driver**" has the meaning assigned to it by the National Road Traffic Act, 1996 (Act 93 of 1996);

"**examiner of vehicles**" means an examiner of vehicles registered and appointed in terms of Chapter 11 of the National Road Traffic Act, 1996 (Act 93 of 1996);

"**firearm**" means a firearm as contemplated in the Firearms Control Act, 2000 (Act 60 of 2000);

"**footpath**" means that portion or lateral extremities of the public road which, although not actually defined or made, is habitually used by pedestrians as a sidewalk;

"**goods vehicle**" means a motor vehicle other than a motor car or bus, designed or adapted for the conveyance of goods on a public road and includes a truck, tractor, motor cycle or motor tricycle;

"**heavy motor vehicle**" means a motor vehicle or a combination of motor vehicles the gross vehicle mass of which vehicle or combination of vehicles exceeds 3,500kg;

"**holding area**", in relation to a taxi, means a place, other than a rank, where a taxi remains until space for it is available at a rank or stopping place;

"**marshal**" means a person who arranges passenger and vehicle related procedures at taxi facilities;

"**mechanically controlled parking ground**" means a parking ground to which entry is controlled by a mechanism, such as a boom, which opens on the insertion of money into a vending machine;

"**metered parking bay**" means a parking bay in respect of which a parking meter has been installed;

"**metered parking ground**" means a parking ground or any part thereof where parking is controlled by means of a parking meter or meters;

"**metered taxi**" means a motor car designed for conveying not more than five people, including the driver, which must be fitted with a taximeter as contemplated in Chapter 4;

"**midi-bus**" means a motor vehicle designed or lawfully adapted by a registered manufacturer in compliance with the National Road Traffic Act, 1996 (Act 93 of 1996), to carry from 19 to 35 seated persons, excluding the driver;

"**mini-bus**" means a motor vehicle designed or lawfully adapted by a registered manufacturer in compliance with the National Road Traffic Act, 1996 (Act 93 of 1996), to carry from nine to 18 seated persons, excluding the driver;

"**Minister**" means the Minister of Transport;

"**motor car**" means a motor vehicle, other than a motor cycle, motor tricycle or motor quadracycle as defined in the National Road Traffic Act, 1996 (Act 93 of 1996), designed or lawfully adapted by a registered manufacturer in compliance with the Act to carry not more than eight persons, excluding the driver;

"**motor vehicle**" means any self-propelled vehicle and includes-

(a) a trailer; and

- (b) a vehicle having pedals and an engine or an electric motor as an integral part thereof or attached thereto and which is designed or adapted to be propelled by means of such pedals, engine or motor, or both such pedals and engine or motor, but does not include-
- (i) a vehicle propelled by electrical power derived from storage batteries and which is controlled by a pedestrian; or
 - (ii) a vehicle with a mass not exceeding 230 kilograms and specially designed and constructed, and not merely adapted, for the use of any person suffering from some physical defect or disability and used solely by such person;

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

"operate", in relation to a vehicle, means to use or drive a vehicle or to permit a vehicle to be used or driven on a public road, or to have or to permit a vehicle to be on a public road;

"operator" means a public transport operator as defined in the National Road Traffic Act, 1996 (Act 93 of 1996), being a person carrying on the business of a public passenger road transport service;

"owner" in relation to a vehicle, means –

- (a) the person who has the right to the use and enjoyment of a vehicle in terms of common law or a contractual agreement with the titleholder of such vehicle;
- (b) a person referred to in paragraph (a), for any period during which such a person has failed to return that vehicle to the titleholder in accordance with the contractual agreement referred to in paragraph (a); and
- (c) a person who is registered as such in accordance with Section 14 of the National Road Traffic Act, 1996 (Act 93 of 1996);

"park" means to keep a motor vehicle, whether occupied or not, stationary for longer than is reasonably necessary to actually load or unload people or goods, but does not include keeping a vehicle stationary owing to a cause beyond the control of the person in charge of the vehicle; “

"parking attendant" means a person in the employ of an organization to render a parking attendant service to drivers in a public place or on a public road, and includes a car watcher;

"parking bay" means a demarcated area within which a vehicle is to be parked in terms of these By-laws, demarcated as such upon the surface of a parking ground or a floor thereof;

"parking ground" means any area of land or any building set aside by the Municipality as a parking ground or garage for the parking of vehicles therein by members of the public, whether or not charges are prescribed by this By-law for the use thereof;

"parking meter" means a device commissioned in terms of this By-law, registering and visibly recording the parking time either by means of a meter affixed to the device or on a parking meter ticket issued by the device or any other device by which parking time can be recorded whether operated by an authorized official or not;

"parking period" means that period including a period reflected on a parking meter on any one day during which a vehicle is permitted to park in a parking ground or parking bay or as indicated by a road traffic sign;

"particulars" means any form of information of a person or business and includes the name, surname, company name, residential, business or e-mail address, telephone, cellular or fax number or any other such information;

"passenger" means any person in or on a vehicle, but does not include the driver or the conductor;

"passenger-carrying motor vehicle" means a taxi or a bus used or designed to convey passengers for reward;

“**pay and display machine**” means a machine installed at a pay and display parking ground for the sale of coupons;

“**pay and display parking ground**” means a parking ground in which a parking coupon must be obtained from a parking coupon vending machine which is situated inside the parking ground;

“**prescribed**” means determined by resolution of the Municipality, and in relation to a fee, means as set out in the tariff policy of the Municipality;

“**prescribed coin**” means a coin of the Republic of South Africa being legal tender in terms of the South African Mint and Coinage Act, 1964 (Act 78 of 1964), of the denomination indicated on the parking meter concerned;

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

- (a) in connection with any subdivision or layout of land into erven, been provided, reserved or set apart for use by the public or the owners or occupiers of such erven, whether or not it is shown on a general plan, plan of subdivision or diagram;
- (b) at any time been dedicated to the public;
- (c) been used by the public without interruption for a period of at least thirty years, or
- (d) at any time been declared or rendered such by the Municipality or other competent authority;

“**public road**” means any road, street, cycle path, thoroughfare or any other place, and includes

- (a) the verge of any such public road;
- (b) any footpath, sidewalk or similar pedestrian portion of a road reserve;
- (c) any bridge, ferry or drift traversed by any such public road;
- (d) any other object belonging to such public road, which has at any time been -
 - (i) dedicated to the public;
 - (ii) used without interruption by the public for a period of at least thirty years;
 - (iii) declared or rendered such by the Municipality or other competent authority; or
 - (iv) constructed by a local authority;
- (e) any land, with or without buildings or structures thereon, which is shown as a public road on -
 - (aa) any plan of subdivision or diagram approved by the Municipality or other competent authority and acted upon; or
 - (bb) any general plan as defined in the Land Survey Act, 1997 (Act 8 of 1997), registered or filed in a deeds registry or Surveyor General’s office, unless such land is on such plan or diagram described as a private public road;

“**regulation**” means a regulation under the National Road Traffic Act, 1996 (Act 93 of 1996);

“**rank**” in relation to a taxi means a place upon a public road where a taxi may stand to ply for hire or to pick up passengers for their conveyance for reward;

“**security officer**” means a security officer as defined in Private Security Industry Regulation Act, 2001 (Act 56 of 2001);

“**security service provider**” means a security service provider as defined in Private Security Industry Regulation Act, 2001 (Act 56 of 2001);

“**semi-trailer**” means a trailer having no front axel and so designed that at least 15% of its tare is super-imposed on and borne by the vehicle drawing such trailer;

“**sidewalk**” means that portion of a public road between the outer boundary of the roadway of a road and the boundary lines of adjacent properties or buildings which is intended for the use of pedestrians;

“**skateboard**” means a device, which includes mainly a flat object mounted on wheels, which is designed in such a manner as to provide room for only one person to stand or squat and is as such propelled by means of either human power or gravitation or both;

“special parking place” means a rank or stand established by the Municipality on a public road within the Municipality for the parking or standing of passenger-carrying motor vehicles;

“stand”, in relation to a bus, means the place where a bus route starts or ends;

“stop” in relation to a taxi stopping on a public road, means to keep a taxi, whether occupied or not, stationary for a period of time no longer that is reasonably necessary for the actual loading or unloading of persons or goods, but does not include any such stopping by reason of a cause beyond the control of the driver of such taxi;

“stopping place”, in relation to –

(a) a taxi, means the place designated by the Municipality where a taxi may stop to pick up or drop off passengers; and

(b) a bus, means a demarcated stop where a bus may stop to pick up or drop off passengers;

“tare”, in relation to a motor vehicle, means the mass of such a vehicle ready to travel on a road and includes the mass of –

(a) any spare wheel and of all other accessories and equipment supplied by the manufacturer as standard for the particular model of motor vehicle concerned;

(b) anything which is a permanent part of the structure of such vehicle;

(c) anything attached to such vehicle so as to form a structural alteration of a permanent structure; and

(d) the accumulators, if such vehicle is self-propelled by electrical power, but does not include the mass of –

(i) fuel; and

(ii) anything attached to such vehicle which is not of the nature referred to in subsection (a) or (b); **“taxi”** means a motor vehicle which plies for hire, is operated for reward, and includes –

(a) a mini-bus, a midi-bus, motor tricycle or motor quadrocycle; and

(b) a metered taxi;

“taxi association” means a taxi association recognized as such by the Municipality and the Eastern Cape Province;

“taxi facility” means a holding area, special parking place, stopping place, rank, terminal and any other facility that is specifically identified and designated by the Municipality for the exclusive use of taxis;

“taxi operator” means the person responsible for the use of the taxi, provided that in terms of Chapter IV of the National Road Traffic Act, 1996 (Act 93 of 1996), it means the person who has been registered as the operator of such vehicle;

“taxi rank” means a taxi facility identified by the Municipality as a place where taxis stand to await passengers;

“temporary taxi facility” means a taxi facility contemplated in section 104(2);

“trailer” means a vehicle which is not self-propelled and designed or adapted to be drawn by a motor vehicle, but does not include a side-car fitted to a motor cycle;

“tri-cycle” means a three-wheeled cycle exclusively designed or prepared for the conveyance of goods and propelled solely by human power;

“token” in respect of a trolley, means a sign on which the name or trade name and the address of the owner appears;

“trolley” means any push trolley or push cart which is placed at the disposal of the public as buyers by any business undertaking or shop and which is used by the public to convey their purchases;

“vehicle” means a device designed or adapted mainly to travel on wheels, tyres or crawler tracks and includes such a device which is connected with a draw-bar to a breakdown vehicle and is used as part of the towing equipment of a breakdown vehicle to support any axle or all

the axles of a motor vehicle which is being salvaged other than such a device which moves solely on rails;

“veranda” means a structure in the nature of a roof attached to or projecting from the façade of a building and supported along its free edge by columns or posts;

“voucher” means a document, approved by the Municipality and containing the information reflected in the document, which is handed by a parking attendant to a driver informing the driver of the particulars of the attendant’s organization and emergency telephone numbers and requesting a donation regarding the service;

“watercourse” means a watercourse as defined in section 1 of the National Water Act, 1998 (Act 36 of 1998).

“work” means work of any nature whatsoever undertaken on any land within the area of jurisdiction of Umsobomvu Municipality and, without in any way limiting the ordinary meaning of the word, includes the erection of a new building or alterations or additions to any existing building, the laying of cables and pipes, the dumping of building or other material anywhere in a public road or public place, or delivery to or removal from any site of any soil or material of any nature whatsoever.

- (2) In these By-laws, a word or expression that has been defined in the National Road Traffic Act, 1996 (Act 93 of 1996), has that meaning, unless it has been defined in these By-laws, or unless the context otherwise indicates.

2. Principles and objectives

The Umsobomvu Municipality, acting under the Constitution and relevant legislation, and being aware of its duty to control the use of roads, parking grounds, and to control motor vehicle attendants, taxis and buses within the area under its jurisdiction so as to provide a safe environment for all people within the municipal area, adopts these By-laws with the aim of controlling the use of roads and parking grounds within the area under its jurisdiction.

CHAPTER 1: GENERAL PROVISIONS RELATING TO USE OF ROADS

Part 1: Pedestrians

3. Duties of pedestrians

- (1) Where a marked pedestrian crossing exists at an intersection, a pedestrian may only cross the intersection within the marked pedestrian crossing.
- (2) Where a traffic control light signal (“robot”) which embodies pedestrian signals operates at an intersection, a pedestrian may not commence to cross the roadway in a pedestrian crossing at the intersection while the red light of a pedestrian signal is displayed in the direction opposite to that in which he or she is proceeding.
- (3) Where no pedestrian signals are operating at an intersection, but such intersection is controlled by a traffic control light signal, a pedestrian may not commence to cross the roadway in a pedestrian crossing at the intersection while the red light of the traffic control light signal is displayed in the direction opposite to that in which he or she is proceeding.
- (4) Where a traffic control light signal which embodies pedestrian signals are operating at a pedestrian crossing elsewhere than at an intersection, a pedestrian may only commence to cross the roadway in the pedestrian crossing when the green light of the pedestrian signal is displayed in the direction opposite to that in which he or she is proceeding.
- (5) A pedestrian, when crossing the roadway within a demarcated pedestrian crossing, whether at an intersection or otherwise, must walk on the left of the pedestrian crossing.
- (6) No person or persons may, after being requested by a police officer to move on or disperse –
 - (a) sit or lie on a sidewalk, footpath or public road; or

- (b) stand, congregate or walk so as to obstruct the movement of traffic or to the annoyance or inconvenience of the public.
- (7) No pedestrian may carelessly, negligently or recklessly disregard or endanger his or her own safety or the safety of a person or vehicle using a public road.
- (8) A person who contravenes a provision of this section commits an offence.

Part 2: Traffic lanes

4. Use of traffic lanes

- (1) Where a roadway has been demarcated into traffic lanes, the driver of a vehicle –
 - (a) must drive so as to be entirely within a single traffic lane; and
 - (b) may not cause or permit his or her vehicle to encroach over a lane line which demarcates a traffic lane, except when moving from one lane into or across another.
- (2) Except when overtaking another vehicle proceeding in the same direction or when making a right-hand turn at an intersection or into a private driveway, the following vehicles must be driven in the left-hand traffic lane available for traffic or as close as practicable to the left edge of the roadway:
 - (a) A vehicle proceeding along a public road which is demarcated into traffic lanes at less than the normal speed of traffic at the time and place and under the conditions then existing;
 - (b) an animal-drawn vehicle;
 - (c) a bicycle; and
 - (d) a heavy motor vehicle.
- (3) No person may turn any vehicle that draws a semi-trailer, trailer or combination of vehicles at any crossing for the purpose of driving in the opposite direction.
- (4) A person who contravenes a provision of this section commits an offence.

5. Vehicle not to be driven on sidewalk or footpath

- (1) A person may not drive, draw or propel a vehicle, excluding a perambulator or invalid's chair, upon a footpath or sidewalk designed for use by pedestrians, except when it is necessary to do so to cross (by the shortest route) a footpath or sidewalk for the purpose of entering or leaving property abutting thereon.
- (2) A person who contravenes a provision of subsection (1) commits an offence.

Part 3: Parking

6. Control of parking

- (1) Whenever the public or a number of persons are entitled or allowed to use, as a parking place, an area of land, including land which is not part of a public road or a public place, an authorised official may, in cases of emergency or when it is desirable in the public interest, direct and regulate traffic thereon.
- (2) A person who disregards an instruction of a police officer commits an offence.

7. Parking in loading zone

- (1) No person who operates or who is in charge of a vehicle on a . may allow, subject to subsections (2) and (3) the vehicle to remain stationary in a loading zone –
 - (a) between the hours of 07:00 and 17:00 on Mondays to Fridays, except where such day is a Public Holiday;
 - (b) between the hours of 07:00 to 12:00 on Saturdays, except where such day is a Public Holiday; or

- (c) between other restricted hours as may be specified in respect of a particular loading zone by a road traffic sign or marking.
- (2) No person who operates or who is in charge of a vehicle on a public road may allow a vehicle, other than a goods vehicle, to remain stationary in a loading zone for more than five minutes continuously and only while actually loading or off-loading persons or goods and while a licensed driver is in attendance at the vehicle.
- (3) No person who operates or who is in charge of a vehicle on a public road may allow a goods vehicle to remain stationary in a loading zone for more than 30 minutes continuously and only while the vehicle is being actually loaded or unloaded.
- (4) The driver of a vehicle, other than a goods vehicle, stationary in a loading zone must immediately remove the vehicle from the loading zone upon being directed to do so by an authorised official, even if the vehicle has not been stationary therein for longer than the maximum period allowed in respect of a vehicle of that class.
- (5) A person who contravenes a provision of this section commits an offence.
- 8. Parking at bus stop**
- (1) No person who operates or who is in charge of a vehicle on a public road may in the case of a vehicle other than a bus, allow the vehicle to remain stationary in a bus stop between the hours of 06:00 and 18:00.
- (2) A person who contravenes subsection (1) commits an offence.
- 9. Parking in public road**
- (1) No person who operates or who is in charge of a vehicle on a public road may park the vehicle in any public road within the municipal area for a period beyond that indicated on a road traffic sign relevant to the specific area.
- (2) No person may, without the written consent of the Municipality, park a heavy motor vehicle designed, adapted or used for the conveyance of goods, between the hours of 19:00 and 5: 00 anywhere in the municipal area, except on private land or on those portions of the following public roads on which there have not been displayed road traffic signs regulating parking: that portion of XXX Road which lies
- (a) SPECIFY ROADS.....
- (b) etc
- (4) Application for consent must be made on the form provided for this purpose by the Municipality.
- (5) A person who contravenes a provision of this section commits an offence.
- 10. Parking upon traffic island**
- (1) No person may park a vehicle upon a traffic island, unless directed or instructed to do so by an authorised official.
- (2) A person who parks a vehicle upon a traffic island in contravention of subsection (1), or who fails to comply with a direction or instruction by an authorised official commits an offence.
- 11. Parking by dealer**
- (1) No dealer may park or allow to be parked in a public road within the municipal area, in the course of the dealer's business carried on by him or her, a vehicle which –
- (a) has been placed in his or her custody;
- (b) is under his or her control; or
- (c) is in his or her possession for the purpose of sale, exchange or garaging.
- (2) Subsection (1) does not apply if at the time the vehicle is –
- (a) being used for demonstration or testing purposes; or
- (b) in the course of being delivered to the owner or purchaser thereof.

- (3) A dealer who contravenes a provision of subsection (1) commits an offence.
- 12. Parking of repaired vehicle**
- (1) No person responsible for the control of a business of recovering or repairing vehicles may park, cause or permit to be parked, in any public road or place within the municipal area any vehicle that is in an obvious state of disrepair which has been placed in his or her charge in the course of the business of recovering or repairing.
- (2) A person who contravenes a provision of subsection (1) commits an offence.
- 13. Parking of heavy vehicles and caravans**
- (1) No person may, for an uninterrupted period exceeding two hours, except on places reserved for the parking of heavy vehicles, park on a public road within the municipal area -
- (a) a motor vehicle with a tare exceeding 3500 kg;
- (b) a trailer;
- (c) a semi-trailer, or
- (d) a caravan.
- (2) Whenever a vehicle is parked in contravention of subsection (1), it is deemed that such vehicle has been parked by the owner thereof, unless the contrary is proved.
- (3) A person who contravenes a provision of subsection (1) commits an offence.
- 14. Exemption of medical practitioners and nurses from parking restrictions**
- (1) (a) A registered general medical practitioner to whom a badge has been issued in terms of subsection (3)(a) and a registered nurse to whom a badge has been issued in terms of subsection (3)(a) are exempt from the provisions of any law, subject to paragraph (b), relating to parking in force in the Municipality when using on bona fide professional domiciliary visit a motor vehicle on which is displayed a badge conforming with the requirements of subsection (2) issued to him or her by the Municipality.
- (b) A person contemplated in paragraph (a) is not exempt from a provision prohibiting the stopping of a vehicle or the parking of a vehicle in a bus stop or across an entrance.
- (2) (a) The badge must be a windscreen sticker badge displaying on the face thereof -
- (i) a serial number; and
- (ii) the name of the person to whom it is issued.
- (b) The badge must be displayed on the lower left corner of the windscreen and must have a pocket in which the person contemplated in subsection (1) inserts a white card showing the address at which the holder of the badge is actually making a professional domiciliary visit at the time the motor vehicle to which it is affixed is parked, and the address shown on the card must be easily legible from outside the vehicle.
- (3) (a) Written application for the issue of a badge must be made to the Municipality and if the Municipality approves the application it must issue a badge bearing a registered serial number to the applicant.
- (b) The Municipality must keep a register in which it records the serial number allocated by it of the badge, the issue of which has been authorised by it, and the name of the holder.
- (c) The Municipality may issue a duplicate badge.
- (d) Where the Municipality has reason to believe that any holder of a badge is abusing a privilege conferred by a badge, it may withdraw the badge from the holder and the privileges conveyed by the badge shall thereupon cease.

- (4) Application for a badge must be made on a form provided for this purpose by the Municipality.
- (5) A person who displays a forged badge or a badge which was not issued by the Municipality, commits an offence.

Part 4: Obstruction on and work in public roads and public places, and water discharged onto public road

15. Obstruction

- (1) No person may deposit or cause to be deposited or leave or cause to be left sand, stone, earth, bricks, timber, lime, cement or other building or excavated material of whatever nature on a portion of a public road, sidewalk or footpath, unless it is deposited within an enclosure in respect of which the written consent of the Municipality has first been obtained.
- (2) Subject to section 19, no person may erect or cause to be erected a hoarding on a portion of a public road, sidewalk or footpath without the written consent of the Municipality first having been obtained.
- (3) Except with the written permission of the Municipality, and subject to such conditions as may be determined by the Municipality, no person may -
 - (a) deposit or leave any goods or articles in a public road or public place, or in an area designated therefore, other than for a reasonable period during the course of the loading, off-loading or removal thereof; or
 - (b) in any way obstruct the pedestrian traffic on a sidewalk by bringing or allowing to be brought thereon any object or vehicle (other than a perambulator or wheel-chair which is being used for the conveyance of children or the disabled); or
 - (c) cause or allow any blind, awning, cord or other object to project or to be stretched over or onto a public road.
- (4) If a person causes an obstruction on a public road or public place, an authorised official may instruct the person to refrain from causing an obstruction or to remove the obstruction, and should a person fail or neglect to remove, or to cease causing the obstruction, the authorised official may take such steps as may be necessary to remove the obstruction or to prevent its continuance, and the Municipality may recover the cost of the removal of the obstruction from that person.
- (5) If a person causing an obstruction cannot be found, an authorised officer may take such steps as may be necessary to remove the obstruction or to prevent its continuance.
- (6) Application for permission must be made on a form provided for this purpose by the Municipality.
- (7) A person who contravenes a provision of subsection (1), (2) or (3), or who fails to comply with an instruction by an authorised official under subsection (4) commits an offence.

16. Damage to public road, and excavation in public road

- (1) No person may place upon or off-load on a public road any matter or thing which is likely to cause damage to the public road, unless the person has taken reasonable precautions to protect the surface of the public road against damage.
- (2) Subject to subsection (4), no person may deface, tamper, damage, remove, or in any way interfere with municipal property or work on or along any public road.
- (3) No person may in any way deface, mark or paint any public road or part of the public road without the prior written consent of the Municipality.
- (4) Unless authorised to do so in terms of these By-laws or the Municipality's regulations on work in road reserves, no person may -
 - (a) make or cause to be made any hole, trench, pit or tunnel on or under any public road; or

- (b) remove any soil, metal or macadam from the public road.
- (5) No person may –
- (a) make, construct, reconstruct, or alter a public road or sidewalk except with the written permission of the Municipality and otherwise than in accordance with the requirements prescribed by the Municipality;
- (b) construct, subject to the Municipality's regulations pertaining to encroachments, a verandah, stoep, steps or other projection or erect a post in a public road or public place except with the written permission of the Municipality; or
- (c) except with the written permission of the Municipality –
- (i) use a balcony or verandah erected beyond the boundary line of a public road or public place for purposes of trading or the storage of goods, or for the washing or drying of clothes thereon; or
- (ii) enclose or partition, as a living or bedroom, a balcony or verandah erected beyond the boundary line of a public road or public place or portion thereof.
- (6) A person who is the owner of land on which any work is done is liable for any damage to any portion of a public road or public place caused by or in connection with the execution of such work by such owner, his or her employee or any independent contractor acting on behalf of such owner.
- (7) When any work which has to be undertaken on any land entails the driving of a vehicle over a kerb, sidewalk or road verge, the owner of such land may not commence, or allow any other person to commence any such work, unless and until the owner or person has deposited with the Municipality an amount sufficient to cover the cost of repairing any damage which may be caused to any portion of such public road or public place as a result of, or in connection with, the execution of such work by such owner, his or her employee or any independent contractor acting on behalf of such owner.
- (8) (a) After completion of the work contemplated in subsection (7), the Municipality may itself undertake the repair of any portion of such public road or public place as may have been damaged by such work and shall set off the cost of such repairs against such deposit.
- (b) If such cost is less than the amount of the deposit, the Municipality must refund the balance to the depositor, but if the amount of the deposit does not cover such cost, the owner is liable for the difference, which becomes payable on receipt of an account specifying the additional amount due.
- (9) No person other than an authorised official of the Municipality in the performance of his or her duties may apply, mark, paint or draw lines, marks, words, signs or advertisements on the surface of a public road or public place.
- (10) Application for consent contemplated in subsection (3), (4) or (5) must be made on a form provided for this purpose by the Municipality.
- (11) A person who contravenes a provision of this section commits an offence.

17. Damage to or destruction of public road surface

- (1) No person may –
- (a) use a vehicle or allow it to be used in any public road or public place if such vehicle is in such a defective condition that it will or may cause damage to any public road or public place; or
- (b) drive, push, roll, pull or propel any object, machine or other material through or along a public road or public place in such a way, or while such object, machine or material is in such a condition, as may damage, break or destroy the surface of the public road or public place in any way.

- (2) If the Municipality identifies a person who, as a result of the actions referred to in subsection (1), has damaged, broken or destroyed the surface of a public road or public place, the cost of repairs, as determined by the Municipality, may be recovered from the offender.
- (3) A person who contravenes a provision of subsection (1) commits an offence.

18. Work in public road or public place

- (1) No person may undertake any work in a public road or public place without the prior written permission of the Municipality first having been obtained.
- (2) The Municipality, when granting permission in terms of subsection (1), may impose any such conditions and fees as it may deem necessary.
- (3) A person referred to in subsection (2) must pay the prescribed fee as set out in the Municipality's tariff policy.
- (4)
 - (a) A person may by means of a written application, in which the reasons are given in full, apply to the Municipality for exemption from any condition contemplated in subsection (2).
 - (b) The Municipality may –
 - (i) grant an exemption in writing and the conditions in terms of which, if any, and the period for which such exemption is granted must be stipulated therein;
 - (ii) alter or cancel any exemption or condition in an exemption; or
 - (iii) refuse to grant an exemption.
 - (c) An exemption does not take effect before the applicant has undertaken in writing to comply with all conditions imposed by the Municipality under subsection (2), however, if an activity is commenced before such undertaking has been submitted to the Municipality, the exemption lapses.
 - (d) If any condition of an exemption is not complied with, the exemption lapses immediately.
- (5) A person who contravenes subsection (1) commits an offence.

19. Work done within two metres of public road

- (1) A person who wishes to –
 - (a) erect, remove, alter, repair or paint a building or structure or a part of a building or structure; or
 - (b) carry out any excavation on land, which is within two metres of a public road must, before he or she commences with the work, enclose or cause to be enclosed by means of an enclosure a space in front of the building, structure or land.
- (2) If the enclosure occupies or projects over a portion of a public road, the person must apply to the Municipality for permission, and if he or she is not the owner of the building, structure or land on which the work is done or is to be done, the owner must countersign the application.
- (3) The Municipality may determine what portion of a public road is necessary for the purpose of carrying out the work and in all cases where it so determines that the public road may be used for such carrying out of the work, grant to the person contemplated in subsection (2) permission in writing specifying:
 - (a) The portion in front of the building, structure or land which may be occupied for such purpose;
 - (b) the nature of the enclosure and, where applicable, the nature of a hoarding, fence, scaffolding or planked shed, or of an overhanging or covering;
 - (c) the precise position of that part of the public road where the enclosure, hoarding, fence, scaffolding, planked shed, an overhanging or covering is permitted;

- (d) the period for which the permit is granted; and
- (e) the conditions under which the permit is granted.
- (4) A person referred to in subsection (2) must pay the prescribed fee as set out in the Municipality's tariffs policy.
- (5) The Municipality reserves the right to withhold the permission required in terms of this section until –
 - (a) all prescribed fees have been paid, where applicable; and
 - (b) the person contemplated in subsection (2) accepts the permission without objection, which acceptance is taken to indicate that all kerbs, gutters and other works were in good order and condition on the date of the permission.
- (6) Application for permission must be made on a form provided for this purpose by the Municipality.
- (7) A person who contravenes subsection (1) or who does not apply for permission in terms of subsection (2) or who does not comply with a specification or condition prescribed or imposed under subsection (3) commits an offence.

20. Bridges and crossings over gutters and sidewalks

- (1) No private crossing, pathway, bridge or culvert may be made or built to or in front of any dwelling or other premises in any public road or public place except with the written permission of the Municipality, and subject to the requirements prescribed by the Municipality.
- (2) Application for permission must be made on the form provided for this purpose by the Municipality.
- (3) A person who contravenes subsection (1) commits an offence.

21. Building materials in public roads and public places

- (1) No person may bore or cut stone or bricks, slake or sift lime, or mix building materials, or store or place building materials or any other materials in a public road or public place except with the written permission of the Municipality, and subject to the requirements prescribed by the Municipality.
- (2) Application for permission must be made on the form provided for this purpose by the Municipality.
- (3) A person who contravenes subsection (1) commits an offence.

23. Discharge of water on public road

- (1) No person may, without prior written permission of the Municipality –
 - (a) lead or discharge water on, over or across a public road; or
 - (b) by any means whatever, raise the level of water in a river, dam or watercourse so as to cause interference with or endanger a public road .
- (2)
 - (a) A person who wishes to perform an action as contemplated in subsection (1), must submit to the Municipality an application which contains full technical details of the proposed action, and the Municipality may refuse or grant permission.
 - (b) Should the Municipality refuse permission, it must supply the person with the written reasons for the refusal.
 - (c) Should the Municipality grant the permission, it may do so subject to such conditions, requirements or specifications which it may determine in each individual case.
- (3) The Municipality may, subject to any law which may be applicable and after obtaining permission of the owner and the occupier of the land concerned, if any –
 - (a) deviate a watercourse, stream or river if the deviation is necessary for –

- (i) the protection of a public road or structure related to a public road;
or
 - (ii) the construction of a structure connected with or belonging to a public road; and
 - (b) divert storm water from or under a public road onto private property other than land containing buildings, other structures or improvements.
- (4) The Municipality must compensate the owner or occupier of the land for damage caused as a result of acting under subsection (3), with an amount agreed upon between the Municipality and the owner or occupier.
- (5) Application for permission must be made on a form provided for this purpose by the Municipality.
- (6) A person who contravenes subsection (1) or a condition, requirement or specification imposed or determined by the Municipality in terms of subsection (2)(c) commits an offence.

23. Overflow of water into public roads and public places

- (1) No person may cause or allow any water other than rainwater to flow into a public road or public place.
- (2) A person who contravenes subsection (1) commits an offence.

Part 5: Escorting of abnormal vehicles, events, processions, and shows

24. Escort of abnormal vehicles

- (1) Escort, by traffic officers, of a vehicle that is abnormally large, or that transports unsafe loads will be provided by the Municipality on application.
- (2) Subject to section 28, escort tariffs are charged per hour or part thereof per authorized officer and are calculated from the time as stipulated on the prescribed form until completion of the escort, provided that 30 minutes before commencement and 30 minutes after completion be included.
- (3) Escorts will only be supplied if all the requirements of the National Road Traffic Act, 1996 (Act 93 of 1996) are complied with.
- (4) Application for escorting by traffic officers in terms of subsection (1) must be submitted to the Municipality on a form provided for this purpose by the Municipality at least 14 days prior to date on which the escorting is required.

25. Races and sports events

- (1) An application for permission to hold a race or sports event on any public road must be submitted in writing by the organiser of the race or sports event to the Municipality on the form provided for this purpose by the Municipality at least 60 days prior to the envisaged event, and no person may hold a race or sports event on any public road without such permission having been granted by the Municipality.
- (2) Assistance by traffic officers will be provided by the Municipality on application, as contemplated in subsection (1).
- (3) The person contemplated in subsection (1) must pay to the Municipality the required tariffs and deposit as contemplated in section 28 for the costs to be incurred during the race or sports event
- (3) A person who holds a race or sports event in contravention of subsection (1) commits an offence.

26. Processions and gatherings

- (1) Subject to the provisions of sub-section (7), no person may hold, organise, initiate or control procession or gathering in a public road or public place, or dance or sing or play a musical

instrument, or do anything which is likely to cause a gathering of persons or the disruption or obstruction of traffic in such public road or public place, or use any loudspeaker or other device for the reproduction or amplification of sound without the written permission of the Municipality in terms of subsections (2) and (3).

- (2) Any person who intends to perform or carry out any one or more of the actions described in subsection (1) in any public road or public place must apply to the Municipality for permission on a form provided for this purpose by the Municipality, which application must reach the Municipality at least seven days before the date upon which any one or more of such actions is or are intended to be performed or carried out, however, persons who intend participating actively in a procession, or gathering in any public road need not apply to the Municipality for permission thereto and it is not illegal for such persons to participate actively in such procession or gathering if the organiser, promoter or controller thereof has obtained the permission of the Municipality.
- (3) An application made in terms of subsection (2) must contain the following:
 - (a) Full details of the name, address and occupation of the applicant;
 - (b) full details of the public road or public place where or route along which any one or more of the actions prescribed in subsection (1) is or are intended to be performed or carried out, proposed starting and finishing times or any one or more of the aforesaid actions and, in the case of processions and gatherings, the number of persons expected to attend; and
 - (c) general details of the purpose of any one or more of the aforesaid actions intended to be performed or carried out.
- (4) Any application submitted in accordance with subsection (2) shall be considered by the Municipality, and if any one or more of the actions to be performed or carried out as proposed in such application is or are not likely to be in conflict with the interests of public peace, good order or safety, the Municipality may grant permission for the performance or carrying out of any one or more of such actions subject to such conditions as the Municipality may deem necessary to uphold public peace, good order or safety.
- (5) The Municipality may refuse to grant permission for the performance or carrying out of any one or more of the actions described in subsection (1), if the performance or carrying out of such action or actions is or are in conflict with the interests of public peace, good order or safety.
- (6) The Municipality may withdraw any permission granted in terms of subsection (4), if, as a result of further information the performance or carrying out of the action or action in question will be in conflict with the interests of public peace, good order or safety.
- (7) The provisions of this section do not apply to –
 - (a) a wedding or funeral processions; and
 - (b) a gathering or demonstration as contemplated by the Regulation of Gatherings Act, 1993 (Act 205 of 1993), in which case the provisions of the Act will be applicable.
- (8) Assistance by traffic officers will be provided by the Municipality on application, as contemplated in subsection (2).
- (9) The person contemplated in subsection (2) must pay, where applicable, to the Municipality the required tariffs and deposit as contemplated in section 28 for the costs to be incurred during the race or sports event

27. Control of amusement shows and devices

- (1) No person may set up or use in any public road or public place any circus, whirligig, roundabout or other side-show or device for the amusement or recreation of the public –

- (a) except with the written permission of the Municipality first having been obtained and subject to such conditions as may be determined by the Municipality;
 - (b) unless suitable sanitary conveniences for both sexes of the staff have been provided; and
 - (c) if it is in any way dangerous or unsafe for public use.
- (2) An application for permission to act in terms of subsection (1) must be submitted in writing by the owner or organiser of the circus, whirligig, roundabout or other side-show or device to the Municipality on the form provided for this purpose by the Municipality at least 60 days prior to the date on which the circus, whirligig, roundabout or other side-show or device will be set up.
 - (3) Assistance by traffic officers will be provided by the Municipality on application, as contemplated in subsection (2).
 - (4) The person contemplated in subsection (2) must pay, where applicable, to the Municipality the required tariffs and deposit as contemplated in section 28 for the costs to be incurred during the duration of the circus, whirligig, roundabout or other side-show or device.
 - (5) An authorised official of the Municipality must, for the purposes of inspection, at all reasonable times have free access to such circus, whirligig, roundabout or other side-show or device.
 - (6) A person who contravenes subsection (1) commits an offence.

28. Tariffs for assistance with racing events, sporting events, processions and other gatherings in general

- (1) The payment of deposits and tariffs to the Municipality are subject to the following:
 - (a) The Municipality shall determine the estimated tariffs, and a deposit equal to these tariffs in respect must be paid in cash or by bank-guaranteed cheque at the date of application as contemplated in section 24(4), 25(1) or (2), 26 (2) or (8), or 27(3) or (4);
 - (b) any mutual adjustment must be made after conclusion of the sporting event, procession or gathering, or the setting up of the circus, whirligig, roundabout or other side-show or device, as soon as the actual costs have been determined by the Municipality;
 - (c) the Municipality may in its sole discretion exempt an applicant from the payment of the tariffs and the deposit upon written reasons being provided to the Municipality prior to the commencement of the escorting, race or sporting event, procession or gathering, or the set up of the circus, whirligig, roundabout or other side-show or device however in the event that the Municipality is unable to grant exemption for whatever reason prior to the commencement of the escorting, race or sporting event, procession or gathering, or the set up of the circus, whirligig, roundabout or other side-show or device the applicant must pay the tariffs, which shall, if exemption is granted thereafter, be refunded to the applicant;
 - (d) the Municipality may approve the appointment of marshals and prescribe their responsibilities and attire to perform functions on public roads or public places; and
 - (e) the Municipality shall prescribe the minimum number of marshal's required to assist at a race or sporting event, procession or gathering, or the set up of the circus, whirligig, roundabout or other side-show or device racing event, sporting event, procession and a gathering in general.
- (2) Subsection (1) does not apply to a funeral procession.

Part 6: Animals and animal drawn vehicles

29. Animal and animal drawn vehicle on public road

- (1) No person may drive or cause to be driven an animal drawn vehicle along or through the portions of the following public roads:
 - (a) SPECIFY ROADS/AREAS
 - (b) etc
- (2) No person may on a public road shoe, clean, dress, train, break-in or turn loose an animal.
- (3) No person who owns or who is in charge of an animal which is on a public road, may leave the animal on the public road if the animal is severely injured, feeble, emaciated, diseased or dying, except for the purpose of seeking assistance for the removal of the animal.
- (4) No person who owns or who is in charge of livestock may allow the livestock to be at large on a public road within the municipal area of the Municipality, and an authorised official may take any such live stock to a place designated by the Municipality.
- (5) No owner of an animal or person -
 - (a) in charge of any wild or ferocious animal, may allow such animal at any time to be insufficiently attended or at large in any public road or public place or may keep any such animal in such a manner as to be a danger or annoyance to the public;
 - (b) may allow, permit or cause any animal to graze or stray in or about any public road or public place; or
 - (c) may in any way obstruct the pedestrian traffic on a sidewalk by bring or allowing to be brought thereon any animal.
- (6) No person may -
 - (a) simultaneously drive or be in control of more than one animal-drawn vehicle in a public road or public place;
 - (b) drive or be in control of an animal-drawn vehicle in a public road or public place if he or she is under 16 years of age; or
 - (c) if he or she is in control of an animal-drawn vehicle in a public road, allow a person under 16 years of age to drive or be in control of such vehicle.
- (7) A person who contravenes a provision of this section commits an offence, and a person who contravenes subsection (4) is liable, in addition to payment of the penalty, to pay to the Municipality the cost incurred by it through the authorised official acting in accordance with subsection (4).

Part 7: Collections and handbills

30. Collections and distribution of handbills

- (1) No person may, except with the written permission of the Municipality first having been obtained, and subject to such conditions as determined by the Municipality -
 - (a) collect or attempt to collect money in a public road or public place or organise or in any way assist in the organisation of such collection;
 - (b) collect from door to door, beg or solicit or accept alms; or
 - (c) distribute a handbill or similar advertising material or cause it to be distributed in any public road or public place, or place any handbill or similar advertising material or cause it to be placed on or in any vehicle.
- (2) An application for permission in terms of subsection (1) must contain the following information and declarations:
 - (a) The name, address and a recent photograph of the applicant and any other person being in full age who is or are singularly or jointly responsible for the organisation, conduct and control of any such activity as contemplated in

- subsection (1)(a) to (c);
 - (b) the day on which and the hours between which the activity contemplated in paragraph (a) is to be undertaken;
 - (c) the portion or portions of the Municipality wherein the activity contemplated in paragraph (a) is to be undertaken;
 - (d) the object or objects for which the activity contemplated in paragraph (a) is to be undertaken or any funds, where applicable, from the proceeds of the activity are to be applied;
 - (e) whether the entire amount of funds contemplated in paragraph (d) is to be handed over without deduction of any kind whatsoever;
 - (f) that no child under the age of sixteen years will be employed or engaged in activity contemplated in paragraph (a);
 - (g) that no the activity contemplated in paragraph (a) is to be undertaken before 7:00 and after 18:00, unless prior written approval for the extension of these hours have been granted by the Municipality; and
 - (h) if the activity relates to an activity contemplated in subsection (1)(a), proof that the organisation or person intending to hold the public road collection is authorised to collect a contribution in terms of the Non-profit Organisations Act, 1997 (Act 71 of 1997), or the Fund Raising Act, 1978 (Act 107 of 1978), as the case may be.
- (3) An application fee as determined by the Municipality may be levied in respect of any application in terms of subsection 1(c).
 - (4) Every organisation or person holding a public road collection is entitled to use its, his or her own identifiable collection boxes and if any organisation or person does not possess any boxes, the Municipality's collection boxes may be used upon payment of the prescribed fee.
 - (5) An organisation or person who contravenes subsection (1) or a condition contemplated in subsection (1), commits an offence.

Part 8: Trolleys

31. Trolleys

- (1) The owner of a trolley must affix an identifying token in a conspicuous position on the trolley.
- (2) The owner or the person who controls or has the supervision over a trolley or who offers it to be used by a person, or who uses it for any purpose whatsoever, may not leave or abandon it or permit it to be left or abandoned on a public road.
- (3) A trolley that has been left or abandoned on a public road may be removed, or caused to be removed, by an authorised official and be placed under the care of the official in charge of a municipal store which was established by the Municipality for the purpose.
- (4) The official in charge of the store must store a trolley which has been placed under his or her care at the municipal store, and the Municipality must publish once every month a notice in two newspapers circulating within the municipal area, which states –
 - (a) the name of the owner of the trolley, if known;
 - (b) the number of trolleys of the owner being so stored;
 - (c) that the trolley may be claimed by the owner from the Municipality on payment of the prescribed fee for storage and on proof of ownership; and
 - (d) that a trolley that has not been claimed after a period of three months from the date of publication of the notice, may be sold by the Municipality by public auction.
- (5) The proceeds of the public auction in terms of subsection (4)(d) is revenue in favour of the Municipality for the following costs incurred by the Municipality to defray expenses:
 - (a) The removal of such supermarket trolley;

- (b) the keeping of the supermarket trolley in custody;
 - (c) the endeavour to trace the owner; and
 - (d) the cost of the public auction,
and the remainder, if any, will be refunded to the owner of the supermarket trolley.
- (6) The Municipality is not liable for the theft, damage to or loss of any trolley while the trolley is stored in the municipal store or when sold by public auction.
- (7) A person who contravenes subsection (1) or (2) commits an offence.

Part 9: Wires and fencing

32. Barbed wire, dangerous and electrical fencing

- (1) No person may erect or cause or permit to be erected along a public road or public place, or may have along a public road or public place, an electrified fence, electrified railing or other electrified barrier, unless –
- (a) the electrified fence, electrified railing or other electrified barrier is erected on top of a wall which may not be less than two metres high and built of brick, cement, concrete or similar material;
 - (b) the electrified fence, electrified railing, or other electrified barrier is designed and installed in accordance with a standard issued in terms of the Standards Act, 1993 (Act 29 of 1993); and
 - (c) the person has obtained the prior written consent of the Municipality in terms of the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977).
- (2) (a) A person who wishes to erect an electrified fence, electrified railing or other electrified barrier as contemplated in subsection (1), must submit to the Municipality an application for permission, which application contains full technical details of the proposed electrified fence, electrified railing or other electrified barrier, and the Municipality may refuse or grant the permission.
- (b) Should the Municipality refuse permission, it must supply the person in writing with the reasons for the refusal.
- (c) Should the Municipality grant the permission, it may do so subject to conditions, requirements or specifications which it may determine in each individual case.
- (3) Subsections (1) and (2) apply to an owner or occupier of an agricultural holding or farm land as well.
- (4) No owner or occupier of land may erect or cause or permit to be erected along a public road or public place a barbed-wire fence, railing, paling, wall or other barrier which, by reason of –
- (a) spikes or other sharp or pointed protrusions; or
 - (b) the nature of its construction or design,
is or may become a danger to a member of the public using the public road or public place.
- (5) Subsection (4) does not apply to an owner or occupier of an agricultural holding or farm land.
- (6) Application for permission must be made on a form provided for this purpose by the Municipality.
- (7) A person who erects or causes or permits to be erected along a public road or public place, or who has along a public road or public place, an electrified fence, electrified railing or other electrified barrier without having first obtained the prior written consent of the Municipality in terms of subsection (1)(c), or who does not comply with any specifications or conditions prescribed or imposed in terms of subsection (2)(c) or who contravenes subsection (4) commits an offence.

Part 10: Miscellaneous prohibitions

33. Cleaning, repairing and cleanliness of public road

- (1) No person may clean any part of a vehicle, or wash, dry or paint any article or object on any public road.
- (2) No person may repair any part of a vehicle on any public road, except when minor repairs necessitated by a temporary or sudden stoppage of the vehicle need to be done for the purpose of setting the vehicle in motion.
- (3) No person may spill, drop or place or permit to be spilled, dropped or placed, on any public road any matter or substance that may interfere with the cleanliness of the public road, or cause or is likely to cause annoyance, danger or accident to a person, animal, vehicle or other traffic using the public road.
- (4) A person who performs an action contemplated in subsection (3) must immediately remove or cause to be removed the matter or substance from the road, and if the person fails to remove the matter or substance, the Municipality may remove the matter or substance and recover the cost of removal from the person.
- (5) A person who contravenes a provision of this section commits an offence.

34. Loitering and queuing on public road

- (1) No person may –
 - (a) lie or sit so as to obstruct traffic on a public road;
 - (b) loiter or walk, or otherwise act on a public road in a manner that may obstruct traffic; or
 - (c) stand or congregate, except when forming part of a queue, on a public road within 20 metres of the entrance to a place of public entertainment so as to obstruct traffic or a person proceeding to, attending at, or departing from the place of entertainment.
- (2) A person performing any of the prohibited acts mentioned in subsection (1) must, upon instruction by an authorised official, discontinue to do so.
- (3) A person who contravenes subsection (1) or who fails to comply with an instruction by an authorised official commits an offence.

35. Poison in public roads or public places

- (1) No person other than an official of the Municipality or an authorised person who administers legally approved weed-killers or poisons, may use, set or cast poison in any public road or public place.
- (2) A person who contravenes subsection (1) commits an offence.

36. Skating, games, and nuisances

- (1) No person may, except with the written permission of the Municipality first having been obtained –
 - (a) skate on roller skates or a skate board or a similar device in or on a public road or public place or in or upon an area where skating is prohibited by an applicable road traffic sign; or
 - (b) roll any hoop, or fly any kite, throw or hit stones or balls, or use any bow and arrow or catapult, or by any means discharge any missile upon, over, or across any public road.
- (2) No person may –
 - (a) play cricket or football or any game, or indulge in any pastime whatsoever in or upon any public road, except on such places as the Municipality may set apart for the purposes of a particular game, sport or pastime; or

(b) do anything in a public road or public place which may endanger the life or safety of any person, animal or thing or create a nuisance, obstruction or annoyance to the public.

- (3) Application for permission in terms of subsection (1) must be made on the form provided for this purpose by the Municipality.
- (4) A person who contravenes a provision of subsection (1) or (2) commits an offence.

37. Advertisements visible from public road

(1) Subject to the Municipality's regulations pertaining to the display of advertising signs, no person may display any advertisement, placard, poster or bill in a public road except with the written permission of the Municipality and subject to such conditions as may be determined by the Municipality.

(2) A person who contravenes a provision of subsection (1) commits an offence.

38. Trees

(1) No person may –

- (a) plant a tree or shrub in a public road or public place, cut down a tree or a shrub in a public road or public place or remove it there from, except with the written permission of the Municipality;
- (b) climb, break or damage a tree growing in a public road or public place; or (c) in any way mark or paint any tree growing in a public road or public place or, subject to the Municipality's regulations pertaining to the display of advertising signs, attach any advertisement thereto.

(2) Any tree or shrub planted in a public road or public place is the property of the Municipality.

(3) Whenever there is upon any property any tree or other growth which interferes with overhead wires or is a source of annoyance, damage, danger or inconvenience to persons using a public road or public place, the Municipality may by notice in writing order the owner or occupier of such property to prune or remove such tree or growth to the extent and within the period specified in such notice.

(4) A person who contravenes a provision of subsection (1), or who fails to comply with a notice issued in terms of subsection (3) commits an offence.

(5) If any person fails to comply with a notice in terms of subsection (3), the Municipality may itself prune or remove the tree or growth at the expense of the person on whom the notice was served.

39. Dumping of waste

(1) Subject to the Municipality's waste management regulations, no person, except with the written permission of the Municipality and subject to such conditions as may be determined by the Municipality, may –

- (a) dump, leave or accumulate any garden refuse, motor vehicle wrecks, spare parts of vehicles, building or waste materials, rubbish or any other waste products in any public road or public place; or
- (b) permit any such objects or substances to be dumped or placed in a public road or public place from premises owned or occupied by him or her.

(2) A person who contravenes a provision of subsection (1) commits an offence.

40. Article placed in building facing public road

(1) No person may place in a building or other part of a building near a public road an article which, if it were to fall, is likely to cause injury or damage to a person or property, without taking all reasonable steps against it falling onto the public road.

(2) A person who contravenes a provision of subsection (1) commits an offence.

41. Outspanning in public roads

- (1) No person may outspan or allow to be outspanned in any public road or public place any vehicle drawn by animals, or detach or leave in any public road or public place any trailer, caravan or vehicle which is not self-propelled, however, this provision does not apply when such vehicle is being loaded or unloaded.
- (2) A person who contravenes subsection (1) commits an offence.

42. Openings and doors on public roads

- (1) No person may leave open –
 - (a) any entrance from the public road; or
 - (b) any vault, cellar, basement, or underground room without a sufficient fence or handrail to prevent persons from falling into such vault or leave any door or other covering on such vault in a defective condition.
- (2) No person may leave any manhole or opening in an unsafe condition.
- (3) No person may open or remove any manhole cover without the written authority of the Municipality or unless such opening or removal is in the executing of his duty.
- (4) A person who contravenes a provision of this section commits an offence.

43. Miscellaneous prohibitions

- (1) No person may, in a public road or public place –
 - (a) sing an obscene or profane song;
 - (b) use profane, foul, indecent or obscene language;
 - (c) use threatening, abusive or insulting words or make gestures or behave in a manner with intent to cause a breach of the peace or whereby a breach of the peace is likely to be occasioned;
 - (d) erect a tent or place a chair or any article for the purpose of a funeral, party or any other event without the prior written permission of the Municipality;
 - (e) use or drive or cause or permit to be used or driven a cart of the type known as a "soap box cart" or any other cart of the like nature, otherwise than in the course of or for the purpose of business, however the Municipality may permit the use of a cart in connection with an organised sports event, game, or race;
 - (f) operate a motor vehicle in such a manner as to cause excess noise which can be avoided by the exercise of reasonable care on his or her part;
 - (g) or on, under or across a public road or public place place a rope, wire or pole or hang or place anything whatsoever thereon without the prior written permission of the Municipality;
 - (h) when travelling on a public road upon a pedal cycle, motor cycle, coaster or similar device, cling to or attach himself or herself or the pedal cycle, motor cycle, coaster or similar device to any other moving vehicle;
 - (i) appear unclothed or appear without being clothed in such a manner as decency demands.
 - (j) or in view of a public road urinate, excrete, behave in an indecent manner by exposing his or her person, or make use of an indecent gesture or commit, solicit or provoke a person to commit a riotous, disorderly or indecent act;
 - (k) operate a rickshaw or similar carriage;
 - (l) ride on a pedal cycle or tri-cycle at night without being clearly visible from a distance of not less than 50m and such cycle must be equipped with a lamp emitting white light to the front and a lamp emitting red light to the back of such cycle;
 - (m) use or permit to be used –

- (i) any cycle excluding a tricycle, to carry goods exceeding 50kg in mass; or
 - (ii) any tricycle to carry goods exceeding 110kg in mass;
 - (n) carry any other person upon the handlebars, frame or tank of a cycle or motorcycle, or ride in above manner upon any such vehicle.
 - (o) carry or convey through the carcass of an animal or any garbage, night soil, refuse, litter, rubbish, manure, gravel or sand, unless -
 - (i) it is properly covered; and
 - (ii) it is conveyed in such type of container or in such a manner as will not allow any offensive liquids or parts of the load to be spilt in the public road or public place;
 - (p) dry or spread washing on a fence on the boundary fence;
 - (q) beat or shake any carpet, rug or mat, except doormats shaken or beaten before 08:00 in the morning;
 - (r) carry any large bundle or basket or any pointed or edged tools not properly protected, or any ladder, plank or pole or any bag of soot, lime or other offensive substance, or other package or thing calculated to obstruct, inconvenience, or annoy pedestrians upon any footpath, except for the purpose of loading or unloading any vehicle or when necessarily crossing the footpath;
 - (s) deface, damage or in any way interfere with any notice board, road traffic sign, public road name board or other similar sign or any hoarding which has been erected in a public road or public place by or with the permission of the Municipality;
 - (t) sleep in a vehicle other than a motor vehicle parked in a taxi rank or on some other stand duly allocated by the Municipality;
 - (u) erect any shelter;
 - (v) wash or dry clothes, blankets or any other domestic articles;
 - (w) fight or act in a riotous manner;
 - (x) discharge a firearm, airgun or air-pistol;
 - (y) annoy or inconvenience any other person by yelling, shouting or making any noise in any manner whatsoever;
 - (z) solicit or importune any person for the purpose of prostitution or immorality;
 - (aa) engage in gambling;
 - (bb) use intoxicating liquor or drugs;
 - (cc) wash himself or herself; or
 - (dd) spit.
- (2) Application for permission in terms of subsection (1)(d), (e) and (g) must be made on the form provided for this purpose by the Municipality.
- (3) A person who contravenes a provision of subsection (1) commits an offence.

Part 11: Closure and constructions and naming of public roads, numbering of premises, and direction of traffic

44. Closure of public roads and public places

- (1) No person may, without the approval of the Municipality, close or barricade any public road or public place or restrict access thereto.
- (2) The Municipality may permanently close or divert any public road or public place or part thereof or restrict access to any public road or public place.
- (3) When the Municipality decides to act in terms of subsection (2), it must give notice of such intention in terms of its communication policy, and in the absence of such policy the

- Municipality must give notice of its intention in a local newspaper in at least two official languages.
- (4) Any objection against the intended action must be delivered in writing to the Municipality within 30 days from the date of notification in terms of subsection (3).
- (5) The Municipality may, without complying with the provisions of subsection (3) -
- (a) temporarily close a public road or public place -
- (i) for the purpose of or pending the construction, reconstruction, maintenance or repair of such public road or public place;
- (ii) for the purpose of or pending the construction, erection, laying, extension, maintenance, repair or demolition of any building, structure, works or service alongside, on, across, through, over or under such public road or public place -
- (aa) if such public road or public place is dangerous to traffic;
- (bb) by reason of any emergency or public event which requires special measures for the control of traffic or special provision for the accommodation of crowds; or
- (iii) for any other reason which renders the temporary closing of such public road necessary; and
- (b) temporarily divert a public road which has been closed in terms of paragraph (a). (6) The Municipality may in his discretion, for general information, place a notice of such temporary closure in terms of subsection (5) in a local newspaper.
- (7) Application for permission in terms of subsection (1)(d), (e) and (g) must be made on the form provided for this purpose by the Municipality.
- (8) A person who contravenes subsection (1) commits an offence.

45. Construction, maintenance, naming and declaration of public roads and public places

- (1) The Municipality may -
- (a) make, construct, reconstruct, alter and maintain a public road or public place; and
- (b) name and re-name public roads or public places.
- (2) The Municipality may -
- (a) declare any land or portion of land under its control to public road, or any public road or portion thereof to be a public place;
- (b) declare any private public road or portion thereof to be a public road, or any place or portion thereof to be a public place.
- (3) When the Municipality decides to act in terms of subsection (1), it must give notice of such intention in terms of its communication policy, and in the absence of such policy, the Municipality must give notice of its intention in a local newspaper in at least two official languages.
- (4) Any objection against the intended action must be delivered in writing to the Municipality within 30 days from the date of notification in terms of subsection (3)

46. Numbering of premises

- (1) The Municipality may prescribe by notice in writing to the owner of any premises that a number allocated to such premises by the Municipality must be displayed, and the owner of such premises must, within 30 days of the date of such notice, display the allocated number on the premises.
- (2) A number displayed as contemplated by sub-section (1) must -
- (a) be displayed in a conspicuous position on the premises and must at all times be visible and legible from the adjacent public road; and

- (b) be replaced by the owner of the premises as often as it gets obliterated, defaced or illegible.
- (3) The Municipality may allocate and re-allocate numbers to properties abutting on public roads and public places.
- (4) A person who contravenes a provision of subsection (1) or (2) commits an offence.

CHAPTER 2: PARKING METERS

47. Municipality may install parking meters

- (1) The Municipality may by resolution install or cause to be installed in a public road or place in the municipal area –
 - (a) a parking meter at a demarcated parking bay; or
 - (b) a combined parking meter at demarcated parking bays.
- (2) The Municipality must install a parking meter contemplated in subsection (1) upon the kerb, footpath or sidewalk which adjoins the parking bay or bays in respect of which it is installed.
- (3) A parking meter must –
 - (a) clearly indicate the time allowed for parking in the parking bay;
 - (b) clearly indicate the prescribed coin or coins which may be deposited in the appropriate slot of the meter;
 - (c) clearly display a notice which indicates that no parking may take place in the parking bay if the meter is out of order; and
 - (d) be fitted with an easily visible device (the "indicator") which must indicate clearly, as the case may be –
 - (i) the time allowed for parking when the prescribed coin has been inserted;
 - (ii) that the time allowed for parking has expired; or
 - (iii) that the parking meter has not been set in operation
- (4) In the instance where a parking meter is not automatically activated by the insertion of a prescribed coin, a notice which indicates the kind of action to be taken in order to set the meter in operation once the prescribed coin has been inserted, must be clearly displayed on the parking meter.
- (5) In the instance where a meter is out of order, an authorised official may securely place over the meter a hood carrying in legible letters the words: "Out of order. Do not park in this bay".

48. Method of parking

- (1) No driver or person in charge of a vehicle may park the vehicle –
 - (a) in a metered parking bay across a painted line marking the bay or in such a position that the vehicle is not entirely within the area demarcated as a metered parking bay;
 - (b) in a metered parking bay which is already occupied by another vehicle; or
 - (c) in a metered parking bay in contravention of a road traffic sign which prohibits the parking or stopping of vehicles in the public road or portion of the public road concerned.
- (2) A person who contravenes a provisions of subsection (1) commits an offence.

49. Payment for parking

- (1) (a) When a vehicle is parked in a metered parking bay, the driver or person in charge of the vehicle must immediately deposit or cause to be deposited in the parking meter which adjoins the parking bay or bays in respect of which it is installed the prescribed coin or coins as indicated on the meter for the period of time during which he or she desires to park his or her

vehicle in the bay, and must set the meter in operation either by inserting the prescribed coin in the appropriate slot of the parking meter, or where applicable, in accordance with the instructions appearing on the parking meter, and a driver or person in charge of a vehicle who fails to do so, commits an offence.

- (b) On completion of the actions prescribed in paragraph (a), the metered parking bay may be lawfully occupied by the vehicle during the period which is indicated on the parking meter, but no longer, however a driver or person in charge of a vehicle may, without payment, park the vehicle during such time (if any) as may be indicated on the parking meter as being unexpired from its previous use.
- (2) Subject to the provisions of subsection (3), the driver or person in charge of a vehicle may again, when the authorised period of parking has expired, immediately set the parking meter in operation as set out in subsection (1)(a), and after the meter has been set in operation, the vehicle may lawfully occupy the parking bay for the further period indicated on the parking meter.
- (3) No person may, either with or without the insertion of a fresh coin in the parking meter, leave a vehicle parked in a parking bay for a continuous period exceeding the maximum permissible parking time as indicated on the meter, and a person who leaves a vehicle parked in a parking bay for a continuous period exceeding the maximum permissible parking time as indicated on the meter, commits an offence.
- (4) Subject to the provisions of section 17, no driver or person in charge of a vehicle may cause, allow, permit or suffer the vehicle to be or remain parked in a metered parking bay while the indicator of the parking meter shows that –
- (a) the time has expired; or
- (b) that the parking meter has not been set in operation either by the insertion of the prescribed coin or, where applicable in accordance with the instructions appearing on the parking meter, and a driver or person in charge of a vehicle who contravenes a provision of this subsection commits an offence.
- (5) Where a parking meter cannot be set in operation despite compliance or attempted compliance with the procedure prescribed in subsection (1)(a), no driver or person in charge of a vehicle may cause, allow, permit or suffer the vehicle to be or remain parked in the parking bay for a continuous period exceeding the period which was indicated by the indicator of the parking meter when such vehicle was parked in the said parking bay, however if –
- (a) the indicator shows that –
- (i) the time has expired;
- (ii) the parking meter has not been set in operation; or
- (b) a hood has been placed over the parking meter as envisaged in section 31(5), no driver or person may cause, allow, permit or suffer the vehicle to be or remain parked in the parking bay, and a driver or person in charge of a vehicle who contravenes a provision of this subsection commits an offence.

50. Municipality may prevent parking at parking bay

An officer authorised by the Municipality to display road traffic signs may, whenever necessary or expedient to do so in the interests of the movement or control of traffic, place or erect a traffic sign or signs indicating "No Stopping" or "No Parking" at a parking bay or bays, and no person may stop or park a vehicle or cause or permit a vehicle to be stopped or parked in such parking bay or bays –

- (a) while the sign is so placed or erected; or

- (b) during any period when the stopping or parking of a vehicle in the public road or portion of the public road concerned is prohibited in terms of such traffic sign, and a person who contravenes a provisions of this section commits an offence.

51. Tampering with parking meter

- (1) No person may misuse a parking meter or interfere or tamper or attempt to misuse, interfere or tamper with the working operation or mechanism of a parking meter.
- (2) No person may, without authority from the Municipality, affix or attempt to affix or place a placard, advertisement, notice, list, document board or thing on a parking meter.
- (3) No person may paint, write upon or disfigure a parking meter.
- (4) A person who contravenes a provision of this section commits an offence.

52. Prescribed coin only to be deposited

- (1) No person may deposit or cause to be deposited in a parking meter anything whatever other than the prescribed coin or coins.
- (2) A person who contravenes a provisions of subsection (1) commits an offence.

53. Unlawful operation of parking meter

- (1) No person may operate or attempt to operate a parking meter by any means other than as prescribed in these By-laws.
- (2) A person who contravenes a provisions of subsection (1) commits an offence.

54. Unlawful parking

- (1) No person may cause, allow, permit or suffer any vehicle to be parked in a metered parking bay, except as permitted by the provisions of these By-laws.
- (2) Where any vehicle is found to have been parked in contravention of these By-laws, it is deemed to have been parked or caused to be parked or allowed to have been parked by the person in whose name the vehicle is registered unless and until he or she adduces evidence to the contrary.
- (3) A person who contravenes a provision of subsection (1) commits an offence.

55. Exemptions

- (1) Notwithstanding any other provision in these By-laws, the driver or person in charge of the following vehicles may, subject to the provisions of this section, park in a metered parking bay without payment of the prescribed fee:
- (a) A vehicle used as an ambulance and being at the time used on urgent ambulance service;
- (b) a vehicle used by a fire brigade for attendance at fires and being at the time used by the brigade in carrying out its duties; and
- (c) a vehicle used by a member of the South African Police Service and being at the time used in connection with the execution of urgent police duties.
- (2) Subject to any time limits or restrictions regarding the stopping or parking of vehicles as are prescribed by any other law or regulations or by-laws made thereunder, a metered parking bay may be occupied without charge on –
- (a) Sundays and Public Holidays;
- (b) Saturdays after 13h00; and
- (c) any other day of the week during the period from 17h00 to 08h00 on the following day.

CHAPTER 3: PARKING GROUNDS

Part 1: General provisions

56. Municipality not liable for loss or damage

The Municipality is not liable for the loss of or damage howsoever caused, to any vehicle, or any accessories or contents of a vehicle which has been parked in a parking ground.

57. Interference with attendant

- (1) No person may obstruct, hinder or in any manner interfere with an authorised official who is the attendant of the parking grounds in the exercise of his or her duties under these By-laws.
- (2) A person who contravenes a provision of subsection (1) commits an offence.

58. Payment of prescribed fee

- (1) A person making use of a parking ground or parking bay must, where fees have been determined in respect of the parking ground or parking bay, pay the prescribed fee.
- (2) The Municipality may in respect of a parking ground controlled by the issue of coupons, issue at the prescribed fee a coupon which entitles the holder for one calendar month or any lesser period stated in the coupon to park a vehicle in the ground, if a parking bay is available, at the times stated in the coupon.
- (3) The Municipality may issue to any of its officials a coupon which entitles the holder, when using a vehicle regarding the business of the Municipality, to park the vehicle in a parking ground specified, if space in the parking ground is available.
- (4) A coupon issued under subsection (2) or (3) –
 - (a) may not, without the prior written consent of the Municipality –
 - (i) be transferred to any other person; or
 - (ii) be used in respect of any vehicle other than the specified vehicle;and
 - (b) must be affixed by the holder of the coupon to the vehicle in respect of which it is issued in such manner and place that the written or printed text of the coupon is readily legible from the outside of the vehicle.
- (5) Application for consent contemplated in subsection (4)(a) must be made on a form provided for this purpose by the Municipality.
- (6) A person who contravenes subsection (1), or who uses a parking ground or parking bay when the period for which a coupon was issued in terms of subsection (2) has elapsed, or who contravenes a provision of subsection (4) commits an offence.

59. Trading

- (1) No person may upon a parking ground carry on any business, trade or calling or perform any act in connection therewith.
- (2) A person who contravenes a provision of subsection (1) commits an offence.

60. Observance of signs

- (1) A person in a parking ground must observe and comply with any traffic or other sign, notice or surface marking which is placed or displayed on the parking ground for the purpose of directing and regulating vehicles using the parking ground or the entrance or exit to the parking ground.
- (2) A person who contravenes a provision of subsection (1) commits an offence.

61. Parking and removal of vehicle

- (1) No person may in any parking ground park a vehicle otherwise than in compliance with an instruction or direction given by an authorised official, or introduce or remove a vehicle otherwise than through an entrance or exit to the parking ground demarcated for that purpose.
- (2) Where parking bays have been demarcated in a parking ground, no person having control or charge of a vehicle may park the vehicle –
 - (a) in a place on the parking ground which is not a demarcated parking bay, unless instructed to do so by the authorised attendant at the parking ground;
 - (b) in a parking bay across a painted line marking the bay or in such a position that the vehicle is not entirely within the area demarcated as a parking bay; or
 - (c) in a parking bay which is already occupied by another vehicle.
- (3) No person may park a vehicle on a sidewalk or a roadway within a parking ground.
- (4) No person may in a parking ground park a vehicle in a manner which obstructs or inconveniences other users of the parking ground.
- (5) No person may park or cause or permit a vehicle other than a vehicle as defined in the National Road Traffic Act, 1996 (Act 93 of 1996), to be parked or to be or remain in a parking ground.
- (6) A person who contravenes a provision of this section commits an offence.

62. Abandoned vehicle

- (1) The Municipality may remove, to the Municipality's pound, a vehicle which has been left in the same place in a parking ground for a continuous period of more than seven days.
- (2) The Municipality must take all reasonable steps to trace the owner of a vehicle which was removed in terms of subsection (1), and if the owner of the vehicle or the person entitled to possession of the vehicle cannot be found within a period of 90 days after the vehicle has been removed, the Municipality may, subject to the provisions of subsection (3), sell the vehicle at a public auction.
- (3) The Municipality must, 14 days before the auction contemplated in subsection (2), publish or cause to be published in at least two newspapers circulating within the municipal area, a notice of the auction, however if the owner or the person entitled to possession of the vehicle claims the vehicle before the auction commences, the vehicle may not be sold at the auction and the person must pay to the Municipality all prescribed fees payable in terms of these By-laws and the applicable costs in terms of subsection (4).
- (4) The proceeds of a sale concluded in terms of this section must be applied first in payment of the fees referred to in subsection (3) and thereafter to defray the following:
 - (a) The costs incurred in endeavouring to trace the owner in terms of subsection (2);
 - (b) the costs of removing the vehicle;
 - (c) the costs of publishing the notice of the auction;
 - (d) the costs of effecting the sale of the vehicle; and
 - (e) the costs, calculated at a rate determined by the Municipality, of keeping the vehicle in the pound, and the balance, if any, of the proceeds must be paid, upon claim, to the owner of the vehicle or the person entitled to the vehicle if he or she can prove his or her right to the vehicle.
- (5) If no claim is established within one year of the date of the sale, the balance of the proceeds contemplated in subsection (4) is forfeited to the Municipality.
- (6) No person may leave a vehicle in the same place in a parking ground for a continuous period of more than seven days, and a person who does so commits an offence.

- 63. Damage to notices**
(1) No person may remove, mutilate, obscure or in any manner damage or interfere with a notice, notice-board, sign or other thing placed by the Municipality on a parking ground.
(2) A person who contravenes a provision of subsection (1) commits an offence.
- 64. Negligent and dangerous driving**
(1) No person may, on a parking ground, drive a vehicle negligently or in a manner dangerous to the public or to another vehicle.
(2) A person who contravenes a provision of subsection (1) commits an offence.
- 65. Entering or remaining in parking ground**
(1) No person may enter, remain or be on a parking ground otherwise than for the purpose of parking on the parking ground a vehicle, or lawfully removing from the parking ground a vehicle, in respect of which he or she has paid the prescribed parking fee, however this section does not apply to a person in the company of a person who is parking or removing a vehicle.
(2) A person who contravenes a provisions of subsection (1) commits an offence.
- 66. Tampering with vehicle**
(1) No person may, on a parking ground, without reasonable cause or without the knowledge or consent of the owner or person in lawful charge of a vehicle, in any way interfere or tamper with the machinery, accessories, parts or contents of the vehicle, or enter or climb upon the vehicle or set the machinery of the vehicle in motion.
(2) A person who contravenes a provision of subsection (1) commits an offence.
- 67. Defacing coupon**
(1) No person may in a parking ground with intent to defraud the Municipality forge, imitate, deface, mutilate, alter or make a mark upon a parking coupon issued in terms of these By-laws.
(2) A person who contravenes a provision of subsection (1) commits an offence.
- 68. Defective vehicle**
(1) No person may park or cause or permit a vehicle which is mechanically defective or for any reason incapable of movement, to be parked or to be or remain in a parking ground.
(2) If a vehicle, after having been parked in a parking ground, develops a defect which renders it immobile, the person in charge must take all reasonable steps to have the vehicle repaired if minor emergency repairs can be effected, or removed within a reasonable time.
(3) A person who contravenes a provision of subsection (1) or subsection (2) commits an offence.
- 69. Cleaning of vehicle**
(1) No person may in a parking ground clean or wash a vehicle.
(2) A person who contravenes a provision of subsection (1) commits an offence.
- 70. Refusal of admission**
(1) An authorised official may refuse to admit into a parking ground a vehicle which, together with its load is longer than five metres, or is by reason of its width or height likely to cause damage to persons or property or to cause an obstruction or undue inconvenience.
(2) A person who disregards an authorised official's refusal of admission commits an offence.
- 71. Parking hours and classes of vehicles**
(1) The Municipality may, subject to the provisions of these By-laws, permit the parking on a parking ground during the hours when the parking ground is open for parking of such classes of vehicles as it may determine.

- (2) The Municipality must, in a notice posted at the entrance to the parking ground, set out the classes of motor vehicles which may be parked in the parking ground, and the opening and closing hours of the parking ground.
- (3) The Municipality may, notwithstanding a notice posted in terms of subsection (2), by notice exhibited on a parking ground, close the parking ground or a portion of a parking ground, either permanently or for a period stated in the notice, for the parking of vehicles.
- (4) No person may park a vehicle or allow a vehicle to remain parked on a parking ground or portion of a parking ground which has been closed under subsection (3), or at any time other than during the hours for the parking of vehicles on the parking ground as determined by the Municipality from time to time.
- (5) No person may park on the parking ground a vehicle which is not of the class or classes which may use the parking ground for parking as set out in the notice erected at the entrance to the parking ground.
- (6) No person may, unless he or she is the holder of a parking coupon issued in terms of these By-laws authorising him or her to do so, park a vehicle or cause or permit it to be parked in a parking ground before the beginning or after the expiry of the parking period determined for the parking ground.
- (7) A person who contravenes a provision of subsection (4), (5) or (6) commits an offence.

72. Reservation by Municipality

- (1) The Municipality may by notice exhibited in the parking ground reserve a portion of a parking ground for the parking of vehicles owned by the Municipality or vehicles used by members of its staff on the business of the Municipality.
- (2) A person who parks a vehicle in a portion reserved for the parking of vehicles owned by the Municipality or for members of Municipality's staff, commits an offence.

Part 2: Mechanically controlled parking ground

73. Parking of vehicle in mechanically controlled parking ground

- (1) A person who –
 - (a) wishes to park a vehicle;
 - (b) causes or permits a vehicle to be parked; or
 - (c) allows a vehicle to be parked, in a mechanically controlled parking ground must, when entering the parking ground and after the vehicle has been brought to a standstill and in accordance with the instructions which are displayed on the parking coupon vending machine, obtain a parking coupon which is issued by the machine.
- (2) A person contemplated in subsection (1) may not park a vehicle –
 - (a) except in a parking bay and in compliance with such directions as may be given by an authorised official or where no such bay has been marked, except in a place indicated by the authorised official;
 - (b) after an authorised official has indicated to the person that the parking ground is full; or
 - (c) after the expiry of the parking period indicated on the parking coupon.
- (3) A parking coupon obtained in terms of subsection (1) is valid until the time of expiry thereof as indicated on the coupon and a person may not allow the vehicle to remain in the parking ground after expiry of the parking period.
- (4) A person who does not obtain a coupon in accordance with subsection (1) or who contravenes a provision of subsection (2) or (3) commits an offence.

74. Removal of vehicle from mechanically controlled parking ground

- (1) No person may remove, or cause or permit the removal of, a vehicle in a parking ground, unless –
 - (a) he or she has produced to the authorised official a coupon authorising him or her to park in the parking ground and which was issued to him or her by the parking coupon vending machine upon entering the parking ground; and
 - (b) he or she has paid to the authorised official the prescribed parking fee.
- (2) If a person fails to produce a coupon authorising him or her to park in the mechanically controlled parking ground, he or she is deemed to have parked the vehicle from the beginning of a period that the ground is open for parking until the time he or she wants to remove the vehicle and he or she shall be charged accordingly.
- (3) A person may not, after he or she fails to produce a coupon, remove or cause or permit the removal of a vehicle parked in the parking ground until he or she has produced other proof to an authorised official of his or her right to remove the vehicle, and the authorised official –
 - (a) must require the person to complete and sign an indemnity form as supplied by the Municipality, which form has the effect of indemnifying the Municipality against claims of whatever nature by a person relating to the removal of that vehicle; and
 - (b) may require the person to furnish such security as may be determined by the Municipality.
- (4) Subsection (1)(a) does not apply where the prescribed parking fees were paid upon entering the parking ground and the person who paid such fees produces the required coupon to the authorised official on demand.
- (5) Where a vehicle has not been removed from a parking ground by the end of the parking period for which the prescribed fee has been paid, a further charge as may be determined by the Municipality is payable for the next parking period.
- (6) A person who contravenes a provision of subsection (1), or who removes or causes or permits the removal of a vehicle in contravention of subsection (3), or who does not comply with a request made by an authorised official in terms of subsection (3)(a) or (b) commits an offence.

Part 3: Pay and display parking ground

75. Parking of vehicle in pay and display parking ground

- (1) A person who –
 - (a) wishes to park a vehicle;
 - (b) causes or permits a vehicle to be parked; or
 - (c) allows a vehicle to be parked, in a pay and display parking ground must immediately upon entering the parking ground buy, in accordance with the instructions which are displayed on or in the vicinity of the parking coupon vending machine in the parking ground, a coupon which is issued by the machine, and a person who does not comply with this subsection commits an offence.
- (2) The following must be indicated on the parking coupon vending machine:
 - (a) The period during which a vehicle may be parked in the pay and display parking ground; and
 - (b) the coin or other prescribed object to be inserted in respect of the parking period into the pay and display machine.
- (3) The person must display the coupon by affixing it to the inside on the driver's side of the front windscreen of the vehicle in such a manner and place that the information printed on the coupon by the pay and display machine is readily legible from the outside of the vehicle.
- (4) No person may allow a vehicle to remain in a pay and display parking ground after the expiry of the departure time indicated on the parking coupon and, unless evidence the contrary is

- produced, the date or day and time of departure as recorded by a parking coupon vending machine is taken on the face of it to be correct evidence of date or day and time.
- (5) No person may park a vehicle, cause, permit, or allow a vehicle to be parked in a pay and display parking ground if a parking coupon cannot be obtained from the parking coupon vending machine in the manner indicated thereon or when a notice displayed on the machine indicates that it is out of order.
 - (6) If a vehicle is removed from a pay and display parking ground and returned to the pay and display parking ground within the period of validity of the parking coupon, the coupon continues to be valid.
 - (7) Possession of a valid parking coupon in respect of a vehicle not within a parking bay does not guarantee the availability of a vacant parking bay.
 - (8) A person who contravenes a provision of subsection (3), (4) or (5) commits an offence.

76. Miscellaneous offences in respect of pay and display parking ground

A person commits an offence if he or she –

- (a) inserts or attempts to insert into a parking coupon vending machine –
 - (i) a counterfeit coin;
 - (ii) where another kind of object is to be used, a false object;
 - (iii) a coin which is not South African currency; or
 - (iv) any object which is not meant to be inserted into the parking coupon vending machine;
- (b) jerks, knocks, shakes or in any way interferes or tampers with, or damages or defaces a parking coupon vending machine or appurtenance thereto, or affix or attempt to affix or place a sign, placard, advertisement, notice, list, document, board or thing on, or paint, write upon or disfigure a parking coupon vending machine; or
- (c) removes or attempts to remove a parking coupon vending machine or any part of the machine from its mounting.

CHAPTER 4: PARKING ATTENDANTS

77. Prohibition

- (1) No person may act as, operate as or falsely hold himself or herself out to be a parking attendant on any public road or in any public place of the Municipality –
 - (a) if he or she is not registered as a security officer in terms of the Private Security Industry Regulation Act, 2001 (Act 56 of 2001);
 - (b) without the written permission of the Municipality; and
 - (c) unless he or she is registered as a member of an organization that is registered in terms of subsection (2).
- (2) No organization may organize the guarding of vehicles in public places or on public roads of the Municipality through parking attendants without being registered as a security service provider in terms of the Private Security Industry Regulation Act, 2001 (Act 56 of 2001) and unless registered by the Municipality as a parking attendant organization.

78. Registration of organisation by Municipality

- (1) Before any organization can be registered with the Municipality, the organization must submit, together with its application for registration on a form supplied by the Municipality, proof of indemnity or of public liability insurance regarding the actions of its parking attendants.
- (2) The Municipality shall consider each application for registration and may register an organisation or refuse to register an organisation, and the decision of the Municipality is final.

- (3) The Municipality, on receipt of an application for registration, may call for documentary or other proof of the capacity of the organization to provide parking attendants, including information regarding the finances of the organization.
- (4) When approving an organization's application for registration regarding a specified geographic area, the Municipality must issue a permit prescribing the geographic areas within which the organization may operate and the period of time for which it is granted, and the permit issued is valid for a period not exceeding 12 months from the date of issue.

79. Conditions

- (1) Subject to the provisions of section 80, the organization must adopt and sign the Code of Conduct for Organisations as supplied by the Municipality.
- (2) An organization must keep detailed attendance and duty records reflecting the following in respect of its parking attendants:
 - (a) Name of parking attendant;
 - (b) time at which the parking attendant goes on and off duty;
 - (c) Place of assignment of the parking attendant; and
 - (d) Incidents and occurrences.
- (3) Each parking attendant in the employ of an organization must sign the Code of Conduct for Parking Attendants as supplied by the Municipality.

80. Registration fee payable

After the Municipality has registered an organization, the organization must pay to the Municipality a registration tariff, the amount of which is determined by Municipality and fixed in the registration.

81. Garments and identification of parking attendants

- (1) An organization is responsible for issuing the following to its parking attendants free of charge or at the parking attendant's own cost:
 - (a) A bib or jacket and equipment;
 - (b) a supply of vouchers; and
 - (c) an identification card,and a parking attendant must, before undertaking any duties, equip himself or herself with the such bib or jacket, supply of vouchers and identification card.
- (2) Every parking attendant must, while on duty and presenting himself or herself as available for service, be neatly dressed in a bib or jacket, and must ensure that the identification card is visibly displayed.
- (3) A parking attendant must, whenever he or she undertakes to guard a vehicle, hand the driver of the vehicle a voucher.

82. Conduct of organisations

- (1) An organization must –
 - (a) register with the Municipality;
 - (b) train parking attendant;
 - (c) supervise its parking attendants, preferably by means of direct radio contact with the organization's control office;
 - (d) supply uniforms (bibs or jackets), identification cards and the other relevant equipment to the parking attendants;
 - (e) resolve all parking disputes or differences that may arise in the assigned areas of the parking attendants;
 - (f) instruct all parking attendants under contract to comply with the Policies and Code of Conduct.

- (g) ensure that the organization's officials make themselves available to attend meetings with the Municipality as when requested to do; and
 - (h) establish communication with the SAPS and the Safety and Security Business Unit.
- (2) No organization may permit a person who has his or her permit cancelled or suspended to act as a parking attendant.

83. Conduct of parking attendants

- (1) No parking attendant may, when on duty:
- (a) Tamper with, activate or operate a parking meter;
 - (b) wash or clean or offer to wash or clean a car on a public road or in a public place;
 - (c) interfere with the movement of traffic or pedestrians;
 - (d) demand a donation or fee for guarding a driver's vehicle;
 - (e) fail to obey a lawful order from an authorized officer or an authorized official;
 - (f) harass or threaten a driver, or damage a vehicle in any way;
 - (g) involve himself or herself in any form of criminal activity;
 - (h) be under the influence of alcohol or any narcotic substance or consume or use any alcohol or narcotic substance;
 - (i) be untidily dressed;
 - (j) refuse to produce proof of his or her identity when requested to do so by an authorised officer or authorised official of a person who requires it for his or her information relating to the service rendered;
 - (k) behave abusively towards a member of the public;
 - (l) insert money into a parking meter; or
 - (m) inform or threaten the driver or person in charge of a motor vehicle that such vehicle will or may be damaged or stolen unless it is left in his care or under his supervision or unless that parking attendant is remunerated for his services
 - (n) act as a parking attendant or hold himself or herself out to be available to act as a parking attendant at any place other than the place allocated to him or her in writing by a registered organization and in accordance with the provision of this By-law.
- (2) No parking attendant may refuse to subject himself or herself to a security check as prescribed by the Private Security Industry Regulation Act, Act 56 of 2001.

84. Cancellation or suspension of registration

- (1) The Municipality may suspend registration on the grounds that the organization has allegedly committed an offence in terms of this By-law.
- (2) The Municipality may instruct an organization to immediately suspend the services of a parking attendant who –
- (a) tampers with or activates or operates a parking meter;
 - (b) fails to observe or carry out the lawful instructions of an authorised person or an authorised officer;
 - (c) is intoxicated while performing his or her duties as parking attendant;
 - (d) cleans or washes any motor vehicle on a public road or in a public place;
 - (e) offers to clean or wash any motor vehicle on a public road or in a public place;
 - (f) interferes with the movement of vehicular traffic or the parking of vehicles;
 - (g) interferes with the movement of pedestrians;
 - (h) through intimidation, demands a donation or fee for guarding a vehicle;
 - (i) damages or threatens to damage a vehicle in any way for not receiving a donation or fee; or
 - (j) fails to produce the permit or an identification card on request.

- (k) behaves abusively towards a member of the public;
- (l) inserts money into a parking meter; or
- (m) informs or threatens the driver or person in charge of a motor vehicle that such vehicle will or may be damaged or stolen unless it is left in his or her care or under his or her supervision or unless that parking attendant is remunerated for his or her services

85. Vicarious responsibility and liability of organization

When a person who is a member of an organization acts illegally as a parking attendant or commits any other offence in terms of this Chapter, the directors of that organization are equally responsible and liable for the offence.

CHAPTER 5: TAXIS AND BUSES

Part 1: Special parking places for taxis, permits and decals

86. Establishment of, and taxi rank permits for, special parking places for taxis

- (1) The Municipality, acting in terms of section 53 of the Passenger Transportation (Interim Provisions) Act, 1999 (EC) (Act 11 of 1999), may establish special parking places in the Municipality for use by or the parking of a taxi belonging to a person to whom a permit to use the parking place or park a taxi rank permit has been issued by the Municipality as provided for in section 88.
- (2) A taxi rank permit may be issued allocating a particular special parking place or subdivision of a special parking place to a particular person or motor vehicle for his, her or its exclusive use.
- (3) If no space is available in a special parking place at any particular time for the parking of a taxi by a taxi rank permit holder or for a taxi to which the taxi rank permit relates, the taxi must be parked at a holding area specified by a duly appointed marshal operating at the special parking place as contemplated in section 107 until the marshal or any other duly appointed person summons and permits the person to park the taxi at the special parking place.
- (4) No person or motor vehicle other than the person or motor vehicle referred to in subsection (2) may, except by virtue of a taxi rank permit, use or be parked at the special parking place or its subdivision, and a person who contravenes this provision, or a person who parks a motor vehicle at a holding area other than the one contemplated in subsection (3) commits an offence.

87. Application for taxi rank permit

- (1) An application for the granting of a taxi rank permit referred to in section 86 must be lodged with the Municipality on the particular form obtainable from the Municipality and must be accompanied by the fee contemplated in section 88(4).
- (2) The applicant must answer all questions in the application form and in all other respects fully comply with all the requirements of the form.
- (3) The Municipality may refuse a taxi rank permit, subject to Section 88(6) of the National Road Traffic Act, 1996 (Act 93 of 1996), and the provisions of this By-law, on the grounds that there is insufficient ranking space in the municipal area.
- (4) A person who knowingly supplies incorrect information in the form contemplated in subsection (2) commits an offence.

88. Issuing of taxi rank permit

- (1) Where an application for a taxi rank permit is granted, the taxi rank permit must, subject to subsections (2) and (3), be issued in a form determined by the Municipality provided that the prescribed fee contemplated in section 87(1) had been paid.

- (2) The Municipality shall not issue a taxi rank permit until the applicant provides the Municipality with –
- (a) a valid Certificate of Road Worthiness in respect of the motor vehicle concerned as required in terms of Regulation 138 of the Regulations in terms of the National Road Traffic Act, 1996 (Act 93 of 1996);
 - (b) a valid public road carrier permit issued under the Road Transportation Act, 1977 (Act 74 of 1977), authorizing the road transportation to be undertaken;
 - (c) proof of registration and licensing of the motor vehicle concerned in terms of Section 14 of the National Road Traffic Act, 1996 (Act 93 of 1996);
 - (d) a valid identification document or a valid temporary identity document issued by the Department of Home Affairs, of the owner or the operator thereof, however, in the event of a temporary identification document, it must be accompanied with a passport photo of the owner or the operator thereof; and
 - (e) a letter of recommendation from the relevant taxi association.
- (3) Such taxi rank permit shall be issued in terms of the conditions determined by the Municipality.
- (4) The Municipality may determine the fees for the issue of a taxi rank permit and such fees may be different for different facilities.
- (5) A taxi rank permit not collected within three months lapses, unless a written extension of time has been requested and granted by the Municipality.
- (6) Any taxi rank permit issued contrary to the provisions of this By-law in an unlawful manner with or without the knowledge of the applicant, is void and the holder thereof must on demand by the Municipality forthwith deliver such taxi rank permit to the Municipality.
- (7) The Municipality is not obliged to issue a taxi rank permit, even if the applicant has a valid operating licence or public road carrier permit.
- (8) No taxi rank permit will be issued unless the provisions of this section have been complied with.
- (9) A person who issues a taxi rank permit in a manner contemplated in subsection (6) commits an offence.

89. Renewing of taxi rank permit

- (1) A taxi rank permit is valid for one year from the date of issue and must be renewed annually.
- (2) An application for the renewal of a taxi rank permit must be made before the taxi rank permit expires.
- (3) After a person applying to renew a taxi rank permit has submitted a duly completed application form to the Municipality, together with the documents referred to in section 88(2) in respect of the motor vehicle, the taxi rank permit shall be renewed on payment of the prescribed fee, and subject to the good conduct of the person.
- (4) A person who knowingly supplies incorrect information in the form contemplated in subsection (3) commits an offence.

90. Temporary substitution of taxi rank permit

- (1) Subject to subsection (2), a taxi rank permit issued in terms of section 88 for a motor vehicle does not authorise the taxi rank permit holder to park any other motor vehicle as a taxi under that taxi rank permit.
- (2) If the taxi to which a taxi rank permit relates has become defective or has been temporarily withdrawn from service owing to an accident, the taxi rank permit holder may substitute any other vehicle of the same passenger-carrying capacity for that taxi for a maximum period of

seven days, on condition that, whenever such other vehicle uses the taxi facilities, the taxi rank permit holder must ensure that –

- (a) the taxi rank permit relating to the defective taxi is always kept in such other vehicle; and
 - (b) a decal is always displayed on the other vehicle as required by section 92(3).
- (3) A person who contravenes a provision of subsection (2) commits an offence.

91. Transfer of taxi rank permit

(1) If –

- (a) the taxi rank permit holder dies;
- (b) the taxi rank permit holder's estate is provisionally or finally sequestrated;
- (c) the taxi rank permit holder is a company or a close corporation which is being liquidated; or
- (d) the taxi rank permit holder becomes in any way incapable in law of carrying on business,

the executor, trustee, liquidator or curator of property, as the case may be, may, on payment of the prescribed transfer fee, carry on the business undertaking for the unexpired period of the taxi rank permit.

- (2) No taxi rank permit may, subject to subsection (1), be transferred by the taxi rank permit holder to another person, and a taxi rank permit holder who does so commits an offence.

92. Issue, display and duplication of decals

(1) A decal containing the particulars of the taxi rank permit is issued with every taxi rank permit, and must immediately be affixed to the taxi concerned as contemplated in subsection (3).

- (2) (a) A taxi rank permit holder may apply to use additional taxi facilities.
- (b) An additional decal or more decals may be issued to the taxi rank permit holder to identify additional taxi facilities allocated to that taxi rank permit holder.

(3) On obtaining a decal or decals in terms of subsection (1) or (2), the taxi rank permit holder must immediately –

- (a) where the taxi concerned is fitted with a clear windscreen, affix the decal in a conspicuous place on the left-hand front inside of the windscreen in an upright position with the printed side facing to the front in such a way that the particulars on the decal are clearly legible to any person standing on the left front side of the taxi; and
- (b) where the taxi is fitted with a tinted or smoked glass windscreen, display the decal in a watertight holder in a conspicuous place on the left-hand front outside of the windscreen in such a way that the particulars on the decal are clearly legible to any person standing on the left front side of the taxi.

(4) The taxi rank permit holder must ensure that the decal or decals are kept displayed at all relevant times as contemplated in subsection (3).

(5) (a) If a taxi rank permit holder –

- (i) satisfies the Municipality by affidavit that the taxi rank permit or a decal has been lost or destroyed; or
- (ii) produces a taxi rank permit or decal that has been damaged to the extent that the letters and figures on it are no longer clearly legible, the Municipality must, after the taxi rank permit holder has applied for a duplicate permit or decal on a form and has paid the prescribed fee, issue him or her with a duplicate that is clearly endorsed 'DUPLICATE'.

(b) The taxi rank permit holder must immediately affix the duplicate decal to the vehicle concerned in accordance with subsection (3).

- (6) If a taxi is being operated without a decal, it is presumed that the taxi rank permit holder does not have a valid taxi rank permit until he or she proves to an authorised officer that he or she does have such a taxi rank permit or has applied for a duplicate decal.
- (7) A person commits an offence if he or she –
- (a) unless he or she is authorised to do so, produces or duplicates a taxi rank permit or decal;
 - (b) affixes an unauthorised decal onto a taxi;
 - (c) operates a taxi on which a decal is in any way concealed or obscured or has become illegible, unless such concealment, obscurity or illegibility is temporary owing to a cause beyond the control of the person who operates the taxi; or
 - (d) contravenes subsection (4).

93. Payment of taxi rank permit fees

- (1) The taxi rank permit fee payable for a taxi rank permit issued for less than one full year is reduced pro rata to the number of months out of 12 months of the taxi rank permit's validity.
- (2) All taxi rank permit fees and moneys must be paid at the relevant municipal office as determined by the Municipality.
- (3)
 - (a) The payment of any amount in terms of these By-laws does not absolve a person from criminal liability arising from his or her failure to obtain a taxi rank permit.
 - (b) The conviction of a person for an offence under these By-laws does not relieve him or her of the liability to pay the fees in terms of these By-laws.

94. Amendment of particulars of taxi rank permit

- (1) If the information contained in a taxi rank permit or decal is incorrect, the Municipality may, notwithstanding anything to the contrary in these By-laws –
 - (a) notify the taxi rank permit holder concerned;
 - (b) require him or her to give a satisfactory explanation; and
 - (c) require him or her to return the taxi rank permit or decal for amendment not later than 10 days after the date of notification.
- (2) If it comes to the notice of the taxi rank permit holder that the particulars on a taxi rank permit or decal are incorrect because they have changed or are incorrect for any other reason, the taxi rank permit holder must submit the taxi rank permit or decal to the Municipality for amendment within 10 days of this coming to his or her notice, however, a taxi rank permit holder may not, subject to subsection (3), substitute a different motor vehicle for the motor vehicle to which the taxi rank permit relates.
- (3) When a taxi rank permit or decal is surrendered for it to be amended in terms of this section, the Municipality shall provide the taxi rank permit holder with a temporary taxi rank permit or decal, which is valid until the amended taxi rank permit or decal is returned to the taxi rank permit holder.
- (4) A person who contravenes subsection (1)(c) or (2) commits an offence.

95. Outstanding payments

All outstanding payments must be paid before a taxi rank permit is issued.

96. Taxi rank permit for partnership

- (1) A taxi rank permit issued to a partnership must specify the full name of each of the partners and the type of business that is being carried on.
- (2) If a member of a partnership ceases to be a partner for any reason whatsoever during the year for which the taxi rank permit is valid, the remaining partner or partners may, on submitting

- proof that a new partnership has come into existence and on payment of the prescribed transfer fee, carry on the business or undertaking for the unexpired period of the taxi rank permit.
- (3) A partner contemplated in subsection (2) who does not submit proof, commits an offence.
- 97. Taxi rank permit to be produced on demand**
- (1) The holder of a taxi rank permit in terms of this By-law must –
- (a) Maintain such taxi rank permit in a good and legible condition; and
 - (b) keep it in the motor vehicle to which it relates at all relevant times when such vehicle is being operated as a taxi.
- (2) Any authorised official of the Municipality may call upon the driver of any taxi to stop and may demand from him –
- (a) to produce the taxi rank permit required under the provisions of this By-law; and
 - (b) to supply his full name and address and also the name and address of the owner or operator of such taxi.
- (2) No driver referred to in subsection (2) may, when called upon to do so by any authorised officer
- (a) refuse to stop;
 - (b) refuse to supply his or her full name and address;
 - (c) refuse to supply the correct name and address of the owner or operator of the vehicle in his or her charge;
 - (d) refuse to produce a taxi rank permit; or
 - (e) give a false name or address.
- (4) A person who contravenes subsection (1) or (3) or who fails to supply the information contemplated in subsection (2) commits an offence.
- 98. Suspension or withdrawal of taxi rank permit**
- (1) Where the owner, taxi rank permit holder or person in charge of a taxi has been found guilty of contravening these By-laws, and irrespective of whether any other penalty by a court of law has been imposed, the Municipality may, subject to the provisions of section 99 and after all the circumstances of the case have been taken into consideration, act in terms of subsection (2).
- (2) The Municipality may, after taking all the circumstances of the case into consideration, suspend the taxi rank permit for a taxi for a period or withdraw the taxi rank permit if –
- (a) the owner of the taxi does not –
 - (i) comply with an instruction issued in terms of these By-laws; or
 - (ii) maintain the taxi at all times in a clean state and in sound running condition and repair; or
 - (b) an authorised officer inspects the taxi and finds that the taxi –
 - (i) is constructed in such a way or is in such a condition that the taxi is unsafe for the number of passengers that it is authorised to carry; or
 - (ii) does not comply with the conditions specified in these By-laws or the Act or regulations.
- (3) No person may use a vehicle as a taxi at a taxi facility or allow one to be used as a taxi at a taxi facility if the vehicle's taxi rank permit has been suspended or withdrawn.
- (4) A person who contravenes subsection (3) commits an offence.
- 99. Procedure for proposed suspension or withdrawal of taxi rank permit**
- (1) A taxi rank permit may not be suspended or withdrawn unless –
- (a) the Municipality has given the taxi rank permit holder and any taxi association of which the taxi rank permit holder is a member, at least 14

days written notice by certified mail of the Municipality's intention to suspend or withdraw the taxi rank permit, and such a notice must give –

- (i) the reasons for the proposed action and an adequate statement setting out the nature of the action;
 - (ii) the gist of the matter which could be prejudicial to the taxi rank permit holder, together with an invitation to make representation on the matter;
 - (iii) an address for the submission of a representation as contemplated in subsection (2); and
 - (iv) the date, time and place of a hearing, which may not be less than 28 days from the date of the notice, to consider the suspension or withdrawal, and an indication that the taxi rank permit holder may submit representations and appear at the hearing; and
- (b) the taxi rank permit holder is given an opportunity to, either personally or through his or her duly authorised representative, appear at a hearing and to make representations, before the Municipality or a committee of the Municipality.
- (2) If a taxi rank permit holder who has received a notice referred to in subsection (1) wishes to appear and to oppose the proposed action, he or she must, within 14 days of receiving the notice or within a further period that the Municipality may allow, submit representations in writing by hand or by certified mail to the address indicated in the notice.
- (3) After the hearing referred to in subsection (1), the Municipality must give a ruling on whether or not to suspend or withdraw the taxi rank permit and must give the taxi rank permit holder its reasons for the ruling in writing not later than 14 days after the date of the conclusion of the hearing.
- (4) A record of the proceedings at the hearing referred to in subsection (1) must include –
- (a) the evidence given, if any;
 - (b) any objection made to any evidence received or submitted ; and
 - (c) the ruling given at the hearing.

100. Change of address

- (1) The holder of a taxi rank permit must give notice to the Municipality in writing of any change of address within 14 working days thereof by pre-paid registered post, telefax or hand delivery.
- (2) A person who contravenes subsection (1) commits an offence.

101. Amendment of the particulars on a taxi rank permit

- (1) If the particulars reflected on a taxi rank permit are incorrect by virtue of a change in such particulars or for any other reason, the holder of such taxi rank permit must submit the taxi rank permit to the Municipality for the amendment thereof.
- (2) A person who contravenes subsection (1) commits an offence.

Part 2: Taxi associations, taxi forum, and taxi facilities

102. Taxi forum

- (1) The Municipality may establish a taxi forum to make recommendations to it on matters relevant to the taxi industry in general.
- (2) A taxi association may become a member of the taxi forum.

103. Classes of taxi facilities

The Municipality may designate any taxi facility in the municipal area as –

- (a) a special parking place, such as a taxi rank or a stand;
- (b) a taxi stopping place; or

- (c) a taxi holding area.

104. Taxi parking

- (1) A driver may, subject to subsection (2) –
(a) park a taxi at a special parking place or taxi holding area only; or
(b) ply for hire, or pick up or drop off passengers only at a special parking place or a taxi stopping place provided.
- (2) In emergencies or at recreational and other similar functions, the Municipality may set aside temporary taxi facilities identified by the Chief Traffic Officer as suitable for the parking and stopping of taxis.
- (3) A person who contravenes a provision of subsection (1), or who parks or stops a taxi at a place other than a temporary taxi facility contemplated in subsection (2) commits an offence.

105. Use of taxi ranks

- (1) A driver –
(a) may, subject to subsection (3), park a taxi at the taxi rank specified on the taxi rank permit concerned, if space is available; and
(b) must, if no space is available, remove and park the taxi at a holding area in accordance with the provisions of section 86.
- (2) The driver must, when plying for hire at a taxi rank, do so in a queue and must –
(a) position his or her taxi in the first vacant place available in the queue immediately behind any other taxi already in front; and
(b) move his or her taxi forward as the queue moves forward.
- (3) When plying for hire at a taxi rank, a driver –
(a) of any taxi which occupies the first, second or third position from the front of any queue at a rank must be in close and constant attendance of his or her taxi so long as it remains in such a position;
(b) may not position his or her taxi ahead of any taxi that arrived and took up a position in the queue before he or she did; and
(c) may, if his or her taxi is the first taxi in the queue and any person calls for a taxi, respond to the call, unless the person clearly indicates his or her preference for a taxi not in front of the queue.
- (4) No person may park or stop a taxi which is not in good working order as required by the Act or the regulations, in a taxi rank, or cause or permit the taxi to remain in a rank.
- (5) No person may park or stop any vehicle in a taxi rank except a taxi for which a taxi rank permit and decal, specifying the rank, have been issued for the year in question, as contemplated in Part 1 to this Chapter.
- (6) A person who contravenes a provision of this section commits an offence.

106. Prohibition on parking of taxi at stopping place

No taxi driver may park a taxi at a stopping place, and a taxi driver who does so, commits an offence.

107. Regulation and control of taxi facilities

- (1) Subject to subsections (2) and (3), a recognised taxi association may appoint marshals at taxi facilities to perform the duties set out in subsections (4) and (5), however, if a taxi facility or a portion of it has been allocated exclusively to a particular taxi association, only that association may appoint marshals in respect of that particular taxi facility or portion of it.
- (2) In the case of a dispute about which taxi association is entitled to appoint a marshal or marshals at a particular taxi facility, the taxi forum must decide on the issue.
- (3) The duties of a marshal regarding passengers are –
(a) to regulate the queuing of passengers according to the appropriate

- priority and route destination systems;
 - (b) to ensure the orderly loading of passengers into appropriate vehicles;
 - (c) to control the appropriate number of passengers per vehicle to prevent overloading and to ensure a higher level of service to passengers and equal opportunities for drivers;
 - (d) to direct passengers and to provide information about the activities of the taxis operating at that facility or other taxi facilities; and
 - (e) to inform drivers about expected passenger demand and any other related matters.
- (4) The duties of a marshal regarding taxis are –
- (a) to control the arrival of taxis at taxi facilities and specifically at loading areas in accordance with the provisions of sections 86 and 105;
 - (b) to allow only taxi rank permit holders in respect of taxi facilities in and out of the facilities;
 - (c) to coordinate the movement of taxis between loading and holding areas;
 - (d) to control taxi departures according to loading patterns; and
 - (e) to direct taxis to a holding area and to redirect them to a rank.
- (5) The Municipality may, after consultation with the taxi forum, lay down a code of conduct for marshals at taxi facilities and amend the code from time to time.
- (6) No person may act as a marshal at a taxi facility unless the taxi association concerned has appointed him or her in writing.
- (7) A person who contravenes subsection (6) commits an offence.

108. Servicing and washing taxis at taxi facilities

- (1) No person may repair or maintain any motor vehicle in any way whatsoever at a taxi facility, except where provision is made for this purpose.
- (2) No person may wash any motor vehicle at a taxi facility, except at a wash bay at the facility that has been specially constructed for this purpose.
- (3) A person who contravenes a provision of this section commits an offence.

Part 3: General use and operation of taxis

109. Preventing engagement of taxi

- (1) No person may, by using force, intimidation, threats or by any other means, prevent or try to prevent –
 - (a) any person from obtaining or engaging a taxi; or
 - (b) the driver of a taxi from taking on passengers.
- (2) A person who contravenes a provision of subsection (1) commits an offence.

110. Conveying dangerous or offensive articles in taxis

- (1) A person who is in charge of any person or thing may not knowingly convey that other person or thing or allow that other person or thing to be conveyed in a taxi, whether or not the taxi has been engaged, if that other person or thing –
 - (a) is not permitted to be conveyed in terms of an existing law; or
 - (b) has obviously been exposed to or contaminated by an infectious or contagious disease as contemplated in the Act or the regulations.
- (2) A person who contravenes a provision of subsection (1) commits an offence.

111. Disinfecting taxi after conveying passengers with infectious or contagious diseases

- (1) The owner, driver or person in charge of a taxi must take immediate steps to have the taxi disinfected as soon as it has come to his or her knowledge that there has been conveyed in the taxi –
 - (a) a passenger suffering from an obvious infectious or contagious disease;
 - (b) the body of a person who has died of an obvious infectious or contagious disease; or
 - (c) anything that has been exposed to or contaminated with the infection of an obvious infectious or contagious disease.
- (2) The owner, driver or other person in charge of the taxi may not convey any passengers in the taxi until the taxi has been disinfected.
- (3) The owner, driver or other person in charge of a taxi must notify, and carry out all instructions of a municipal official with regard to the disinfection of a taxi referred to in subsection (1).
- (4) No person suffering from a contagious disease may enter any taxi.
- (5) A person who contravenes a provision of this section commits an offence.

112. Boarding and alighting of taxis

- (1) No person may board a taxi until all persons desiring to alight from the taxi have done so.
- (2) No person may insist on boarding a taxi, which contains the total number of passengers, which it is authorized to carry.
- (3) No person may board or alight or attempt to board or alight from any taxi whilst the taxi is in motion.
- (4) A person who contravenes a provision of this section commits an offence.

113. Queues at facilities

- (1) At any established taxi rank facility, the Municipality may erect or cause to be erected a queue sign that consists of a notice board indicating the location and the manner in which persons waiting to enter a taxi, will stop and form a queue and such sign may be supplemented by queuing barriers in the form of rails or lines marked on the surface of the area to be demarcated for the purpose of queuing.
- (2) All passengers intending to enter any taxi at an established ranking facility or stopping place, must queue from the point at which it is indicated that such vehicle will leave.
- (3) Where no queue sign has been erected, passengers waiting to enter a taxi, must form themselves into a queue not exceeding two abreast, or in a single file when required to so by an approved taxi marshal or authorised official of the Municipality.
- (4) A passenger may only enter a taxi when he or she gets to the front of the queue.
- (5) Every passenger queuing must comply with all the instructions given by an approved taxi marshal, authorised officer or authorised official when on duty.
- (6) A person who contravenes subsection (2), (3), (4) or (5) commits an offence.

114. Payment of fares

- (1) A passenger must pay the determined fare for the journey on request.
- (2) A person who contravenes subsection (1) commits an offence.

115. Rights and duties of passengers when a taxi becomes defective

- (1) If a taxi becomes defective or for any reason whatsoever is unable to proceed, the passengers must at the request of the driver, alight from the defective taxi and should the passengers have already paid their fares, they are entitled to a refund to the amount of their fares so paid.

- (2) Upon agreement with the driver of the defective taxi, passengers are allowed to travel with the next available taxi for the remainder of the distance in respect of there paid fares, at the cost of the defective taxi's owner.
- (3) A driver who refuses to refund a passenger as contemplated in subsection (1) or who refuses to allow a passenger to travel in teh manner as contemplated in subsection (2) commits an offence.

116. Animals

- (1) No passenger may enter a taxi with any animals other than a guide dog assisting a blind person.
- (2) A person who contravenes subsection (1) commits an offence.

117. Actions prohibited on a taxi

- (1) The following actions are prohibited on a taxi:
 - (a) Smoking;
 - (b) playing offensive or excessively loud music;
 - (c) using obscene or offensive language;
 - (d) committing an offensive act;
 - (e) interfering with the comfort of any passenger;
 - (f) damaging any taxi or the fittings thereof;
 - (g) interfering with the equipment of the taxi in any way;
 - (h) forcibly causing the driver to deviate from his route;
 - (i) endangering the life of another person; and
 - (j) interfering with the actions of the driver.
- (2) A person who contravenes a provision of subsection (1) commits an offence and shall, in addition to incurring the penalty provided for in this By-law, forfeit his or her fare and be removed from the taxi immediately.

118. Behaviour prohibited at taxi rank

A person who causes a disturbance or behaves in a riotous or indecent manner commits an offence in terms of this By-law and may be removed from a queue, taxi rank or the vicinity of a taxi facility by any authorised officer or authorised official of the Municipality.

Part 4: Metered taxis

119. Taximeters

- (1) No person operating a motor vehicle contemplated in paragraph (b) of the definition of "taxi" shall be issued with a taxi rank permit, contemplated in section 86, for a metered taxi unless and until a taximeter has been fitted to the vehicle.
- (2) No taximeter may be used until it has been tested and sealed by an examiner of vehicles.
- (3) No person may operate a metered taxi or allow one to be operated unless it is fitted with a tested and sealed taximeter that is in working order.
- (4) No person may seal a taximeter unless it registers a fare in accordance with the tariff published by the Municipality.
- (5) The use of a separate indicator to indicate to the passenger the charge for extras is permitted on condition that this indicator is part of the taximeter.
- (6) A person who contravenes a provision of this section commits an offence.

120. Metered fares

- (1) The fares to be charged in respect of metered taxis must be in accordance with the tariff published by the Municipality.
- (2) No driver of a metered taxi may charge, demand or attempt to obtain from a passenger a fare lower or higher than the tariff published by the Municipality.

- (3) A person who contravenes a provision of this section commits an offence.

121. Tariffs to be displayed on taxis

- (1) The driver of a metered taxi must affix a sign on the left front door of the taxi so that the tariffs are plainly visible to the passenger, and this sign must show in legible characters –
- (a) the appropriate tariff of fares;
 - (b) the number of passengers the metered taxi is permitted to carry;
 - (c) the registration number of the metered taxi; and
 - (d) the relevant portion of the taxi rank permit (decal) reference number.
- (2) A person who contravenes a provision of subsection (1) commits an offence.

122. Position of meter

- (1) The taximeter must be –
- (a) fitted on the inside of the taxi in such a position that the recorded fare is plainly visible at all times by a passenger occupying the rear seat; and
 - (b) illuminated after dark.
- (2) The driver of a metered taxi who contravenes a provision of subsection (1) commits an offence.

123. Operation of meter

- (1) Except as provided for in sections 124 and 125, the taximeter must be operated electronically or mechanically either solely from the gearbox or left front wheel of the taxi or from another portion of the mechanism of the taxi that the Municipality may approve.
- (2) The driver of a metered taxi must ensure that the taximeter correctly indicates to the passenger the fare that may be charged by the driver in accordance with the tariff published by the Municipality.
- (3) The driver of a metered taxi who operates a taxi, the taximeter of which does not comply with subsection (1), or who contravenes subsection (2) commits an offence.

124. Meter indicators

- (1) The owner of a metered taxi must ensure that –
- (a) the taximeter has an indicator which –
 - (i) is incorporated in the taximeter or attached to it;
 - (ii) has the words “For hire” on it when the taxi is available for hire;and
 - (iii) may be hand-operated;
 - (b) the indicator of a taximeter has a –
 - (i) “Pay” or “For hire” position, denoting that the taximeter is not in operation;
 - (ii) “Hired” or recording position, denoting the recording by the taximeter of the fare by a combination of time and distance; and
 - (iii) “Time not recording” position or light, denoting that the clock mechanism is not recording.
- (2) An owner of a metered taxi who does not comply with a provision of subsection (1) commits an offence.

125. Starting of meter

- (1) The driver of a metered taxi must –
- (a) on arrival at the passenger’s departure point, and not sooner, start the taximeter in the “Hired” position and, on termination of the hiring, immediately stop the taximeter from recording; and

- (b) stop the taximeter from recording for the duration of a stoppage if the stoppage is not caused by traffic congestion or by the action of the passenger or at the request of the passenger.
- (2) A driver who contravenes a provision of subsection (1) commits an offence.
- 126. Taxi called but not engaged**
- (1) A person who calls for or summons a metered taxi and who, on its arrival, fails to engage it, must pay the fare at the tariff published by the Municipality for the distance from the stand, rank or place from which the metered taxi had been despatched to the place to which the person had called or summoned the metered taxi.
- (2) If a metered taxi is kept waiting through no fault of the driver before the driver is told that the taxi's services are not required, the person who called for or summoned the taxi must, in addition to the normal fare, pay the driver waiting at the tariff published by the Municipality.
- (3) A person who does not pay the driver as contemplated in subsection (1) and (2) commits an offence.
- 127. Meter seals to be kept intact**
- (1) The owner of a metered taxi must at all times keep intact and undamaged all seals that were affixed to a taximeter by an examiner of vehicles or an approved organisation.
- (2) If the seal or seals of a taximeter are accidentally broken or defaced, the driver of the taxi must immediately, before the taxi is used as a passenger-carrying vehicle, apply to the Chief Traffic Officer or an organisation approved by the Municipality to replace or renew the seal or seals.
- (3) A person who contravenes a provision of this section commits an offence.
- 128. Meter tolerances**
- The tolerance to be allowed on all taximeters when tested is as follows:
- (a) Road test: No tolerance in deficiency or over-registration is allowed, but if the vehicle's tyres are obviously worn, a tolerance in deficiency of 10 meters per kilometre and a tolerance in excess of 50 meters per kilometre are allowed.
- (b) Time test: A tolerance in deficiency of one second per minute and a tolerance in excess of two seconds per minute are allowed.
- 129. Interference with meter prohibited**
- (1) No person may, so as to cause the taximeter to register anything other than the true fare chargeable by the driver in accordance with the tariffs published by the Municipality –
- (a) destroy, break or tamper with the seal affixed to a taximeter by the examiner of vehicles or by an organisation approved by the Municipality; or
- (b) adjust or interfere or tamper with a taximeter or a connection of a taximeter, or any tyre or fitting of a taxi.
- (2) No driver or owner of a taxi may allow the taxi to be used as a passenger-carrying vehicle if –
- (a) the taximeter affixed to it does not register the true fare; or
- (b) the tyres fitted to the taxi are not the same size as those which were on the vehicle when the taximeter was tested and sealed.
- (3) The driver or owner of a metered taxi –
- (a) must ensure that the taxi is fitted with a speedometer and an odometer, both of which is in good and proper working order, and that the odometer, subject to the provisions of subsection (1), reflects the true distance travelled; and
- (b) may not operate or allow the taxi to be operated unless the speedometer fitted to it works properly.

- (5) A person who contravenes subsection (1), or a driver or owner who contravenes subsection (2) or (3) commits an offence.

130. Meters liable to be tested at any time

- (1) An authorised officer may be written notice instruct the owner or driver of a metered taxi to present the taxi concerned to an examiner of vehicles for examination and testing of the taximeter at a time and place specified in the notice.
- (2) An owner or driver who does not comply with an instruction as contemplated in subsection (1) commits an offence.

131. Charge for testing meters

The prescribed fees must be paid to the Municipality for every taximeter tested by the Municipality in terms of section 130.

132. Meters may be condemned

- (1) If a taximeter affixed to a metered taxi is found not to be in order and not working satisfactorily, an examiner of vehicles may condemn the taximeter and remove the seal or mark placed on it in terms of section 127.
- (2) No person may use a condemned taximeter in a taxi until the taximeter has been retested, approved and sealed by an examiner of vehicles, and a person who does so, commits an offence.

133. Taxi signs for metered taxis

- (1) A metered taxi that is operated within the Municipality must be fitted with an illuminated roof sign in accordance with the requirements set out in the Schedule to these By-laws.
- (2) The illuminated roof sign must be properly maintained at all times.
- (3) A person who operates a metered taxi in contravention of subsection (1) or who fails to maintain a roof as contemplated in subsection (2) commits an offence.

Part 5: Bus facilities and permits, and operation of buses

134. Establishment of bus facilities

The provisions of section 86(1),(2) and (3) apply, with the necessary changes, to buses, and "special parking places" must, in relation to buses, be read as "demarcated stopping places or stands for buses" as contemplated in section 137.

135. Application and issue of bus permits, fees, display of decals, suspension and withdrawal of permit

- (1) The provisions of sections 87, 88, 89, 90, 93, 94, 95, 96, 98 and 99 apply, with the necessary changes, to buses.
- (2) Except for the buses provided for in subsection (3), a bus may not use a public transport facility within the municipal area, unless the bus displays the necessary decal.
- (3) A bus operator who transports passengers for reward and who owns more than 20 buses, but who uses fewer than 20 buses within the Municipality for transporting passengers, must pay the permit fees due to the Municipality for his or her buses according to the following formula:
The bus operator's maximum number of buses which on any day of the year is used for the above purposes, train buses excluded (for which individual permits and decals need to be obtained), multiplied by the prescribed permit fee payable per bus.
- (4) The permit fees for the number of buses referred to in the formula in subsection (3) are determined according to that bus of the operator which is certified to carry the largest number

of passengers and which is normally used within the Municipality, and the permit issued for these permit fees is not linked to any specific bus.

- (5) The bus operator must –
- (a) provide an audited certificate of the number of buses referred to in the formula above, together with his or her application to the Chief Traffic Officer; and
 - (b) each year after that, provide an audited certificate, together with any other documents that the Chief Traffic Officer may reasonably demand.
- (6) The owner of a bus who uses or allows to be used a bus in contravention of subsection (2) commits an offence.

136. General use and operation of buses

The provisions of sections 109 to 111 apply, with the necessary changes, to buses.

137. Distinguishing of demarcated stops and stands for buses

Each demarcated stopping place or stand must be distinguished by the appropriate traffic sign to indicate the type of bus or, where applicable, the name of the concern entitled to use the stopping place or stand.

138. Duty of driver to stop

- (1) If a bus operating on a bus route for the purpose of conveying passengers is carrying less than the maximum number of passengers that the bus is lawfully entitled to carry and the driver of the bus sees a person waiting at a demarcated stopping place apparently intending to get on the bus, the driver must, subject to subsection (2), stop the bus at the stopping place, as close as possible to the kerb or edge of the public road, in order to enable the person to get on.
- (2) The driver of a bus that has a notice that it is an “express”, “limited stop” or “special vehicle” is not required to stop until reaching the destination specified by the notice.
- (3) No driver of a bus may stop the bus to pick up a passenger at a place that is not a demarcated stopping place or stand.
- (4) A conductor (if there is one) of a bus may not allow a person to get on a bus, and no person may get on a bus, at any place that is not a demarcated stopping place or stand.
- (5) The driver of a bus who contravenes subsection (1), (3) or (4) and a person who contravenes subsection (4) commits an offence.

139. Boarding and alighting from bus

The provisions of section 112(3), (4) and (5) apply, with the necessary changes, where a passenger intends to board or alight from a bus.

140. Parking at stopping places for buses and destination signs

- (1) No driver or person in charge of a bus may park the bus at any stopping place on the route or allow the bus to be parked at any stopping place.
- (2) A driver or person in charge of a bus must ensure that a destination sign is displayed in the bus.
- (3) A driver or a person in charge of a bus who contravenes a provision of this section commits an offence.

Part 6: Enforcement

141. Taxi rank permit to be produced on demand

- (1) The holder of a taxi rank permit must –
 - (a) maintain the taxi rank permit in a good and legible condition; and

- (b) keep the taxi rank permit in the motor vehicle to which it relates at all relevant times when the vehicle is being operated as a taxi or bus.
- (2) A traffic officer may call on the driver of a taxi or bus to stop and may demand that he or she –
 - (a) produce the taxi rank permit; and
 - (b) give his or her full name and address and also the name and address of the owner of the taxi or bus.
- (3) A driver referred to in subsection (2) commits an offence if he or she –
 - (a) fails or refuses to stop;
 - (b) fails or refuses to give his or her full name and address;
 - (c) fails or refuses to give the correct name and address of the owner of the vehicle in his or her charge;
 - (d) gives a false name or address; or
 - (e) fails or refuses to produce a permit.

142. Unauthorised handing over or abandonment of bus or taxi

- (1) No driver of a taxi or bus may –
 - (a) abandon his or her vehicle; or
 - (b) allow any other person to drive the taxi or bus under his or her control without the consent of the holder of the public road transportation permit concerned.
- (2) A driver who contravenes a provision of subsection (1) commits an offence.

143. Enforcement of right of entry

- (1) An authorised officer may, in enforcing the provisions of this Chapter, at any reasonable time and without prior notice –
 - (a) enter a taxi or bus facility to inspect the facility; and
 - (b) make enquires from a person connected with the facility.
- (2) A person who interferes with an officer in the exercise of his or her power as contemplated in subsection (1) commits an offence.

Part 7: Miscellaneous provisions

144. Change of address of taxi rank permit holder

- (1) If the taxi rank permit holder changes his or her address during the currency of the permit, he or she must notify the Municipality in writing of the new address not later than seven days after the change of address, and this notice must be delivered by hand, facsimile machine or certified mail.
- (2) A taxi rank permit holder who contravenes a provision of subsection (1) commits an offence.

145. Property left in passenger-carrying vehicles

- (1) The driver of a passenger-carrying vehicle must carefully examine the vehicle after a trip, and if a passenger has left behind any property in the vehicle, the driver must –
 - (a) deliver that property to the person who left it behind; or
 - (b) if he or she is unable to deliver that property to the person who left it behind, take the property as soon as possible to the lost property office of his or her employer or to the nearest police station and deposit it with the officer on duty and obtain a receipt for it.
- (2) A driver who contravenes a provision of subsection (1) commits an offence.

CHAPTER 6: MISCELLANEOUS PROVISIONS

146. Obeying and interfering with officer

- (1) An authorised official may direct all traffic by means of visible or audible signals and no person may disobey such signals.
- (2) No person may obstruct, hinder, abuse, or interfere with any authorised official in the exercise of the powers in terms of these By-laws.
- (3) A person who contravenes a provision of subsection (1) or (2) commits an offence.

147. Appeal

- (1) A person whose rights are affected by a decision made under these By-laws may appeal against that decision by giving written notice of the appeal and reasons to the Municipal Manager within 21 days of the date of the notification of the decision.
- (2) The Municipal Manager must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.
- (3) When the appeal is against a decision taken by –
 - (a) a staff member other than the Municipal Manager, the Municipal Manager is the appeal authority;
 - (b) the Municipal Manager, the Executive Committee is the appeal authority; or
 - (c) a political structure or political officer bearer or a councillor of the Municipality is the appeal authority.
- (4) The appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable time.

148. Municipality may act and recover costs

- (1) Notwithstanding any other provisions of this by-law, the Municipality may –
 - (a) where the permission of the Municipality is required before a person may perform a certain action or build or erect anything, and such permission has not been obtained; and
 - (b) where any provision of this by-law is contravened under circumstances in which the contravention may be terminated by the removal of any structure, object, material or substance, serve a written notice on the owner of the premises or the offender, as the case may be, to terminate such contravention, or to remove the structure, object, material or substance, or to take such other steps as the Municipality may require to rectify such contravention within the period stated in such notice.
- (2) Any person who fails to comply with a notice in terms of subsection (1) commits an offence, and the Municipality may, without prejudice to its powers to take action against the offender, take the necessary steps to implement such notice at the expense of the owner of the premises or the offender, as the case may be.

149. Presumptions

- (1) For the purpose of these By-laws, the person in whose name a vehicle which is parked in a parking ground is licensed, is deemed to be the person having control or charge of the vehicle, unless and until he or she adduces evidence to the contrary.
- (2) A motor vehicle that is found on a taxi or bus facility or that has stopped at a taxi or bus facility is presumed to be plying for hire, unless the contrary is proved.
- (3) (a) Where in any prosecution in terms of the common law relating to the driving of a vehicle on a public road, or in terms of these By-laws it is necessary to prove who was the driver of such vehicle, it is presumed, in

- the absence of evidence to the contrary, that such vehicle was driven by the owner thereof.
- (b) Whenever a vehicle is parked in contravention of any provision of these By-laws, it shall be presumed, in the absence of evidence to the contrary, that such vehicle was parked by the owner thereof.
 - (c) For the purposes of these By-laws it is presumed, in the absence of evidence to the contrary, that, where the owner of the vehicle concerned is a corporate body, such vehicle was driven or parked, by a director or servant of the corporate body in the exercise of his or her powers or in the carrying out of his or her duties as such director or servant or in furthering or endeavouring to further the interests of the corporate body.
- (4) In any prosecution in terms of these By-laws, the fact that any person purports to act or has purported to act as a traffic officer or peace officer, is *prima facie* proof of his or her appointment and authority so to act, however, this section does not apply to a prosecution on a charge for impersonation.
 - (5) Any motor vehicle which is found on a taxi facility or which has stopped at a taxi facility will be presumed to be plying for hire, unless the contrary is proved.
 - (6) Any person, who by means of any motor vehicle, conveys passengers, will be presumed to have conveyed such passengers for hire or reward and such vehicle shall be presumed to be a taxi unless the contrary is proved.
 - (7) A document which purports to be a receipt of prepaid registered post, a telefax transmission report or a signed acknowledgement of hand delivery, will on submission by a person being prosecuted under this By-law, be admissible in evidence and *prima facie* proof that it is such receipt, transmission report or acknowledgement.

150. Permit to act as car guard

- (1) A person may act as a car guard within the Umsobomvu municipal area if he or she has obtained the authority under a written permit by the municipality.
- (2) A person who wishes to obtain a car guard permit, must complete an application form similar to the form in Schedule 2 and must submit the completed form to the office of the Municipal Manager.
- (3) The municipality may grant the permit subject to such conditions as it may determine, or refuse the permit.
- (4) A car guard permit that was granted is, unless it is cancelled or suspended in terms of subsection (5), valid until the 31st of December of the year of issue.
- (5) A car guard permit may be cancelled or suspended by the municipality if the permit holder –
 - (a) commits a breach of a condition subject to which the permit was granted;
 - (b) leaves unattended a motor vehicle left in his or her care;
 - (c) while performing his or her duties as a motor vehicle attendant, is or becomes intoxicated;
 - (d) directs the driver of a motor vehicle into an area in which the parking or stopping of a vehicle is prohibited; or
 - (e) fails to observe or carry out a lawful instruction of a police or traffic officer, and should the person whose permit has been cancelled or suspended carry on his or her activities, he or she is regarded as a motor vehicle attendant.
- (6) A car guard may not charge more than one rand for his or her services in connection with one motor vehicle.
- (7) A car guard must, when demanded to do so by a police or traffic officer or a member of the public who engages or proposes to engage his or her services, produce the permit issued to him or her in terms of subsection (1).
- (8) A person who contravenes a provision of subsection (6) or (7) commits an offence.

151. Motor vehicle attendant

- (1) A motor vehicle attendant may not –
- (a) on more than one occasion within any period of 30 minutes direct or offer to direct the driver of a motor vehicle into an area on a public street or public place; or
 - (b) in a public street or public place, make an offer to provide care for or supervision of a motor vehicle whilst it is parked in the street or place.
- (2) A person who contravenes a provision of subsection (1) commits an offence.

152. General prohibitions

- (1) No person, including a car guard or motor vehicle attendant, may clean or wash or offer to clean or to wash a motor vehicle in a public street or place.
- (2) No person, including a car guard or motor vehicle attendant may, in a public street or public place, inform or threaten the driver or person in charge or a passenger of a motor vehicle that the vehicle will or may suffer damage or be stolen unless it is left in his or her care or under his or her supervision.
- (3) A person who contravenes a provision of subsection (1) or (2) commits an offence.

153. Penalties

A person who has committed an offence in terms of these By-laws is, on conviction, and subject to penalties prescribed in any other law, liable to a fine, or in default of payment, to imprisonment, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment, and in the case of a successive or continuing offence, to a fine for every day such offence continues, or in default of payment thereof, to imprisonment.

154. Saving and transitional provision

A person on whose premises any fence contemplated in section 32(1) is erected, is allowed a period of 12 calendar months from the date of commencement of these By-laws to make the necessary structural arrangements to comply with section 32(1).

155. Repeal of by-laws

- (1) The By-Laws enacted by Colesberg Transitional Local Council, Noupoort Transitional Local Council and Masizakhe Representative Council with regard to Roads and Traffic are hereby repealed.
- (2) Any permission obtained, right granted, condition imposed, activity permitted or anything done under a repealed law, shall be 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.

156. Short title and commencement

These By-laws are called the Umsobomvu Municipality Roads and Traffic By-laws, and come into operation on the date of publication in the Provincial Gazette.

SCHEDULE
(Section 133(1))

SPECIFICATION FOR ROOF SIGNS FOR TAXIS IN TERMS OF SECTION 133(1)

1. The roof sign must be double-sided, and illuminated on both sides, and be capable of being fitted to a vehicle either by being bolted or riveted to the roof or fixed by brackets to the guttering of the vehicle.
2. The roof sign must be fitted in such a position that it is visible to both following and oncoming traffic in all types of weather conditions and must be uniformly illuminated in such a way that identification under all normal conditions is possible.
3. The roof sign must be illuminated during hire.
4. The roof sign must be constructed of 3mm acrylic sheeting, silk-screen printed on the inside with an acrylic based silk screen paint. The outer measurements of the roof sign must not be more than 400mm in length, 200 mm in height and 200mm in depth.
5. The roof sign must have on it the word "Taxi" in 75mm high black letters, the relevant portion of the permit reference number and the operator's contact telephone number in 50mm high black figures on a white background.
6. All lettering on the sign must appear in bold type and must be at least 10mm wide, and the letter style must be DIN "A".

SCHEDULE 2
(section 150(2))

APPLICATION FOR PERMIT TO ACT AS CAR GUARD

TO: THE MUNICIPAL MANAGER, UMSOBOMVU MUNICIPALITY

I,

I.D.:

Address:

Telephone number:

hereby apply for a car guard permit in terms of section 61(2) of the Umsobomvu Road and Traffic By-laws, 2009.

Area in which activity as car guard will be performed (e.g. Metlife Plaza, Selbourn; Checkers Centre, Crown Street; Boobah Bazaars, Church Street):

.....
.....
.....

.....
Signature Date

SCHEDULE 3
(Section 150(3))

CAR GUARD PERMIT

A: ISSUED TO:

PERSON:

Name:

I.D. Number:

B. PREMISES/AREA:

Name (if any)

Address (Location or trading area, erf no. or vehicle registration no.)
.....

C. CERTIFICATION AND RESTRICTION:

This permit authorizes the person mentioned in paragraph A above to act as car guard in the premises/area stipulated in paragraph B above.

D. SIGNATURE OF OFFICIAL

DATE

.....

Name of official:

Official designation:

By-law No. 16, 2009

SPORTING FACILITIES BY-LAW, 2009

BY-LAW

To provide for the management of sporting facilities in the Umsobomvu Municipality; and for matters connected therewith.

BE IT ENACTED by the Umsobomvu Municipality, as follows:-

TABLE OF CONTENTS

Section

1. Interpretation
2. Principles and objectives
3. Application of By-laws
- Chapter 1: Administration, access, fees and prohibited behaviour
4. Administration, control over, and maintenance of sporting facilities
5. Access to sporting facilities and storage facilities
6. Admission fees and other fees
7. Prohibited behaviour in or on a sporting facility or its premises
- Chapter 2: Organised sporting activities
8. Organised sporting activities
9. Reservation and hiring of sporting facilities
10. Cancellation, postponement or extension of reservation
11. Termination of hire
12. Duties of organisation
- Chapter 3: Miscellaneous provisions
13. Enforcement
14. Indemnity
15. Appeal
16. Penalty
17. Revocation of by-laws
18. Short title and commencement

1. Definitions

In this Part, unless the context otherwise indicates –

"accessories" means an object or objects on or in a field, sporting area or course necessary for a particular sport to be performed, such as, but not limited to goal posts, a tennis net, or a flag, and any other feature or fixture;

"appurtenance" means any fitting, installation, appliance, device, instrument, apparatus, utensil, tool whatsoever in the premises, such as, but not limited to a lock, cock, tap, valve, pipe and includes any other appliance or any machine;

"equipment" means gear used by a person in a sporting activity, such as, but not limited to, a racket, bat, club or ball;

"municipality" means the Municipality of Umsobomvu, and includes any political structure, political office bearer, municipality or, duly authorised agent thereof or any employee thereof

acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, municipality or, agent or employee;

“**notice**” means a notice as contemplated in section 4(5);

“**official**” means an official appointed in terms of section 4(2);

“**organised sporting activity**” means a sporting activity that is organised or controlled by an organisation, and includes a practice or training session;

“**organization**” means a sport club, educational institution, or association of people, and includes a group or sport club established by the municipality, which sport club or association or group can be joined by a member of the public;

“**prescribed fee**” means the fee as contemplated in section 6;

“**sporting activity**” means an activity pursued in a sporting facility;

“**sporting facility**” means any land, area, premises, building or structure, or part of any land, area, premises, building or structure, which is administered or controlled by the municipality and which is designated, demarcated, or set aside for a sporting activity such as, but not limited to a sporting arena, a stadium, a pitch, a field, a ring, a dome, an amphitheatre, a tennis or squash court a complex of such courts, a soccer, cricket, or rugby field or a complex of such fields, a public swimming pool, a golf links or course, an ice rink, or any combination of such facilities, and includes facilities surrounding and normally supplementary to a sporting facility.

2. Principles and objectives

The municipality, as custodian of all the sporting facilities within its jurisdiction, recognizes the right of members of the community, whether associated to an organization or not, to the use and enjoy the sporting facilities, and accepts the statutory duty to maintain and develop the resources of the municipality to the best interest of the community, and aims, in these by-laws –

- (a) to continually assess the use and potential use of existing sporting facilities;
- (b) to maintain existing sporting facilities and develop new sporting facilities; and
- (c) to control and administer sporting facilities in a manner corresponding to its integrated environmental and tariffs policies.

3. Application of By-laws

These by-laws apply to all sporting facilities under the control and administration of the Umsobomvu Municipality, but do not apply to land, areas, buildings, and structures regulated on by the Umsobomvu Public Amenities By-laws.

CHAPTER 1 ADMINISTRATION, ACCESS, FEES AND PROHIBITED BEHAVIOR

4. Administration, control over and maintenance of sporting facilities

- (1) The municipality may establish a body or sport committee with the aim of advising the municipality on matters such as, but not limited to the management, integration and control of sporting facilities, and may approach sport bodies active in the municipal area to elect from their members representatives to serve on the body or committee, and the body or committee, once established, must determine and define its functions, powers and procedures, and the municipality may elect to establish a club or group for any group activity on or in a sporting facility.
- (2) All sporting facilities must be administered by the municipality in accordance with these By-laws, and the municipality must appoint an official to enforce the provisions of these by-laws.

- (3) The municipality may, in the interests of the community, and in terms of its powers and functions in applicable legislation, acquire land or a building with the aim of developing sporting facilities, or dispose of existing sporting facility or any rights thereto.
- (4) A person who makes use of sporting facilities does so subject to the provisions of these by-laws and in terms of conditions as may be determined by the municipality, or subject to any conditions which the municipality may impose in terms of section 9 in the instance where the sporting facilities are hired.
- (5) A notice posted by the municipality in terms of these by-laws –
 - (a) must be clearly visible and readable;
 - (b) must be posted in a conspicuous place;
 - (b) must be written in the language or languages as the municipality may determine; and
 - (c) may contain a graphic representation to convey meaning.
- (6) Where an organized sporting activity is not organized or controlled by the municipality, a municipal employee may be present.
- (7) The municipality must maintain a programme which contains the dates and particulars of all sporting activities to be engaged in on the sporting facilities, including the dates and particulars of reservations of a particular sporting facility for use by an organization.
- (8) Subject to the terms and conditions stipulated in any contract of hire, and subject to any applicable national laws, no person –
 - (a) may sell any alcoholic beverage on the premises of a sporting facility without first obtaining express approval for that activity from the municipality;
 - (b) may bring his or her own supply of alcoholic beverages on or into a sporting facility without written authority from an authorised official.
 - (c) who is under 18 years of age may be sold or served with, or is allowed to consume any alcoholic beverage, and the organisation in charge of the sporting facility is responsible for ensuring the strict observance at all times of this provision.
- (9) If the municipality permits the sale or consumption of alcohol on or in a sporting facility, the sale or consumption is subject to the following conditions:
 - (a) no alcoholic beverage may be served in a glass bottle, glass cup or other container made of glass;
 - (b) beer, cider and alcoholic cordials may be served in cans, kegs, or plastic cups only;
 - (c) the organization must maintain good order within the sporting facility.
- (10) The municipality may close, for such period as the municipality deems necessary, a sporting facility under the following circumstances:
 - (a) The sporting facility is substantially unusable due to -
 - (i) destruction;
 - (ii) severe damage; or
 - (iii) the absence of municipal services;
 - (b) the sporting facility constitutes a danger to human life or property;
 - (c) a situation of emergency has arisen which renders such closure necessary or desirable.
- (11) The municipality may at any time temporarily close a sporting facility to members of the public for purposes of repair or maintenance, or if the sporting facility has been hired to an organized group, or for any other reason in the municipality's discretion.
- (12) A person who or organization that contravenes subsection (8) or (9) commits an offence.

5. Access to sporting facilities and storage facilities

- (1) The municipality must by notice posted at or near the entrance to a sporting facility indicate the hours during which the sporting facility may be used by members of the public.
- (2) The municipality, at all times, reserves the right of access to a sporting facility, and an official may instruct a person who has contravened a provision of these by-laws to leave the sporting facility or premises immediately and should the person fail to observe the instruction, the official may remove or cause the person to be removed from the sporting facility or premises.
- (3) The municipality has the right to determine the maximum capacity of a sporting facility, and an official must, once the maximum capacity has been reached, refuse further access into the sporting facility by:
 - (a) Closing all entrances to the sporting facility;
 - (b) posting, at one or more entrances, a notice on which it is stated that the sporting facility is closed and that further access to the sporting facility is prohibited; and
 - (c) if necessary, barring access to the sporting facility by means of the construction, at all entrances to the sporting facility, of blockades, fences, barriers or similar means.
- (4)
 - (a) Where storage facilities for the storage of clothes or items are available on the premises of a sporting facility, only a person who intends engaging in a sporting activity for which provision is made in the sporting facility, may –
 - (i) ask the official in charge of the sporting facility for a container in which to store his or her clothes or personal items, and should a container be available the official must provide it to the person free of charge for the period during which the person is engaging in the sporting activity; and
 - (ii) deposit the container for safekeeping at a place designated by the official may direct and the official must in return give to the person a token bearing a mark by means of which the container is identified.
 - (b) The official must, when the person surrenders the token, return the container and its contents to the person.

6. Admission fees and other fees

The municipality may, in accordance with its tariff policy, prescribe –

- (a) a deposit or fees to be charged for admission to or the hire or use of a sporting facility or equipment;
- (b) such other fees as are contemplated in these By-laws, and may vary in whole or in part the prescribed fees.

7. Prohibited behavior in or on sporting facility or its premises

- (1) No person may –
 - (a) enter into an sporting facility or any part thereof otherwise than by an entrance designated for that purpose;
 - (b) enter or remain inside a sporting facility, without permission, or at any time other than during the hours when such sporting facility is open to members of the public, or when access to the sporting facility has been denied;
 - (c) smoke in a sporting facility, except in an open air sporting facility,

- such as golf links, or in those areas in the sporting facility which have been specifically designated for this purpose, as indicated by notices to that effect;
- (d) wear unsuitable apparel for the sporting activity in which he or she is engaged in, and a person must observe the instructions of an official if asked to change his or her apparel to suit the particular sporting activity;
 - (e) wear footwear that may damage the surface of a sporting facility in any manner;
 - (f) attend or engage in a sporting activity if dressed indecently or if undressed, except in a change room or ablution facility set aside for use by a person of the same sex;
 - (g) relieve him or herself in any part of the sporting facility other than in the ablution facilities provided for that purpose and for use by members of his or her own sex;
 - (h) excluding a child under the age of five years, use change rooms, places of ablution, cubicles, or any other facilities set aside for a particular sex if he or she is not of that particular sex;
 - (i) simultaneously share with another person of a different sex change rooms, places of ablution, cubicles, or any other facilities;
 - (j) enter or remain in any area of the sporting facility, which area is reserved for the use of persons of the other sex;
 - (k) use a change room, place of ablution, cubicle or any other facility for longer than is reasonably necessary to undertake an activity intended to be undertaken in the change room, place of ablution, cubicle, or other facility;
 - (l) use profane or indecent language or behave in any other manner which constitutes a nuisance or unacceptable behavior towards other persons inside or on a sporting facility;
 - (m) destroy, damage or deface any part of a sporting facility, accessories or equipment;
 - (n) discard rubbish such as, but not limited to bottles, plastic cups and plates, tin cans, paper, fruit and rinds, or any other object that may interfere with the cleanliness of the sporting facility in any other place in a sporting facility than in a container provided for that purpose;
 - (o) annoy, endanger, injure or harm any other person inside a sporting facility, whether such person is engaging in a sporting activity or not;
 - (p) in any manner, interfere with the substance covering the surface of a sporting facility, such as, but not limited to turf, sand, or gravel;
 - (q) light any fire or do any act which may cause any substance or thing to catch fire inside a sporting facility, or which does not comply with the municipality's fire protection regulations;
 - (r) drive, draw, or propel a vehicle, whether motorized or not, except a perambulator or wheel chair, or walk upon or recline on lawn on the premises of a sporting facility, except if allowed to do so by a notice of the municipality on the premises;
 - (s) ride or use in or on a sporting facility a bicycle, roller blades, roller skates, a skateboard, a tricycle or any similar form of transport or amusement, except in a sporting facility which specifically provides for the riding of bicycles;
 - (t) without the prior written consent of an official, sell, hawk, advertise,

offer for sale or offer for purchase or exhibit any article for sale, lease or hire, distribute a pamphlet, book, handbill or other written or printed matter inside a sporting facility or in the immediate vicinity of the entrance thereto;

- (u) neither inside nor outside a sporting facility, obstruct, resist or in any manner interfere with an official in the execution of his or her duties or the exercise of any authority in terms of these by-laws;
- (v) tamper with or in any manner interfere with an appurtenance in or on the premises of a sporting facility;
- (w) bring into or keep on a sporting facility an animal, except a guide dog, without the prior consent of the municipality, unless the sporting activity engaged in involves the use of animals;
- (x) bring or keep into or on a sporting facility a traditional weapon, firearm, or any other dangerous weapon, and should a person be found, before admission or after admission to the sporting facility, to be in possession of a traditional weapon, firearm, or any other dangerous weapon –
 - (i) the person must, if he or she insists on entering or remaining in the sporting facility, surrender the traditional weapon, firearm, or dangerous weapon to an official on request of the official;
 - (ii) the official must keep in a storage facility, if such facility is available on the premises of the sporting facility, the traditional weapon, firearm, or dangerous weapon in custody for the period during which the person is on the premises of the sporting facility; and
 - (iii) the official must return the traditional weapon, firearm, or dangerous weapon to the person when the person leaves the premises of the sporting facility,however, if a storage facility as contemplated in (ii) is not available, the person may not enter into or remain in or on the sporting facility and must observe an instruction by the official to the effect that he or she may not enter the sporting facility or that he or she must immediately leave the premises;
- (y) erect or attempt to erect any enclosure, tent or similar construction, stall, booth, stand, screen, fence, or drive into the ground any peg or spike without the permission of the official in charge of the sporting facility;
- (z) behave or conduct himself or herself in a manner which may prejudice good order;
 - (aa) bring into or onto the premises of a sporting facility any substance or matter which may endanger the safety of people in the sporting facility, or which may be used to disrupt proceedings at or spoil the peaceful enjoyment of the sporting facility;
 - (bb) behave or conduct himself or herself in a manner which may disrupt a sporting activity; or
 - (cc) wilfully fail to comply with a lawful instruction given by an official.

(2) A person who contravenes any of the provisions of this section commits an offence.

CHAPTER 2
ORGANISED SPORTING ACTIVITIES**8. Organised sporting activities**

- (1) Organised sporting activities may be organized and controlled by organizations, municipal staff, or other persons such as, but not limited to free lance instructors.
- (2) An organization to which a sporting facility or a portion thereof has been allocated for use at regular times, must ensure that only its members make use of the sporting facility at those times, and should it be impossible for the members of an organization to make use of the sporting facilities at those times, the organization must notify beforehand the official in charge of the sporting facility, and should an organization fail to do so, the municipality may suspend or cancel the organisation's further use of the sporting facility.
- (3) An organization may not, without the permission of the official in charge, alter the programme, and should an organization do so, the municipality may suspend or cancel the organisation's further use of the sporting facility.
- (4) A person who, for whatever reason, has been suspended from participating in an organized sporting activity, may not enter the sporting facility in which the sporting activity from which he or she has been suspended, are undertaken, and may only enter the sporting facility once the suspension has been raised, and should a person enter the sporting facility in breach of this subsection, he or she commits an offence.

9. Reservation and hiring of sporting facilities

- (1) The municipality reserves the right to set aside or hire out, for the purpose of organized sporting activities, a sporting facility on occasions for special purposes on such conditions as it may prescribe and the municipality may charge a deposit and a fee, as determined in its Tariff bylaw, for the use of the sporting facility, or may make it available free of charge on such occasions or grant free admission to selected persons.
- (2) The representative of an organization that wishes to hire for use a sporting facility for the purpose of hosting an organized sporting activity, must lodge an application form to reserve the sporting facility, and for these purposes must –
 - (a) complete the necessary application form and comply with all the other requirements and conditions which are specified in the application form;
 - (b) lodge two copies of the application form at the Municipal Manager's offices; and
 - (c) obtain the municipality's approval before the organisation makes use of the sporting facility.
- (3) An application must be lodged within the time prescribed by the municipality.
- (4) The application must contain the following:
 - (a) Particulars of the sporting facility, or part thereof intended to be used;
 - (b) particulars of the period for which the sporting facility is required;
 - (c) particulars of the date and time when the sporting facility will be occupied and vacated;
 - (d) particulars of the expected number of people who will be attending the organized sporting activity;
 - (e) particulars of the intended use of sporting facility;
 - (f) an undertaking by the organisation that has lodged the application that the organisation will comply with all conditions imposed by the municipality and with the provisions of these by-laws;

- (g) an indemnity that the municipality is not liable for any loss, damage or injury, direct or indirect, arising out of the organisation's use of the sporting facility; and
 - (h) an indemnity against any claim made by a member of the public against the municipality resulting from the use of the premises while under the control of the organization, which indemnity extends to any expense which the municipality may incur in relation to any such claim.
- (5) The municipality, when it considers the application, may have, in addition to other relevant factors, due regard to the following:
- (a) The principles and objectives of these by-laws;
 - (b) that the sporting facility may be used for lawful purposes only;
 - (b) that the use of the sporting facility will not constitute a nuisance or annoyance to other users of another part of the sporting facility which has not been hired by the organisation, or to the occupiers of neighbouring premises; and
 - (c) that the use of the sporting facility will not constitute a danger to any person or property or negatively affect the environment.
- (6) The municipality may approve the use of the sporting facility subject to any condition it may deem expedient, or may refuse consent.
- (7) The municipality must, within seven days after the application form has been lodged, in writing notify the organisation if the application has been approved or refused, and –
- (a) if the application is refused, the municipality must supply to the organisation the reasons why the application was refused; or
 - (b) if the application is approved, the municipality must forward a notice of approval and one set of the application form to the organisation, and must specify in the notice of approval the conditions to which the use of the sporting facility is subject.
- (8) The municipality must keep a register which is open to public inspection at all reasonable hours and which contains the following particulars of the sporting facility for the use of which approval was granted:
- (a) The application which was made to the municipality for the use of the sporting facility;
 - (b) the name and address of the organisation;
 - (c) the date of the application;
 - (d) the prescribed deposit and fee for the use of the sporting facility, if a fee is payable;
 - (e) the conditions relating to the use of the sporting facility.
- (9) An organisation may not, before the municipality's approval has been received by it, advertise or announce the sporting activity for which it has lodged an application.
- (10) The municipality may, before it approves an application, require of an organization that wishes to make use of a sporting facility to take out, with an insurance company approved by the municipality –
- (a) insurance in an amount approved by the municipality to cover any structural damage which may occur to the sporting facility whilst being used by the organization; and
 - (b) public liability insurance in respect of the death or injury of any person that may occur during or as a consequence of an organized sporting activity undertaken during the period of hire.
- (11) An organization which supplies false information in the application form or with respect to the requirements in subsection (10), or which contravenes subsection (9) commits an offence.

10. Cancellation, postponement or extension of reservation

- (1) An organisation who has lodged an application for the reservation of a sporting facility, may cancel the application, and where the organisation has paid the the deposit or fee as contemplated in subsection 9(8)(d), the municipality will determine the percentage of the paid deposit or fee to be refunded to the organisation.
- (2)
 - (a) After approval has been given by the municipality, an organisation may apply for the postponement of the reservation to a later date.
 - (b) Approval by the municipality of the postponement does not result in a penalty or forfeiture of any deposit or fee already paid.
 - (c) Postponement may be refused if the sporting facility has been reserved for the use by another organisation or the municipality.
- (3) An organisation may apply for an extension of the period of use of the sporting facility, and -
 - (a) the application for extension must be in writing and lodged at the Municipal Manager's offices; and
 - (b) the sporting facility must be available, in that the municipality has not reserved the sporting facility for the use by another organisation.
- (4) The municipality may at short notice or otherwise cancel the hire of the sporting facility under the circumstances contemplated in section 4(10), or should the municipality require the sporting facility for municipal purposes at the same time, however, the municipality may refund the deposit or fee that have already been paid to it in respect of the reservation.
- (5) Should the municipality decide to cancel a reservation, the municipality must, within a reasonable time notify, in writing, the organisation of its decision, however, in the instance where a notice is given in terms of subsection (4), the notice is deemed to be effective as from the date on which the destruction or damage took place.
- (6) Subject to the provisions of subsection (4), an organisation has no claim against the municipality for loss of use of the sporting facility or for damage arising from a cancellation in terms of subsection (4).
- (7) The municipality reserves the right to cancel a booking should the sporting facility be required for municipal purposes at the same time, and the municipality is not liable to pay compensation to the organisation should the municipality, for these purposes, cancel a booking, however, the municipality may refund the deposit or fee that have already been paid to it in respect of the application.

11. Termination of hire

- (1) On termination of the hire the organisation and the official must, for the purpose of assessing the conditions of the premises or amenities, inspect the premises or amenities.
- (2) The organisation must -
 - (a) return the sporting facility to the municipality in the condition as when they were hired out to the organisation;
 - (b) repair any damage or breakages;
 - (c) comply with any instructions by the municipality in respect of the cleaning of the sporting facility; and
 - (d) vacate the sporting facility within the period stated in the application form, and should the organisation fail to comply with -
 - (i) (a), (b) or (c), the municipality may replace, repair or make good any breakages, broken, missing or damaged appurtenances, appliances or any other object on the sporting facility, and recover the costs from the organisation; or

- (ii) (d), the municipality may levy an additional fee for the period during which the organisation occupies the sporting facility after the expiry of the period stipulated in the application form.

12. Duties of organisation

- (1) Before an organisation commences to use the sporting facility, a representative of the organisation must inspect the sporting facilities, and should he or she find that buildings, structures, accessories or equipment in and on the sporting facilities are in a state of disrepair, he or she must immediately report this fact to the municipality, and failure to do so is deemed as an acceptance by the organisation that the facilities are in a proper condition.
- (2) The organisation must take all reasonable measures to ensure that its members and persons attending a sporting activity, as participants, visitors or spectators comply with section 7 and, furthermore –
 - (a) may not use the sporting facilities for any other purpose than that for which approval was given;
 - (b) may not use sporting facilities for which approval was not given;
 - (c) may not use the sporting facilities unless it has fully paid the fees, if stipulated;
 - (d) may not sub-let the sporting facilities;
 - (e) may not allow another organisation to use the sporting facilities;
 - (f) may not without the approval of the municipality first having been obtained, cede, pledge or renounce in favour of another organisation any of the rights or obligations under these by-laws;
 - (g) may not allow any accessories or any other property of the municipality to be removed from the sporting facilities;
 - (h) may not allow a person to drive or screw nails, screws or similar objects into the walls, doors, accessories, or in any other place or into any object belonging to the municipality, in the sporting facilities;
 - (i) may not allow a person to apply paint to any window or on any accessory or other object belonging to the municipality, on the premises;
 - (j) may not interfere or tamper with any electrical installation or appliance on the sporting facility;
 - (k) must ensure that persons attending a sporting activity for which purpose the organisation has hired the use of the sporting facilities, behave in a seemly manner and do not cause a nuisance to other users of the sporting facilities or neighbouring premises;
 - (l) if it has on its request been supplied, by the municipality, with equipment for use during the sporting activity, may not remove the equipment from the sporting facility;
 - (m) may not allow a person or cause a person to bring onto, or may not allow to be kept on, or may not undertake or allow any activity onto or in the sporting facility any matter, thing or activity which may invalidate or invalidates any insurance policy of the building or facility or which may increase or increases the premium;
 - (n) must, before vacating the sporting facility, remove any article affixed or erected by it, such as, but not limited to flags, advertisements, posters, notices, signs and decorations;
 - (o) should the sporting activity requires the use of ushers, provide the ushers;
 - (p) must control the admission of people to the sporting facility, and, if applicable, the sale of tickets;

- (q) must ensure that at no time overcrowding takes place, and must adhere to the conditions, in the notice of approval, regarding the number of seats and persons allowed;
 - (r) may not allow the sale of food or soft drinks in the sporting facility without the municipality's consent;
 - (s) ensure, at all times, that the sporting facilities are kept in a clean, sanitary and tidy condition;
 - (t) must take the necessary precautions to keep drains, water installations, and sewage pipes clean and free of blockages, and must maintain these in such condition;
 - (u) may not park or store or allow to be parked or stored any vehicle or object which may hamper the uninhibited access to or exit from an entrance, passage, building or structure;
 - (v) may not allow the parking of vehicles anywhere else in the sporting facility except than in the demarcated parking areas;
 - (w) must comply any instruction issued by an official;
 - (x) may not allow the bringing into or keeping in the sporting facility or affixing onto anything in the sporting facility any object which is unsafe or which, due to its weight or size, may damage the sporting facility;
 - (y) must, subject to the section 10, strictly adhere to the specific times contemplated in section 9 allocated to it by the municipality for the use of the sporting facility or any part thereof; and
 - (z) may not, without the prior permission of the official, relay amplified sound through a music or public address system, and should permission be granted, the volume must be moderate and the loudspeakers must be positioned so that the sound is audible in the sporting facility only so as not to cause a nuisance outside the sporting facility.
- (3) An organisation commits an offence if it contravenes a provision of subsection (2).

CHAPTER 3
 MISCELLANEOUS PROVISIONS

13. Enforcement

- (1) An official may, for the purpose of the safety of all persons using a sporting facility, whether as player or spectator or otherwise, and for ensuring that law and order is observed, search any –
- (a) person who wishes to enter the sporting facility;
 - (b) container which a person wishes to bring into the sporting facility; or (c) vehicle which a person intends to drive in to or on the sporting facility.
- (2) The official may confiscate –
- (a) liquor;
 - (b) a traditional weapon, firearm, or any other dangerous weapon; or
 - (d) any substance or matter which may endanger the safety of people in the sporting facility, or which may be used to disrupt proceedings at or spoil the peaceful enjoyment of the sporting facility, found as a result of the search conducted in terms of subsection (1), and must return to the person that which was confiscated from him or her when he or she leaves the sporting facility.
- (3) If the official finds an unlawful substance as a result of the search contemplated in subsection (1), he or she must immediately alert the South African Police Services, or if

he or she is appointed as a peace officer in terms of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), he or she may act in terms of the Act.

- (4) A person who obstructs or interferes with an official in the exercise of his or her duty, commits an offence.

14. Indemnity

Any person, including a child, whether or not accompanied by a parent, tutor or guardian, and including a mentally or physically handicapped person, whether or not accompanied by another person, visiting or using the premises of a sporting facility, including any appliance, equipment, apparatus or storage facility thereon, does so at his or her own risk and the municipality shall not be liable for any personal injury or loss of or damage to the property of such person, howsoever arising, which such person may suffer while on the premises, for whatever reason, of a sporting facility.

15. Appeal

- (1) A person whose rights are affected by a decision of an official may appeal against that decision by giving written notice of the appeal and reasons to the municipal manager within 21 days of the date of the notification of the decision.
- (2) The municipal manager must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.
- (3) When the appeal is against a decision taken by –
- (a) a staff member other than the Municipal Manager, the Municipal Manager is the appeal authority;
 - (b) the Municipal Manager, the Executive Committee is the appeal authority; or
 - (c) a political structure or political officer bearer, or a Councillor the Council is the appeal authority.
- (4) The appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable time

16. Penalty

A person who or organisation which has committed an offence in terms of these by-laws is, on conviction, liable to a fine or in default of payment, to imprisonment, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment.

17. Repeal of by-laws

The By-Laws enacted by Colesberg Transitional Local Council, Noupoort Transitional Local Council and Masizakhe Representative Council with regard to Sporting Facilities are hereby repealed.

18. Short title and commencement

These By-laws may be cited as the Umsobomvu Sporting facilities By-laws, and commence on the date of publication thereof in the Provincial Gazette.

By-law No. 17, 2009

STORM-WATER MANAGEMENT BY-LAW, 2009**BY-LAW**

To provide for the management of storm-water in the Umsobomvu Municipality; and for matters connected therewith.

BE IT ENACTED by the Umsobomvu Municipality, as follows:-

Table of contents

1. Definitions
2. Purpose of by-laws
3. Application of by-laws
4. Prohibited conduct
5. Application and conditions which municipality may impose
6. Storm-water systems on private land
7. Powers of municipality
8. Authentication and service of notices and other documents
9. Appeal
10. Exemptions
11. Liaison forums in community
12. Penalties
13. Short title and commencement

1. Definitions

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

“**floodplain**” means land adjoining a watercourse which is predisposed to flooding up to the 100 year recurrence interval;

“**municipality**” means the municipal council of Umsobomvu Municipality, or any political structure, political office bearer, committee, councilor, official or employee of the municipality, delegated to exercise powers or perform duties in terms of these by-laws;

“**private storm-water system**” means a storm-water system which is owned, operated or maintained by a person and not the municipality;

“**pollute**” bears the meaning assigned to it in the National Water Act, 1998 (Act 36 of 1998);

“**storm-water**” means water resulting from natural rainfall or the accumulation thereof, and includes –

(a) groundwater and spring water ordinarily conveyed by the storm-water system; and

(b) sea water within estuaries,

but excludes water in a drinking water or waste water reticulation system;

“**storm-water system**” means both the constructed and natural facilities, including pipes, culverts, watercourses and their associated floodplains, whether over or under public or privately owned land, used or required for the management, collection, conveyance, temporary storage, control, monitoring, treatment, use or disposal of storm-water;

“**watercourse**” bears the meaning assigned to it in the National Water Act, 1998 (Act 36 of 1998);

“**organ of state**” bears the meaning assigned to it in section 239 of the Constitution.

2. Purpose of by-laws

The purpose of these by-laws is to regulate storm-water management and activities which may have an adverse impact on the development, operation and maintenance of the storm-water system.

3. Application of by-laws

These by-laws –

- (a) bind an organ of state; and
- (b) apply to storm-water systems in built-up areas.

4. Prohibited conduct

- (1) No person may, except with the written consent of the municipality first having been obtained –
 - (a) discharge, place or permit to enter into the storm-water system –
 - (i) anything other than storm-water;
 - (ii) anything likely to damage the storm-water system or interfere with the operation thereof;
 - (iii) anything likely to pollute the water in the storm-water system;
 - (b) discharge from any place, or place onto any surface, any substance other than storm-water, where that substance could reasonably be expected to find its way into the storm-water system;
 - (c) undertake any action whatsoever that is likely to destroy, damage, endanger or interfere with the storm-water system or the operation thereof, which action includes, but is not limited to –
 - (i) obstructing or reducing the capacity of the storm-water system;
 - (ii) opening a pipe, culvert or canal which forms part of the storm-water system;
 - (iii) constructing or erecting any structure or thing over or in such a position or in such a manner as to destroy, damage, endanger or interfere with the storm-water system or the operation thereof;
 - (iv) draining, abstracting or diverting any water directly from the storm-water system;
 - (v) filling, excavating, shaping, landscaping, opening up or removing the ground above, within, under or immediately next to any part of the storm-water system;
 - (vi) changing the design or the use of, or otherwise modify any feature of the storm-water system which alone or in combination with other existing or potential land uses, may cause an increase in flood levels or create a potential flood risk; or
 - (vii) any activity which alone or in combination with other existing or future activities, may cause an increase in flood levels or create a potential flood risk.
- (2) When an incident contemplated in subsection (1)(a) or (b) occurs without the consent of the municipality contemplated in subsection (1) –
 - (a) if the incident is not the result of natural causes, the person responsible for the incident; or
 - (b) the owner of the property on which the event took place or is taking place, must immediately report the incident to the municipality, and take, at own cost, all reasonable measures to contain and minimize the effects of the incident,

which measure include, but are not limited to, the undertaking of cleaning up operations including the rehabilitation of the environment.

- (3) A person who contravenes a provision of subsection (1) or (2) commits an offence.

5. Application and conditions which municipality may impose

- (1) A person who wishes to obtain the consent of the municipality as contemplated in section 4, must submit an application to the municipality and the municipality may request from the applicant any further information which may assist the municipality in its decision.

- (2) Should the municipality grant consent, it may impose conditions as it may deem necessary, such as, but not limited to –

- (a) the undertaking of impact assessments, environmental impact studies or environmental impact investigations which are required by environmental legislation; and
- (b) the establishment of flood lines, the costs of which are for the account of the applicant.

6. Storm-water systems on private land

- (1) An owner of property on which a private storm-water system is located –

- (a) may not carry out any activity which may impair the effective functioning of the storm-water system or which could reasonably be expected to impair the effective functioning of the storm-water system; and

- (b) must, at own cost, keep the storm-water system functioning effectively, including undertaking, on written instruction by the municipality, the refurbishment and reconstruction thereof if the municipality deems it necessary that the storm-water system be refurbished or reconstructed.

- (2) Subsection (1)(b) does not apply in the instance where the municipality has accepted responsibility for any of the duties contained in a maintenance agreement or in terms of a condition of a servitude.

- (3) Should an owner fail or refuse to comply with an instruction by the municipality made in terms of subsection (1)(b), the municipality may undertake measures to refurbish or reconstruct the storm-water system, and the municipality may recover from the owner all reasonable costs incurred as a result of action taken.

- (4) An owner who contravenes a provision of subsection (1)(a) or who fails or refuses to comply with an instruction contemplated in subsection (1)(b) commits an offence.

7. Powers of municipality

- (1) An employee of the municipality or contractor acting on its behalf, authorized thereto in writing by the municipality, may at all reasonable times enter upon any premises or any portion thereof with the aim of carrying out any inspection or test which he or she deems necessary or expedient in order to determine the current status of a storm-water system.

- (2) The municipality may, for the purpose of providing the necessary infrastructure for the storm-water system and maintaining such infrastructure –

- (a) construct, expand, alter, maintain or lay any drain, pipe or other structure related to the storm-water system on or under any immovable property, and may do any other thing necessary or desirable for or incidental, supplementary or ancillary to such construction, expansion, alteration or maintenance, and ownership of such drain, pipe or structure vests in the municipality;

- (b) drain storm-water or discharge water from any municipal service works into any watercourse;

- (c) repair and make good any damage done in or damage resulting from a contravention of section 4(1)(a)(ii) or 4(1)(c), such as, but not limited to –
 - (i) demolishing, altering or otherwise dealing with any building, structure or other thing constructed, erected or laid in contravention of section 4(1)(c)(iii);
 - (ii) filling in, removing and making good any ground excavated, removed or placed in contravention of section 4(1)(c)(v);
- (d) remove anything –
 - (i) discharged or permitted to enter into the storm-water system or watercourse in contravention of section 4(1)(a) or (b);
 - (ii) damaging, obstructing or endangering or likely to obstruct, endanger or destroy any part of the storm-water system;
- (e) seal off or block any point of discharge from any premises, irrespective of whether the point is used for lawful purposes;
- (f) cancel any consent granted in terms of section 5 if any condition under which the consent was granted is not complied with;
- (g) by written notice, instruct any owner of property –
 - (i) to retain storm-water on such property or to lay, at the cost of such owner, a storm-water drain pipe or gutter to a suitable place indicated by the municipality, irrespective of whether the course of the pipe or gutter will run over private property or not;
 - (ii) to allow the owner of a higher lying property to lay a storm-water drain pipe or gutter over his or her property for the draining of concentrated storm-water;
- (h) discharge storm-water into any watercourse, whether on private land or not.
- (3) Should an owner of property fail to comply with an instruction contemplated in subsection (2)(g)(i), the municipality may undertake measures to retain such storm-water or to lay such storm-water drain pipe or gutter.
- (4) Where it seems that any action or neglect by a person or owner of property may lead to a contravention of a provision of these by-laws, the municipality may notify, in writing, such person or owner to comply with such requirement as the municipality may deem necessary to prevent the occurrence of such contravention.
- (5) The municipality may recover all reasonable costs incurred as a result of action taken
 - (a) in terms of subsection (2)(c) or (d), from the person who was responsible for a contravention of the provisions of these by-laws or the owner of the property on which a contravention occurred; or
 - (b) in terms of subsection (3), from the owner of the property.
- (6) A person commits an offence if he or she –
 - (a) fails to comply with an instruction contemplated in subsection (2)(g);
 - (b) threatens, resists, hinders, obstructs or otherwise interfere with, or who uses foul or abusive language towards or at an employee or contractor of the the municipality in the exercise of any powers or performance of any duty or function in terms of these by-laws; or
 - (c) falsely holds himself or herself to be an employee or contractor of the municipality.

8. Authentication and service of notices and other documents

- (1) A notice or other document requiring authentication by the municipality must be signed by the Municipal Manager or by a duly authorised officer of the municipality, such authority being conferred by resolution of the municipality or by a By-law or regulation,

and when issued by the municipality in terms of these By-laws is deemed to be duly issued if it is signed by an officer authorised by the municipality.

- (2) Any notice or other document that is served on a person in terms of these By-laws is regarded as having been served –
 - (a) when it has been delivered to that person personally;
 - (b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of 16 years;
 - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic, and an acknowledgment of the posting thereof from the postal service is obtained;
 - (d) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided by paragraphs (a), (b) or (c);
 - (e) if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the property or premises, if any, to which it relates;
 - (f) in the event of a body corporate, when it has been delivered at the registered office of the business premises of such body corporate; or
 - (g) when it has been delivered, at the request of that person, to his or her e-mail address.
- (3) Service of a copy is deemed to be service of the original.
- (4) When any notice or other document must be authorised or served on the owner, occupier, or holder of any property, or right in any property, it is sufficient if that person is described in the notice or other document as the owner, occupier, or holder of the property or right in question, and it is not necessary to name that person.
- (5) Any legal process is effectively and sufficiently served on the municipality when it is delivered to the Municipal Manager, or a person in attendance at the Municipal Manager's office.

9. Appeal

- (1) A person whose rights are affected by a decision of an official may appeal against that decision by giving written notice of the appeal and reasons to the Municipal Manager within 21 days of the date of the notification of the decision.
- (2) The Municipal Manager must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.
- (3) When the appeal is against a decision taken by –
 - (a) a staff member other than the Municipal Manager, the Municipal Manager is the appeal authority;
 - (b) the Municipal Manager, the Speaker is the appeal authority; or
 - (c) a political structure or political officer bearer, or a the councillor, the Council is the appeal authority.
- (4) The appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable time

10. Exemptions

- (1) Any person may by means of a written application, in which the reasons are given in full, apply to the municipality for exemption from any provision of these by-laws.
- (2) The municipality may –

- (a) grant an exemption in writing and the conditions in terms of which, if any, and the period for which such exemption is granted must be stipulated therein;
 - (b) alter or cancel any exemption or condition in an exemption; or
 - (c) refuse to grant an exemption.
- (3) An exemption does not take effect before the applicant has undertaken in writing to comply with all conditions imposed by the municipality under subsection (2), however, if an activity is commenced before such undertaking has been submitted to the municipality, the exemption lapses.
- (4) If any condition of an exemption is not complied with, the exemption lapses immediately.

11. Liaison forums in community

- (1) The municipality may establish one or more liaison forums in a community for the purposes of –
- (a) creating conditions for a local community to participate in the affairs of the municipality;
 - (b) encouraging a local community to participate in the affairs of the municipality; and
 - (c) promoting the achievement of an effective infrastructure for storm-water systems.
- (2) A liaison forum may consist of –
- (a) a member or members of an interest group;
 - (b) a member or members of a community in whose immediate area a storm-water system is not operating effectively;
 - (c) a designated official or officials of the municipality;
 - (d) the councillor responsible for municipal works; and
 - (e) such other person or persons decided upon by the municipality
- (3) (a) The municipality may, when considering an application for consent or exemption in terms of these by-laws, where applicable, request the input of a liaison forum.
- (b) A liaison forum or any person or persons contemplated in subsection (2) may, on own initiative submit an input to the municipality for consideration.

12. Penalties

A person who has committed an offence in terms of these by-laws is, on conviction, liable to a fine or in default of payment, to imprisonment, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment, and in the case of a successive or continuing offence, to a fine for every day such offence continues, or in default of payment thereof, to imprisonment.

13. Repeal of By Laws

- (1) The By-Laws enacted by Colesberg Transitional Local Council, Noupoot Transitional Local Council and Masizakhe Representative Council with regard to storm-water management are hereby repealed.
- (2) Any permission obtained, right granted, condition imposed,

activity permitted or anything done under a repealed law, shall be 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.

14. Short title and commencement

These by-laws may be cited as the Umsobomvu Municipality Storm-Water Management By-laws, and commence on the date of publication thereof in the Provincial Gazette.

By-law No. 18, 2009

WASTE MANAGEMENT BY-LAW, 2009

BY-LAW

To provide for the management of waste in the Umsobomvu Municipality; and for matters connected therewith.

BE IT ENACTED by the Umsobomvu Municipality, as follows:-

Table of contents

- 1 Interpretation
- 2 Principles and objectives
- CHAPTER 1: PROVISION OF SERVICES
- 3 Council as primary service provider
- 4 Duties of Council
- 5 Tariffs
- CHAPTER 2: WASTE INFORMATION SYSTEM
- 6 Establishment of Waste Information System
- 7 Purpose of Waste Information System
- 8 Provision of information
- 9 Access to information
- 10 Report by Council
- CHAPTER 3: WASTE MANAGEMENT INSPECTOR
- 11 Appointment of waste management inspector
- 12 Responsibility
- 13 General powers
- 14 Powers to enter and search premises, land, water, or other places.
- 15 Powers to stop, enter, and search vehicles, vessels and aircraft
- 16 Powers to seize
- 17 Offences relating to waste management inspectors
- CHAPTER 4: DUTY OF CARE, PRODUCER RESPONSIBILITY, AND WASTE PREVENTION AND MINIMISATION
- Part 1: Duty of care*
- 18 Duty of care
- 19 Remedial measures to be taken by person
- Part 2: Producer responsibility*
- 20 Producer to be responsible
- Part 3: Waste prevention and minimisation*
- 21 Need to prevent or minimise production of waste, and related provisions
- 22 Council to arrange for long-term contracts
- CHAPTER 5: WASTE MANAGEMENT
- Part 1: Waste management activities and categories of waste*
- 23 Waste management activities
- 24 Categories of waste
- Part 2: General provisions relating to domestic, industrial and special waste*
- 25 Numbering of premises
- 26 Separation of waste
- 27 Provision of receptacles or racks for storage of waste

28. Location of receptacle
 29. Standards which receptacles must meet
 30. Maintenance of receptacle
 31. Contents of receptacle, tyres and waste oil
 32. Collection of waste
 33. Access to premises
 34. Right of entry
 35. Inaccessible premises
 36. Interference with receptacle
 37. Transfer of waste
 - Part 4: Specific provisions relating to domestic waste*
 38. Domestic waste
 39. Specific provisions relating to generation, collection and transfer of domestic waste
 - Part 5: Specific provisions relating to industrial waste*
 40. Industrial waste
 41. Compaction of waste
 42. Standard of receptacle
 43. Collection of waste
 - Part 6: Specific provisions relating to special waste*
 44. Categories of special waste
 45. Garden waste
 46. Building waste
 47. Bulky waste
 48. Animal carcasses
 - Part 7: Recovery and disposal of waste, and private landfilling*
 49. Recovery and disposal of waste
 50. Waste recovery facilities and landfill sites
 51. Private landfilling areas
 - Part 8: Unsolicited mail, littering, dumping, abandoned vehicles, and outside waste*
 52. Unsolicited mail
 53. Littering
 54. Dumping
 55. Abandoned vehicle
 56. Outside waste
 - Part 9: Control of emergency incidents*
 57. Definitions
 58. Duties of responsible person
 59. Directives by Council
- CHAPTER 6: LICENCES
- Part 1: Licence to operate as waste collector*
60. Waste collecting licence
 61. Duties of licensee
 62. Supervision of licensee
 63. Licence conditions, variation, revocation and suspension, transfer and payment of fees
- Part 2: Licence to operate waste recovery facility or landfill site*
64. Application for licence and registration
 65. Licence
 66. Duties of licensee
 67. Supervision of licensee
 68. Variation of licence

69. Revocation and suspension of licence
70. Surrender of licence
71. Transfer of licence
72. Payment of fees

CHAPTER 7: COMPLIANCE AND ENFORCEMENT

73. Notice of compliance and representations
74. Costs

CHAPTER 8: ADMINISTRATIVE AND OTHER MATTERS

75. Authentication and service of notices and other documents
76. Legal documents and steps valid under certain circumstances
77. Security for release of vehicles, vessels or aircraft
78. Award of part of fine recovered to informant
79. Cancellation of permits and forfeiture of items
80. Appeal
81. Limitation of liability
82. Waivers
83. Penalties
84. Savings and transitional
85. Consolidation of by-laws, adoption of standards, guidelines, regulations, codes, instructions, specifications or administrative procedures, enactment of new by-laws, and resolutions
86. Short title and commencement

1 Interpretation

In these By-laws, unless the contents otherwise indicates –

“**abandoned vehicle**” means any vehicle or part thereof which has been placed or left on a street or public place without being moved for a period of thirty days;

“**approved**” in the context of bins, bin liners, containers, receptacles and wrappers, means approved by Council or a licensee for the collection and storage of waste;

“**bin**” means an approved receptacle for the storage of less than 1,5 cubic metres of waste which may be supplied by Council or service provider to premises in terms of these By-laws;

“**bin liner**” means an approved loose plastic or other suitable material liner for use in the interior of a bin;

“**building waste**” means waste produced during the construction, alteration, repair or demolition of a structure, and includes building rubble, earth, vegetation and rock displaced during such construction, alteration, repair or demolition;

“**bulky waste**” means waste which by virtue of its mass, shape, size or quantity is inconvenient to remove in the routine service provided by Council or a licensee;

“**By-law**” means legislation passed by Council binding in the municipality on persons to whom it applies;

“**commercial service**” means any service, undertaken for gain, excluding council services, relating or connected to accumulating, collecting, managing, recycling, sorting, storing, treating, transporting, disposing, buying or selling of waste or any other manner of handling waste;

“**container**” means an approved receptacle having a capacity greater than 1,5 cubic metres for the temporary storage of waste in terms of these By-laws;

“**Council**” means the Umsobomvu Municipal Council and any committee of Council or official to whom Council has lawfully delegated the powers, functions and duties vesting in Council in relation to this by-law and, where applicable, a licensee in respect of a power, function or duty of Council which Council assigned to a licensee in terms of these By-laws;

“**council services**” means a municipal service relating to the collection of waste, provided exclusively by Council or a licensee in accordance with the provisions of the Systems Act, 2000 (Act 32 of 2000) and these By-laws;

“**damage to the environment**” means any pollution, degradation or harm to the environment whether visible or not;

“**dailies**” means putrescible waste generated by establishments such as, but not limited to, hotels, restaurants, food shops, hospitals, and canteens that must be collected on a more frequent basis, normally a daily basis, to prevent the waste from decomposing and presenting a nuisance, environmental or health risk;

“**domestic waste**” means waste contemplated in section 38;

“**dump**” means placing waste anywhere other than an approved receptacle or a place designated by Council or a licensee as a waste disposal or processing facility;

“**DWAF**” means the National Department of Water Affairs and Forestry;

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

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

“**firm**” includes any juristic person or any association of persons established or operating in the Republic of South Africa;

“**garden waste**” means waste generated as a result of normal domestic gardening activities, including grass cuttings, leaves, plants, flowers and other similar small and light organic matter, but does not include tree branches with a diameter thicker than 40 mm at any point of its length, any other category of waste or waste generated as a result of garden service activities;

“**garden service**” means the provision of gardening services by a licensee including the cutting of grass, pruning of trees or any other horticultural activity including landscaping, to any domestic, business, commercial or industrial premises;

“**garden waste handling facility**” means a waste handling facility that receives and temporarily stores garden waste or any other recyclable waste;

“**hazardous waste**” means waste containing or contaminated by poison, a corrosive agent, a flammable substance having an open flash-point of less than 90 deg C, an explosive, radioactive material, a chemical or any other waste that has the potential even in low concentrations to have a significant adverse affect on public health or the environment because of its inherent toxicological, chemical and physical characteristics;

“**industrial waste**” means waste contemplated in section 40;

“**land reclamation**” means the planned and engineered disposal of inert or other appropriate waste for the purpose of constructing any facility or changing the natural features of any piece of land;

“**level of service**” means the frequency of Council service and the type of service;

“**licensee**” means a person who has obtained a licence in terms of Chapter 6;

“**litter**” means any object or matter which is discarded by a person in any place except in an approved receptacle provided for that purpose or at a waste disposal or processing facility;

“**local community**” in relation to Council means that body of persons comprising –

- (a) the residents of municipality;
- (b) the ratepayers within Umsobomvu municipality;
- (c) any civic organisation and non-governmental, private sector or labour organisation or body which is involved in local affairs within Council; and

(d) a visitor and another person residing outside of the municipality who, because of his or her presence in the municipality, makes use of services or facilities provided by Council;

"manufacturer" means a person who manufactures raw materials for packaging;

"medical waste" means waste generated by a hospital, clinic, nursing home, doctor's offices, medical laboratory, research facility, dental practitioner, medical practitioner, and veterinarian and which are infectious or potentially infectious, and includes -

- (a) microbial wastes including cultures and stocks of infectious wastes and associated biologicals that can cause disease in humans;
- (b) human blood and blood products, including serum, plasma and other blood components;
- (c) pathological wastes of human origin, including tissues, organs and body parts removed during surgery or autopsy;
- (d) contaminated animal wastes including animal carcasses, body parts and bedding which have been exposed to infectious agents during medical research, pharmaceutical testing or production of biologicals;
- (e) isolation wastes associated with animals or human beings known to be infected with "highly" communicable diseases; and
- (f) contaminated and uncontaminated sharps including hypodermic needles, scalpels and broken glassware;

"municipality" means the Umsobomvu municipality;

"nuisance" means any injury, harm, damage, inconvenience or annoyance to any person which is caused in any way whatsoever by the improper handling or management of waste, including but not limited to, the storage, placement, collection, transport or disposal of waste or by littering;

"occupier" means any person in actual occupation of the land or premises or part thereof without regard to the title under which he or she occupies, and includes -

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

"outside waste" means waste that has been generated outside of the municipal boundaries;

"owner" means -

- (a) a person in whom the legal title to a premises is vested;
- (b) in a case where the person in whom the legal title is vested is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration of and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;
- (c) in the case where Council is unable to determine the identity of the person in whom a legal title is vested, the person who is entitled to the benefit of such premises or a building thereon;
- (d) in the case of premises for which a lease of 30 years or more has been entered into, the lessee thereof;
- (e) in relation to -
 - (i) a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act 95 of 1986), and without restricting the above, the developer or the body corporate in respect of the common property; or

- (ii) a section as defined in such Act, the person in whose name such section is registered under a sectional title deed and includes the lawfully appointed agent of such a person;
 - (f) any legal person including, but not limited to –
 - (i) a company registered in terms of the Companies Act, 1973 (Act 61 of 1973), Trust inter vivos, Trust mortis causa, a Closed Corporation registered in terms of the Closed Corporation's Act, 1984 (Act 69 of 1984), a voluntary association;
 - (ii) any Department of State;
 - (iii) any Council or Board established in terms of any legislation applicable to the Republic of South Africa;
 - (iv) any Embassy or other foreign entity;
 - (g) a lessee of municipal property, who will be deemed to be the owner for the purposes of rendering a municipal account;
- "packer/filler"** means a person who puts goods into packaging;
- "person"** includes a legal person and, where applicable, a licensee;
- "pollution"** means any change in the environment caused by –
- (a) substances; or
 - (b) noise, odours, dust or heat, emitted from any activity, including the storage or treatment of waste or substances, construction and the provision of services, whether engaged in by any person or an organ of state,
- where that change has an adverse effect on human health or well-being or on the composition, resilience and productivity of natural or managed ecosystems, or on materials useful to people, or will have such an effect in the future;
- "premises"** means an erf or any other portion of land, including any building thereon or any other structure utilised for business, industrial or residential purposes;
- "prescribed fee"** means a fee determined by Council by resolution in terms of section 10G(7)(a)(ii) of the Local Government Transition Act, 1993 (Act 209 of 1993), or any other applicable legislation;
- "producer"** means a converter, manufacturer, packer/filler, seller, wholesaler and secondary provider;
- "public place"** includes any public building, public road, overhead bridge, subway, foot pavement, footpath, sidewalk, lane, square, open space, garden, park, enclosed space vested in a council, and any road, place or thoroughfare however created which is in the undisturbed use of the public or which the public has the right to use or the right to access;
- "public road"** means any road, street or thoroughfare or any other place (whether a thoroughfare or not) which is commonly used by the public or any section thereof or to which the public or any section thereof has a right of access and includes –
- (a) the verge of any such road, street or thoroughfare;
 - (b) any bridge, ferry, or drift traversed by any such road, street or thoroughfare; and
 - (c) any other work or object forming part of or connected with or belonging to such road, street or thoroughfare;
- "radioactive material"** means any substance consisting of, or containing, any radioactive nuclide, whether natural or artificial;
- "recyclable waste"** means waste which has been separated from the waste stream, and set aside for purposes of re-use, reclamation or recycling;
- "regulatory act"** means a quasi-legislative act intended to determine the behaviour of the public or a class of the public
- "resident"** means a person who is ordinarily resident in the municipal area;
- "road reserve"** means that portion of a road, street or thoroughfare improved, constructed or intended for vehicular traffic which is between the edges of the roadway or that portion of a road, street or thoroughfare, including the sidewalk, which is not the roadway or the shoulder;

"secondary provider" means a person, such as a shop owner, who supplies a product contained in packaging to a consumer, such as a member of the public;

"seller" means any person who supplies packaging to a user or a consumer of that packaging, whether or not the filling has taken place at the time of the supply;

"service provider" means Council or a licensee;

"special waste" means waste contemplated in section 44;

"special industrial waste" means waste, which in terms of Council's drainage or sanitation regulations may not be discharged into a drain or sewer, and which consists of a liquid, sludge or solid substance, resulting from a manufacturing process, industrial treatment or the pre-treatment for disposal purposes of any industrial or mining liquid waste,

"supply" means doing any of the following, either himself or herself or through an agent acting on his or her behalf, in relation to packaging or packaging materials owned by the supplier:

(i) selling, hiring out or lending,

(ii) providing in exchange for any consideration other than money,

(iii) providing in or in connection with the performance of any statutory function, or

(iv) giving as a prize or otherwise making a gift;

"sustainable development" means the integration of social, economic and environmental factors into planning, implementation and decision-making so as to procure that development serves present and future generations;

"target" means any desired air, water quality or waste standards contained in any legislation;

"tariff" means the user charge for the provision of council services contemplated in section 5;

"waste", for the purposes of these By-laws, means any undesirable or superfluous solid matter, solid material, solid by-product or solid residue of any process or activity that has been discarded, accumulated or stored for the purpose of discarding, reuse, reclamation or recycling, which matter, material by-product or residue is treated as domestic waste, industrial waste, or special waste, but does not include –

(a) matter processed as part of sanitation services under the Water Services Act, 1997 (Act 107 of 1997);

(b) any gas or gaseous product; or

(c) any radioactive material;

"waste collector" means a person who is registered under the provisions of these By-laws as a waste collector

"waste disposal or processing facility" means any facility or site which receives waste for disposal thereof, and which is operated in terms of a permit obtained from DWAF or any other competent authority or where such a facility is an incinerator, registration or such permission as is required by law, and includes garden waste handling facilities;

"waste generator" means any person or firm that generates or produces waste;

"waste handling charge" means a sum of money that is levied by Council on a producer of waste and which the producer must pay to Council;

"waste management inspector" means a person appointed in terms of section 11 to perform and exercise the powers and functions of administering, implementing and enforcing the provisions of these By-laws, and includes any other official to whom the exercise and performance of such powers and functions has been delegated;

"waste management services" means services that relate to any one or more of the waste management activities;

"waste oil" means mineral or synthetic oil which is contaminated, spoiled or otherwise unfit for its original purpose;

"waste solvent" means solvent which is contaminated, spoiled or otherwise unfit for its original purpose;

“**waste stream**” means the normal course of waste from its generation to its recovery or disposal;

“**wholesaler**” means a person who supplies packaging to a seller but who does not carry out the functions of a packer/filler in relation to that packaging;

“**workplace**” means any place within Council on or in which or in connection with which, a person undertakes council services or commercial services; and

“**wrapper**” means a plastic or other suitable or approved material covering that totally encloses bales or slugs of compacted waste

2 Principles and objectives

(1) The Council, in performing its functions under these By-laws, must have due regard to the following principles, that is to say –

- (a) all residents in the municipality have the right to an environment that is safe and not harmful to his or her health or well-being;
- (b) Council must respect, protect, promote and fulfil the social, economic and environmental rights of everyone and strive to meet the basic needs of previously disadvantaged communities;
- (c) 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;
- (d) 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;
- (e) everyone has the right to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that –
 - (i) prevent pollution and ecological degradation;
 - (ii) promote conservation; and
 - (iii) secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development; and
- (f) the environment is a functional area of concurrent national, provincial and local governmental legislative competence, and all spheres of government and all organs of state must co-operate with, consult and support one another.

(2) In view of the principles stated above, Council strives to attain the following objectives:

- (a) To promote the application of appropriate environmental management tools in order to ensure the integrated environmental management of activities;
- (b) to promote the integration of the principles of environmental management into the making of all decisions which may have a significant effect on the environment;
- (c) with a view to minimising negative impacts, maximising benefits, and promoting compliance with the principles of environmental management, to identify, predict and evaluate the actual and potential impact on the environment, socio-economic conditions and cultural heritage of the risks and consequences and alternatives and options for mitigation of activities;
- (d) to ensure that the effects of activities on the environment receive adequate consideration before actions are taken in connection with them;
- (e) to ensure adequate and appropriate opportunity for public participation in decisions that may affect the environment;

- (f) to ensure the consideration of environmental attributes in management and decision-making which may have a significant effect on the environment, and identify and employ the modes of environmental management best suited to ensuring that a particular activity is pursued in accordance with the principles of environmental management; and
- (g) to coordinate the activities of its organs and assist them in giving effect to the objectives of this section and such assistance may include training, the publication of manuals and guidelines and the co-ordination of procedures, and therefore in these By-laws provides for and, having regard to the fact that due to financial and administrative constraints the stated objectives can only be implemented and phased in over time, may in terms of section 86(3) provide for –
- (i) some or all of the aspects of the waste management activities relating to non-hazardous, solid waste, that is to say –
 - (aa) the avoidance, minimisation, reduction and generation of waste;
 - (bb) the separation, storage, collection and transfer of waste;
 - (cc) the recovery of waste, which activity includes the reclamation, re-use and recycling of waste; and
 - (dd) the disposal of waste, which activity includes landfilling and the incineration of waste;
- (ii) the effective resourcing, planning and delivery of services by Council and commercial services, which may include the setting of specific targets to be met;
- (iii) the enhancement of sustainable development, including but not limited to the establishment of new facilities to produce good from post-consumer and recovered materials;
- (iv) the involvement of local communities in the development of local waste management plans and activities;
- (v) the minimisation of the consumption of natural resources;
- (vi) the education of the public in matters relating to a healthy and sustainable environment; and
- (vii) the review, administration and enforcement of the above and matters related thereto.

CHAPTER 1 PROVISION OF SERVICES

3. Council as primary service provider

- (1) Council as the primary service provider in the municipality has a duty to the local community to progressively ensure efficient, affordable, economical and sustainable access to waste management services in its area or a part of its area.
- (2) This duty is subject to –
 - (a) the duty of members of the local community as users of Council's waste management services or any other person making use of Council's waste management services to pay for the provision of the services the tariffs contemplated in section 5; and
 - (b) the right of Council to differentiate, for the purposes of managing waste, between categories of users, waste, and geographical areas when setting service standards and levels of service for the provision of waste management services, and for these purpose Council must comply with national legislation and have regard to the principles and objectives of these By-laws.

- (3) In ensuring waste management services, Council must take the following factors into account:
- (a) The principles and objectives underlying these By-laws;
 - (b) the need to use resources efficiently;
 - (c) the need for affordability;
 - (d) the requirements of operational efficiency;
 - (e) the requirements of equity; and
 - (f) the need to protect human health and the environment.

4. Duties of Council

- (1) Council must, as far as is reasonably possible and subject to the provisions of these By-laws, at a cost to users of the services –
- (a) provide for the collection of waste on a regular basis, except waste in its area –
 - (i) which is situated at a place which is so isolated or inaccessible that the cost of collecting it would be unreasonably high; or
 - (ii) as to which Council is satisfied that adequate arrangements for its disposal have been or can reasonably be expected to be made by a person who controls the waste;
 - (b) provide industries access to appropriate waste disposal facilities;
 - (c) if requested by the occupier of premises in its area to collect any waste from the premises, to arrange for the collection of the waste; and
 - (d) subject to section 50, provide facilities for the recovery and disposal of waste.
- (2) Council or the licensee must notify all users of Council's waste management services of any decisions taken in terms of these By-laws.

5. Tariffs

The tariffs for waste removal and disposal prescribed in Council's Credit Control, Debt Collection and Revenue Management By-Laws apply.

CHAPTER 2 **WASTE INFORMATION SYSTEM**

6. Establishment of Waste Information System

- (1) Council must within a year after these By-laws have commenced establish and set out the details regarding the implementation, management, maintenance, and updating of a Waste Information System which is to record how non-hazardous solid waste is managed within the municipality.
- (2) The Waste Information System, which must meet national and provincial legal requirements, must include –
- (a) information relating to or connected to the management of waste within the municipality;
 - (b) a register of pollution and waste releases and transfers, to be known as the Pollutant Releases and Transfer Register;
 - (c) a register of waste collectors and waste recovery and disposal facilities;
 - (d) a system of storing and disseminating information on a regular basis; and
 - (e) a site registry, which must include information in respect of –
 - (i) all site profiles, preliminary site investigations and detailed site investigations that Council receives;
 - (ii) all orders, approvals, voluntary remediation agreements and decisions, including determinations made by Council under these By-laws;

- (iii) pollution abatement orders requiring remediation;
- (iv) notifications of independent remediation;
- (v) declarations and orders made by Council;
- (vi) other information required by these By-laws; and
- (vii) decisions taken in terms of section 81 (Appeal).

7. Purpose of Waste Information System

The purpose of the information system is for Council to –

- (a) record data relating to the implementation of the management of waste in the municipality;
- (b) record information held by Council in relation to any matters relating to the management of waste;
- (c) furnish information upon request or as required by law to the local community, provincial or national government;
- (d) gather information regarding potential and actual waste generators and licensees; and
- (e) provide information to waste generators, licensees and the local community in order to –
 - (i) facilitate monitoring of the performance of Council and licensees, and where applicable waste generators;
 - (ii) stimulate research; and
 - (iii) assist Council to achieve the main objectives of these By-laws.

8. Provision of information

Subject to the provisions of any other law including the common law, Council must determine when information is to be furnished, and may require any waste generator, licensee, or person involved in or associated with the provision of waste management services within the municipality to furnish Council with information that may be required by Council, which information may include:

- (a) Significant sources of waste generation and the identification of the generators of waste;
- (b) quantities and classes of waste generated;
- (c) management of waste by waste generators;
- (d) waste handling and processing facilities;
- (e) population and development profiles;
- (f) reports on progress in achieving any waste management targets;
- (g) markets for waste by class of waste or category; and
- (h) any other matter required by legislation or regulation on the management of waste.

9. Access to information

The local community is entitled to reasonable access to the information contained in the information system, subject to any limitations imposed by law, and Council –

- (a) must at the request of a member of the local community, provide to that member information contained in the information system;
- (b) must take steps to ensure that the information provided is in a format appropriate for lay readers, and with a readability score of not less than 50 on the Flesch Reading Ease Test or a similar readability test; and
- (c) may impose a fee for providing such information in order to cover the cost of providing the information requested.

10. Report by Council

Council must once a year publish a report on the implementation of the waste management regulations, and the report must include –

- (a) a description of activities and measures taken to achieve the objects of the regulations;
- (b) an indication of whether the objects of the regulations are being achieved, and if not, an explanation of problems which have undermined the achievement of the objects;
- (c) details of persons who have not complied with the regulations and in respect of whom legal proceedings have been initiated; and
- (d) a description of incidents of illegal dumping.

**CHAPTER 3
WASTE MANAGEMENT INSPECTOR****11. Appointment of waste management inspector**

- (1) Council must appoint a waste management inspector who will be vested with the authority to exercise a power granted by and within the scope of the provisions of these By-laws.
- (2) In appointing a waste management inspector, Council must have regard to –
 - (a) a person's technical understanding and experience of matters related to waste management; and
 - (b) any other factor that may be relevant to supervision and enforcement of these By-laws, whether technical or administrative.
- (3) A waste management inspector may be an employee of Council or a service provider of Council, and in the instance where a waste management inspector is an employee of a service provider there may be no conflict of interest between his or her duty as a waste management inspector and as an employee of the service provider.
- (4) Upon appointment Council will issue the waste management inspector with an identification card which must state the name and function of the waste management inspector, and which includes a photograph of the him or her.
- (5) A waste management inspector, acting within the powers vested in him or her by these By-laws must, on demand by a member of the local community, produce the identity card.

12. Responsibility

- (1) A waste management inspector –
 - (a) must monitor and enforce compliance with these By-laws;
 - (b) must investigate any act or omission which on reasonable suspicion may constitute –
 - (i) an offence in terms of these By-laws;
 - (ii) a breach of a provision of these By-laws; or
 - (iii) a breach of a condition of a licence, authorisation or other instrument issued in terms of these By-laws.
- (2) A waste management inspector –
 - (a) must exercise the powers referred to in subsection (1) –
 - (i) in accordance with any instructions issued by Council;
 - (ii) subject to any limitations and procedures that may be prescribed; and
 - (b) may be accompanied by an interpreter or any other person whose assistance may be reasonable required.

13. General powers

- (1) A waste management inspector may –
- (a) require a person to disclose information, either orally or in writing, and either alone or in the presence of a witness, about any act or omission which, on reasonable suspicion, may constitute –
 - (i) an offence in terms of these By-laws;
 - (ii) a breach of a provision of these By-laws; or
 - (iii) a breach of a condition of a licence, authorisation or other instrument issued in terms of these By-laws;
 - (b) require that any disclosure in terms of paragraph (a) be made under oath or affirmation;
 - (c) inspect, or question a person about any document, book or record or any written or electronic information –
 - (i) which may be relevant for the purpose of paragraph (a); or
 - (ii) to which these By-laws relate;
 - (d) copy, or make extracts from any document, book or record, or any written or electronic information, referred to in paragraph (c), or remove such document, book or record or written or electronic information to make copies or extracts;
 - (e) require a person to produce or deliver to a place specified by the environmental management inspector, any document, book or record or any written or electronic information referred to in paragraph (c) for inspection;
 - (f) inspect, question a person about, and if necessary remove any specimen, article, substance or other item which on reasonable suspicion may have been used in –
 - (i) committing an offence in terms of these By-laws;
 - (ii) breaching a provision of these By-laws; or
 - (iii) breaching a condition of a licence, authorisation or other instrument issued in terms of these By-laws;
 - (g) record information by any method, including by taking photographs or making videos;
 - (h) demand the name, address and identification number of any person who –
 - (i) is reasonably suspected of having committed an offence in terms of these By-laws;
 - (ii) is reasonable believed to be able to give evidence relating to an offence in terms of these By-laws; or
 - (iii) is reasonable suspected of having evidence that an offence in terms of these By-laws has been committed;
 - (i) instruct a person who –
 - (i) commits an act in contravention of a provisions of these By-laws or of a condition of a licence, authorisation or other instrument issued in terms of these By-laws, to cease committing that act immediately or within a specified period; or
 - (ii) fails to perform an act required by a provision of these By-laws, or by a condition of a licence, authorisation or other instrument issued in terms of these By-laws, to perform that act immediately or within a specified period;
 - (j) dig or bore into the soil;
 - (k) take samples;

- (l) remove any waste or other matter deposited or discharged in contravention of these By-laws or a condition of a licence, authorisation or other instrument issued in terms of these By-laws; or
 - (m) carry out any other duty that may be prescribed in terms of these By-laws.
- (2) A waste management inspector must –
- (a) provide a receipt for –
 - (i) any document, book, record or written or electronic information removed in terms of subsection (1)(d); or
 - (ii) any specimen, article, substance or other item removed in terms of subsection (1)(f); and
 - (b) return anything removed within a reasonable period.
- 14. Powers to enter and search premises, land, water, or other places.**
- (1) A waste management inspector may, subject to subsection (2) of this section, and under authority of a warrant, enter and search any premises, land, waters or other place on reasonable suspicion –
- (a) that an offence in terms of these By-laws has been or is being committed on, in or in respect of such premises, land, waters or other place;
 - (b) that a provision of these By-laws or condition of a licence, authorisation or other instrument issued in terms of a these By-laws has been or is being breached on, in or in respect of such premises, land, waters or other place; or
 - (c) that a thing which may serve as evidence of such offence or breach is kept on or in such premises, land waters or other place.
- (2) A waste management inspector may –
- (a) exercise on such premises, land, waters or other place any of the powers mentioned in section 13, 15 and 16; or
 - (b) be accompanied by assistants, vehicles, vessels, materials, equipment or things that are necessary for the purpose of –
 - (i) gaining entry to or carrying out the search on such premises, land, waters or other place; or
 - (ii) exercising any of the powers referred to in paragraph (a).
- 15. Powers to stop, enter, and search vehicles, vessels and aircraft**
- (1) A waste management inspector may, under authority of a warrant, enter and search any vehicle, vessel or aircraft, or search any pack-animal, on reasonable suspicion that that vehicle, vessel, aircraft or pack-animal –
- (a) is being or has been used, or contains or conveys a thing which is being or has been used to commit –
 - (i) an offence in terms of these By-laws; or
 - (ii) a breach of a provision of these By-laws, or a condition of a licence, authorisation or other instrument issued in terms of these By-laws; or
 - (b) contains or conveys a thing which may serve as evidence of such offence or breach.
- (2) A waste management inspector may for the purpose of implementation of subsection (1), at any time, under authority of a warrant –
- (a) order the driver of a vehicle or vessel to stop, or the pilot of an aircraft to land; or
 - (b) if necessary, force the driver or pilot to stop or land.
- (3) A waste management inspector may –
- (a) exercise on or in respect of such vehicle, vessel or aircraft any of the powers mentioned in sections 13, 14 and 16; or

- (b) be accompanied by assistants, materials, equipment or things that are necessary for the purpose of –
 - (i) gaining entry to or carrying out the search on or in such vehicle, vessel or aircraft; or
 - (ii) exercising any of the powers referred to in paragraph (a).

16. Powers to seize

- (1) A waste management inspector may, under authority of a warrant, seize –
 - (a) any item in respect of which, on reasonable suspicion, an offence in terms of these By-laws has been or is being committed;
 - (b) any vehicle, vessel, aircraft, tool, weapon, animal or other thing which on reasonable suspicion, has been or is being used in the commission of an offence in terms of these By-laws; or
 - (c) anything which, on reasonable grounds, may be used as evidence in the prosecution of any person for an offence in terms of these By-laws.
- (2) Where any vehicle, vessel, aircraft, or animal is seized in terms of subsection (1)(b), the person in control of the vehicle, vessel, aircraft or animal must take it to the place designated by the waste management inspector.
- (3) The vehicle, vessel, aircraft or animal must be kept at the designated place pending any criminal proceedings in terms of these By-laws or a specific environmental management Act.
- (4) If the person in control of the vehicle, vessel, aircraft or animal refuses to take the vehicle, vessel, aircraft or animal to the designated place the environmental management inspector may do so.
- (5) In order to safeguard a vehicle, vessel or aircraft that has been seized, the waste management inspector may immobilise it by removing a part.
- (6) An item seized in terms of this section, including a part of a vehicle, vessel or aircraft referred to in subsection (5), must, subject to the provisions of section 78, be kept in such a way that it is secured against damage.

17. Offences relating to waste management inspectors

A person commits an offence if he or she –

- (a) hinders or interferes with a waste management inspector in the execution of that inspector's official duties;
- (b) falsely professes to be a waste management inspector, or the interpreter or assistant of such an inspector;
- (c) furnishes false or misleading information when complying with a request of an waste management inspector; or
- (d) fails to comply with a request of a waste management inspector.

**CHAPTER 4
DUTY OF CARE, PRODUCER RESPONSIBILITY, AND WASTE PREVENTION
AND MINIMISATION**

*Part 1
Duty of care*

18. Duty of care

- (1) In the spirit of section 28 of the National Environmental Management Act, 1998 (Act 107 of 1998), the Council provides that every person has a duty to manage any waste

generated by his or her activities or the activities of those persons working under his or her direction in such a manner that the waste does not cause harm to human health or pollution or degradation of or damage to the environment, including an owner or occupier of land or premises, a person in control of land or premises or a person who has a right to use the land or premises on which or in which –

- (a) any activity or process is or was performed or is or was undertaken; or
 - (b) any other situation exists, which causes, has caused or is likely to cause or increase the risk of harm to human health or pollution or degradation of or damage to the environment.
- (2) No person may engage in council services or commercial services –
- (a) in a manner; or
 - (b) for whatever purpose, including the minimisation, recovery and disposal of waste, that may result in or may create a risk of harm to human health or pollution or degradation of or damage to the environment, except in so far as such risk of harm or pollution, degradation or damage is an unavoidable aspect of the services and has been authorised by Council.
- (3) A person who contravenes a provision of subsection (1) or (2) commits an offence.

19. Remedial measures to be taken by person

- (1) Every person who causes, has caused or may cause significant pollution or degradation of or damage to the environment must take reasonable remedial measures –
- (a) to prevent the pollution, degradation or damage from occurring, continuing or recurring; or
 - (b) in so far as such harm to the environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of or damage to the environment.
- (2) The remedial measures include measures to –
- (a) investigate, assess and evaluate the impact of the activity, process or situation on the environment;
 - (b) inform and educate an employee about the environmental risks of his or her work and the manner in which his or her tasks must be performed in order to avoid causing pollution or degradation of or damage to the environment;
 - (c) cease, modify or control any act, activity, process or situation causing the pollution, or degradation of or damage to the environment;
 - (d) contain or prevent the movement of pollutants or the causation of pollution or degradation of or damage to the environment;
 - (e) eliminate or mitigate any source of the pollution or degradation of or damage to the environment; and
 - (f) remedy and rehabilitate the effects of the pollution or degradation of or damage to the environment.
- (3) Should a person fail to take remedial measures, Council may, in the spirit of section 31A of the Environment Conservation Act, 1989 (Act 73 of 1989), act in terms of section 73.

Part 2
Producer responsibility

20. Producer to be responsible

- (1) Council, in the implementation of the scope and objectives of these By-laws, and fully aware of the duty of care that rests on a producer of waste, provides that –
- (a) a producer is responsible for waste generated by his or her activities;

- (b) a producer must, to the extent allowed in these By-laws and which may or may not be prescribed by these By-laws, take reasonable measures to minimise, recover and dispose of waste which he or she has generated within the municipality.
- (2) Should a person fail to comply with a provision of subsection (1)(b), Council may act in terms of section 73..

Part 3
Waste prevention and minimisation

21. Need to prevent or minimise production of waste, and related provisions

- (1) A person who carries out any activity of an agricultural, commercial or industrial nature, including the manufacture of any product, must –
 - (a) have due regard to the need to prevent or minimize the production of waste from that activity and, as the case may be, from any product manufactured by him or her as a result of such an activity; and
 - (b) take all such reasonable steps as are necessary for the purposes of such prevention or minimization.
- (2) Should a person fail to comply with a provision of subsection (1)(b), Council may act in terms of section 73..

22. Council to arrange for long-term contracts

In order to encourage establishments of new facilities to produce goods from post-consumer and recovered materials generated within the municipality, and to conserve energy by reducing material transportation, whenever appropriate, Council may arrange for long-term contracts to purchase a substantial share of the product output of a proposed facility which will be based in the jurisdiction of the municipality if such facility will manufacture such finished products from post-consumer and recovered materials.

CHAPTER 5
WASTE MANAGEMENT

Part 1
Waste management activities and categories of waste

23. Waste management activities

For the purposes of these By-laws, the following activities constitute waste management activities:

- (a) Generation, reduction and minimisation of waste;
- (b) waste handling, which includes the separation, storage, collection, and transfer of waste;
- (c) waste treatment, which includes the –
 - (i) recovery of waste, recovery being the recycling, reclamation and re-use of waste and as further specified in Part 7; and
 - (ii) disposal of waste as further specified in Part 7.

24. Categories of waste

For the purposes of these By-laws, the following categories of non-hazardous, solid waste exist:

- (a) Domestic waste;

- (b) industrial waste;
- (c) special waste; and
- (d) medical waste.

Part 2

General provisions relating to domestic, industrial and special waste

25. Numbering of premises

- (1) The occupier of a house or building on premises in or alongside any lane, street or road in the municipality must mark the house or building with a number as Council may direct, and the number must be –
 - (a) painted or permanently affixed;
 - (b) in figures of a colour and size to be legible;
 - (c) in a conspicuous place at the front entrance of the premises; and
 - (d) renewed as often as it becomes obliterated or defaced.
- (2) In the case of premises having its back entrance in one lane, street or road, and its front entrance, from which waste will be collected, in another lane, street or road, the owner or occupier must –
 - (a) paint or affix the number in a conspicuous place at the front entrance of the premises and at the back entrance or side entrance thereof, as the case may be; and
 - (b) comply with provisions of subsection (1)(a), (b) and (d).
- (3) A person who contravenes a provision of this section commits an offence.

26. Separation of waste

- (1) The occupier of premises must as far as practicable ensure that waste generated on the premises is, before disposal of the waste, separated into the following categories and stored accordingly:
 - (a) General waste;
 - (b) recyclable waste such as, but not limited to, paper, cardboard, glass, plastics, metal, tyres, wood, and electronic appliances such as computers, refrigerators, deep freezers; and
 - (c) bio-degradable waste suitable for composting and a particular category of waste must be placed in a separate container
- (2) Noxious waste, such as but not limited to batteries or motorcar oil must be separated from other categories of waste.
- (3) Bulky electronic appliances and appliances contemplated in subsection (1)(b) must be treated as special waste in accordance with the provisions of section 47.
- (4) Waste must be placed in a container which does not allow any waste or part of the waste to escape from the container, and the container must be closed so as to prevent any waste or part thereof to escape.
- (5) A person who contravenes a provision of subsection (2) or (4) commits an offence.

27. Provision of receptacles or racks for storage of waste

- (1) The occupier of a premise must provide on the premises, at his or her own expense, a sufficient number of approved portable, covered receptacles of an approved size and design, for the reception of the maximum quantity of waste that is likely to accumulate on the premises during any period of seven days.

- (2) Council may supply receptacles or racks for the reception and storage of waste at a price not less than the inclusive cost thereof to Council or on a hire basis, and in the latter event such receptacle or rack remains the property of Council.
- (3) Council may prescribe special receptacles or racks for the reception and storage of such types of waste as Council may, where special receptacles are necessary, specify and may by written notice to be served on the occupier of premises require the occupier to provide at his or her own expense such number of special receptacles or racks as are specified in the notice and the occupier must forthwith comply with the notice, failure of which Council may act in terms of section 73.
- (4) Where any waste receptacle or rack provided on premises is –
 - (a) of a size likely to hinder the efficient removal of waste therefrom by the servants of Council;
 - (b) is insufficient for the reception of all waste which is to be removed from such premises by Council;
 - (c) dilapidated; or
 - (d) likely to cause a nuisance, Council may, having regard to such storage in the most compact and hygienic manner and to avoid the necessity for collecting waste from the premises more than twice weekly, act in terms of section 73, requiring the occupier of the premises to provide, at his or her own expense, such number of receptacles or racks or other means of storing receptacles or packages or bundles of waste, however, Council may in the notice require or authorise in writing the provision of waste receptacles or racks of such different size or design as may be specified by Council where the prescribed standard receptacles would not be practical.
- (5) No person may dispose of any waste by placing it anywhere else than in a receptacle or other container or rack provided or approved by Council.
- (6) A person who contravenes a provision of subsection (1) commits an offence.

28. Location of receptacle

- (1) The occupier of a premises must provide adequate space on the premises where a receptacle for the purpose of depositing waste or a specific category of waste, or packages or bundles of waste required to be packed or bundled in terms of these By-laws are kept, and the space must –
 - (a) comply with requirements imposed by Council by notice to the occupier;
 - (b) where applicable, be constructed in accordance with the requirements of any applicable building regulations be so located that the receptacle or racks are not visible from a street or public place;
 - (c) where applicable, be so located as to permit convenient access to and egress from such place for a waste collection vehicle; and
 - (d) be in a location convenient for the use by users or occupants of the premises so as to discourage littering or the unhealthy accumulation of waste
- (2) In the case of multi-storey buildings, the municipality may approve the installation of refuse chutes of and approved design and specification, and subject to the submission and approval of the plans for such installation.
- (3) The occupier of premises must place or cause the receptacle or packages or bundles to be placed in the space provided and must at all times keep it there.
- (4) A person who contravenes a provision of subsection (1) or (3) commits an offence.

29. Standards which receptacles must meet

Council may –

- (a) provide plastic bags, which meet the standards set by national or provincial legislation; and
- (b) authorise the use of bins and lids constructed of rubber or other material where the design and construction have been approved by Council.

30. Maintenance of receptacle

- (1) The occupier of premises must ensure that a receptacle is kept closed at all times except when waste is being deposited into it or discharged from it, and that a receptacle or rack is –
 - (a) at all times maintained in good order and repair and in a clean and hygienic condition;
 - (b) at all times suitably weighted or anchored so that it cannot be inadvertently overturned;
 - (c) at all times is weatherproof and animal proof;
 - (d) emptied and cleansed periodically or when full, so that its contents do not become a nuisance or provide grounds for complaint; and
 - (e) protected against unauthorised disturbance or interference at all times when waste is not being deposited into it or discharged from it.
- (2) A person who contravenes a provision of this section commits an offence.

31. Contents of receptacle, tyres and waste oil

- (1) No material, including any liquid, which by reason of its mass or other characteristics is likely to render a receptacle unreasonably difficult for employees of Council to handle or carry, may be placed in a receptacle.
- (2) Dailies and similar waste likely to decompose and cause a nuisance must, before being deposited in the receptacles, be sealed in a bag provided for this purpose by Council or in a bag of similar quality which is disposable and water-tight.
- (3) A receptacle may not be used for any purpose other than the storage of waste.
- (4) No person may –
 - (a) light a fire in a receptacle;
 - (b) deposit in a receptacle burning or glowing coal, ashes or other burning material; or
 - (c) unless suitable steps have been taken to avoid damage to the receptacle or injury to Council's employees collecting it or damage to the vehicle in which it is placed for removal, deposit in a receptacle any material that is likely to –
 - (i) cause damage to the receptacle;
 - (ii) cause injury to Council's employees while carrying out their duties; or
 - (iii) cause damage to the vehicle in which it is placed; or
 - (d) hinder or delay work in terms of these By-laws of Council's employees.
- (5) Tyres must be stored in areas away from open fires or other ignition sources and may not exceed twenty five in number.
- (6) Waste oil must be stored in leakproof metal, plastic or concrete containers which are not subject to fire or accidental spillage, and the storage or disposal of waste oil in earth pits or upon the surface of any plot, street or public area is prohibited
- (7) No person may mix source-separated recyclable materials with other waste in any container or vehicle used in waste collection or disposal.
- (8) A person who contravenes a provision of this section commits an offence.

32. Collection of waste

- (1) Council may, having regard to the avoidance of nuisance and the convenience of

- collection of waste, indicate a position within or outside the premises where the receptacle must be placed for the collection and removal of the waste and the receptacle or bundled or packaged waste must then be placed in that position at the times and for a period as Council or the licensee may require.
- (2) Council must collect all waste placed in portable receptacles or bundles or packaged waste from all premises upon which a compulsory domestic waste removal tariff has been levied in terms of section 5.
 - (3) Council must collect only waste placed in a receptacle or other container approved by it or is which bundled or packaged in a manner approved by the municipality.
 - (4) Where a particular kind of waste as stipulated by Council is not collected by Council from premises, the owner of the waste must arrange for the collection and transport of the waste as often as may be necessary to prevent undue accumulation or any nuisance arising there from, to a waste disposal or processing site under the control of Council, or to such other place as may be approved by Council.
 - (5) Council may decide on separate times on which particular categories of waste are to be collected.
 - (6) Council may –
 - (a) cause collections to be made at regular periods daily or otherwise, and may alter dates of collection;
 - (b) increase the number of collections as it may deem necessary or desirable; or
 - (c) make additional collections should it be desirable.
 - (7) In the event of any additional collection being required by the occupier of premises, the additional collection will be subject to the approval of Council and each additional collection must be paid for by the occupier of premises from which the waste is collected at the tariff contemplated in section 5.
 - (8) A person requiring commercial services must satisfy himself or herself that the licensee is licensed to collect and dispose of the category of waste, and the person must take reasonable steps to ensure that the relevant waste is collected and disposed of in terms of these By-laws.
 - (10) A person who contravenes the provisions of section (1), (4), or (8) commits an offence.

33. Access to premises

- (1) Subject to section 32(1), and except where otherwise approved by Council taking into account physical accessibility, the owner or occupier of premises must ensure that –
 - (a) access from the nearest public road to the waste storage area on a premises is independent and unimpeded;
 - (b) access from the nearest public road to the waste storage area on a premises does not lead through any aperture less than 1 metre wide and 2,5 metres high;
 - (c) the area and all parts of the access thereto is on the same level as the road; and
 - (d) the area and all parts of the access thereto is not more than 18 metres from the entrance to the premises from which the collection of waste is made.
- (2) A person who contravenes a provision of this section commits an offence.

34. Right of entry

- (1) Any duly authorised employee of Council is entitled to enter premises in respect of which Council's waste management services are rendered at any time between the hours of 06h00 and 17h00 on any day, or at any other time at which the service is ordinarily rendered in respect of the particular premises for any of the following purposes:
 - (a) For collecting and superintending the collection of waste;

- (b) for replacing receptacles or containers; or
 - (c) for inspecting the means of access to the premises as contemplated in section 33, or the space where waste receptacles or containers are kept so as to ensure that they are accessible and convenient for the collectors.
- (2) The occupier of the premises may not refuse access to the premises by an employee of Council calling there for the purposes contemplated in subsection (1).
- (3) An occupier of premises commits an offence if he or she –
- (a) denies access to the premises to an authorised employee of Council in the performance of his or her duties; or
 - (b) obstructs or impedes such employee of Council in the performance of his or her duties.

35. Inaccessible premises

- (1) The owner or occupier of premises whom the municipality has notified that the premises are dangerous because of –
- (a) the existence on the premises of a vicious animal; or
 - (b) any other reason which renders the premises dangerous, must, on the day on which waste is collected from the premises, place for collection all receptacles or other containers, packages or bundles of waste outside the premises at a time and for a period as specified in the notice.
- (2) A person who contravenes a provision of this section commits an offence.

36. Interference with receptacle

- (1) No person may allow his or her animal to interfere with, overturn or damage a receptacle which has been placed for collection.
- (2) No person other than a person employed by Council in connection with Council's waste management services may, where a receptacle placed in a street or public place for the purpose of its contents being removed by Council.–
- (a) sort over, interfere with or disturb the contents of a receptacle; or
 - (b) scavenge waste for any waste materials or food waste.
- (3) A person who contravenes a provision of this section commits an offence.

37. Transfer of waste

- (1) A person removing or conveying waste along any road, street or public place in or through an area owned or managed by Council –
- (a) must ensure that the receptacle, vehicle or conveyance in which the waste is carried is of a type and design approved by Council;
 - (b) must ensure that receptacle, vehicle or conveyance has a body of adequate size and construction for the type of waste being transported;
 - (c) must remove or convey the waste in such a manner as will prevent any nuisance resulting therefrom or the escape of the contents or materials therein;
 - (d) must maintain the receptacle, vehicle or conveyance in a clean, sanitary and roadworthy condition at all times;
 - (e) may not cause or permit any waste being transported to become detached, leak or fall from the receptacle, vehicle or conveyance transporting it, except at a waste disposal facility; and
 - (f) must ensure that the waste is deposited at a waste disposal facility that is permitted to accept such waste.
- (2) A person who contravenes a provision of this section commits an offence.

Part 4
Specific provisions relating to domestic waste

38. Domestic waste

Domestic waste is waste generated on premises used for residential purposes, and the following waste is to be treated as domestic waste:

- (a) Waste from premises occupied by a charity, which premises are used wholly or mainly for charitable purposes;
- (b) waste from any land belonging to or used in connection with the normal occupation of premises, such as a dwelling house, flat, boarding house or caravan;
- (c) waste from a private garage which either has a floor area of 25 square metres or less or is used wholly or mainly for the accommodation of a private motor vehicle;
- (d) waste from private storage premises used wholly or mainly for the storage of articles of domestic use;
- (e) waste from a moored vessel used wholly for the purposes of living accommodation;
- (f) waste from a camp site including a domestic property on a camp site;
- (g) waste from a prison or other penal institution;
- (h) waste from a hall or other premises used wholly or mainly for public meetings;
- (i) waste from a residential hostel, a residential home or from premises forming part of a university, school or other educational establishment or forming part of a nursing home;
- (j) waste from domestic property or a caravan used in the course of a business for the provision of self-catering holiday accommodation;
- (k) any mineral or synthetic oil or grease;
- (l) asbestos; and
- (m) waste from halls or other buildings used for religious purposes or public worship.

39. Specific provisions relating to generation, collection and transfer of domestic waste

- (1) An occupier on whose premises waste is generated must, in accordance with the objectives and principles underlying, and subject to the provisions of these By-laws, strive and take reasonable measures –
 - (a) to minimize the quantity of waste generated; and
 - (b) to make, where applicable, waste less hazardous.
- (2) The occupier of residential premises from which waste is to be collected must –
 - (a) place the receptacle or bag before a time and on a day of the week specified by Council by notice to the occupier;
 - (b) ensure that the receptacle or bag is undamaged and properly closed so as to prevent the dispersal of its contents; and
 - (c) ensure that the emptied receptacle is removed within a reasonable time, and that the immediate area around the spot where the receptacle or bag was placed, is free from waste that may have been spilled during collection.
- (3) A physically infirm or otherwise incapable occupier of residential premises from which waste is to be collected may in writing apply to Council to be exempted from the provisions of section 32(1), and Council may by notice indicate to such occupier where the receptacle or bag must be placed.
- (4) Noxious waste shall be collected at the premises on a six-monthly basis or at specific times as decided by Council, or the occupier may deposit the waste at a designated disposal site.
- (5) If an occupier intends to transfer waste to a disposal site, the provisions of section 37, where applicable apply..

- (6) An occupier of a premises may not deposit or allow to be deposited into any receptacle for domestic waste the contents of which are removable by Council, any waste other than domestic waste.
- (7) A person who contravenes a provision of subsection (2) commits an offence.

Part 5
Specific provisions relating to industrial waste

40. Industrial waste

Industrial waste is waste generated as a result of manufacturing, maintenance, fabricating, processing or dismantling activities normally generated on premises used for non-residential purposes, which premises are occupied by establishments such as, but not limited to, wholesale, retail, institutional, manufacturing or service establishments, and the following waste is to be treated as industrial waste, without limiting the generality of foregoing:

- (a) Waste from an office building, showroom; store, theatre or warehouse;
- (b) waste from a hotel;
- (c) waste from a private garage which either has a floor area exceeding 25 square metres or is not used wholly or mainly for the accommodation of a private motor vehicle;
- (d) waste from premises occupied by a club, society or any association of persons, whether incorporated or not, in which activities are conducted for the benefit of the members;
- (e) waste from premises occupied by –
 - (i) a court;
 - (ii) a government department;
 - (iii) the municipality;
 - (iv) a body corporate such as, but not limited to, a company or closed corporation; or
 - (v) an individual appointed by or under any enactment to discharge any public functions;
- (f) waste from a tent pitched on land other than a camp site;
- (g) waste from a market or fair;
- (h) waste from premises used for maintaining vehicles, vessels or aircraft, not being waste from a private garage;
- (i) waste, not being medical waste, from a laboratory;
- (j) waste from a workshop or similar premises not being a factory;
- (k) waste from premises occupied by a scientific research association;
- (l) waste from dredging operations;
- (m) waste arising from tunnelling or from any other excavation;
- (n) waste arising from any aircraft, vehicle or vessel which is not occupied for domestic purposes;
- (o) waste which has previously formed part of any aircraft, vehicle or vessel and which is not domestic waste;
- (p) non-hazardous waste arising from any of the following industrial operations and manufacturing processes undertaken on premises used for the purposes of a trade or business:
 - (i) mixing or selling paints;
 - (ii) sign writing;
 - (iii) laundering or dry cleaning;

- (iv) developing photographic film or making photographic prints;
- (v) selling petrol, diesel fuel, paraffin, kerosene, heating oil or similar substances; or
- (vi) selling pesticides, herbicides or fungicides;
- (q) waste from premises used for the purposes of breeding, boarding, stabling or exhibiting animals;
- (r) waste oil, waste solvent or scrap metal, other than waste from a domestic property, caravan or residential home;
- (s) waste from premises at which the principal activities are computer operations or the copying of documents by photographic or lithographic means; and
- (i) waste arising from the discharge by the municipality of its duty to clean the streets.

41. Compaction of waste

(1) Where –

- (a) the quantity of waste generated on premises requires daily removal of more than the equivalent of eight 240-litre bins; and
 - (b) the major portion of the waste is compactable,
Council may require from the generator of the waste to compact that portion of the waste that is compactable, and the generator of waste must compact any volume of the waste and place it into an approved receptacle or wrapper, subject to the provisions that –
 - (i) the capacity of the wrapper may not exceed 85 litres; and
 - (ii) the mass of the wrapper and contents may not exceed 35 kilograms, and after the waste has been compacted and put into the wrapper, it must be placed in the approved receptacle and must be stored so as to prevent damage to the wrapper or to prevent any nuisance arising until collected.
- (2) Where a person fails to comply with a requirement by Council in terms of subsection (1), he or she commits an offence.

42. Standard of receptacle

- (1) Every new or additional waste receptacle provided by an occupier of premises on which industrial waste is generated must, after the promulgation of these By-laws, be a standard waste receptacle of 85 litre capacity, which is to be rigidly constructed of non-corrugated galvanised mild steel in accordance with South African Bureau of Standards Specification No.4931154 (?), as amended, and must be fitted with handles and a lid as specified in the Specification.
- (2) A person who contravenes a provision of this section commits an offence.

43. Collection of waste

- (1) The occupier of premises on which industrial waste is generated must ensure that –
- (a) the container in which the waste is stored is not be kept in a public place except as required for collection;
 - (b) the waste is collected by a licensee within a reasonable time after the generation of the waste; and
 - (c) the service rendered by the licensee is only in respect of that portion of industrial waste authorised in his or her licence.
- (2) A person who contravenes a provision of this commits an offence.

Part 6
Specific provisions relating to special waste

44. Categories of special waste

The following waste is to be treated as special waste:

- (a) Garden waste;
- (b) building waste;
- (c) bulky waste; and
- (d) animal carcasses.

45. Garden waste

- (1) The occupier of premises on which garden waste is generated but not composted must ensure that the waste is collected and disposed of within a reasonable time after the generation thereof.
- (2) The occupier may –
 - (a) compost garden waste on the property, provided that such composting does not cause a nuisance; or
 - (b) in writing request Council to supply him or her with a receptacle for the purpose of storing and composting garden waste, and Council may, in addition to any approved receptacle delivered to the premises for the storage of domestic waste, deliver an approved receptacle for the purpose of storing garden waste.
- (3) Any person or a licensee may remove garden waste and, once such waste has been collected from the premises on which it was generated, it must be disposed of at a garden waste handling facility.
- (4) A large accumulation of garden waste may, on request by the occupier of premises, be removed by Council at a charge determined by Council.
- (5) Council, in the course of collecting domestic waste, may collect garden waste if the waste has been placed in an approved receptacle referred to in subsection (2)(b) in the space designated for domestic waste, in which event the tariff for domestic waste applies.
- (6) A person who contravenes a provision of subsection (1), (2)(a) or (3) commits an offence.

46. Building waste

- (1) The owner or occupier of premises on which building waste is to be generated must in writing notify Council at least 14 days prior to the intended generation of building waste of the intention to generate waste and of the proposed manner for its removal and disposal.
- (2) Subject to the provisions of the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977), as amended, the owner or occupier of the premises must ensure that –
 - (a) until disposal, all building waste, together with the containers used for the storage, collection or disposal thereof, is kept on the premises on which the waste was generated;
 - (b) the premises on which the building waste is generated does not become unsightly or cause a nuisance as a result of accumulated building waste;
 - (c) any building waste which is blown off the premises is promptly retrieved; and
 - (d) pursuant to any instructions from Council, any structure necessary to contain the building waste is constructed.
- (3) The occupier of premises may apply to Council for written consent to place

an approved receptacle for storage and collection of building waste in the road reserve for the period of the consent and the consent given may be subject to such conditions as Council may consider necessary.

- (4) Every approved receptacle containing waste which is to be collected, must –
 - (a) have clearly marked on it the name, address and telephone number of the person in control of the receptacle;
 - (b) be fitted with reflecting chevrons or reflectors which must completely outline the front and the back of the receptacle; and
 - (c) be covered at all times other than when actually receiving or being emptied of waste so that no displacement of its contents can occur.
- (5) The owner or occupier of premises on which building waste is generated may himself or herself dispose of the waste or must ensure that the waste is collected and disposed of by a waste collector.
- (6) All building waste must be disposed at a waste disposal facility designated for that purpose by Council, unless Council has given written consent for the building waste to be used for the purpose of landfilling, land reclamation or recycling.
- (7) A person who does not comply with a condition contemplated in subsection (3) or who contravenes a provision of subsection (1), (2), (4) to (6) commits an offence.

47. Bulky waste

- (1) The following is treated as bulky waste:
 - (a) An article of waste which exceeds 25 kilograms in weight; and
 - (b) an article of waste which does not fit, or cannot be fitted into –
 - (i) a receptacle for domestic waste; or
 - (ii) a cylindrical container 750 millimetres in diameter and 1 metre in length.
- (2) The occupier of the premises on which bulky waste is generated must ensure that the waste is collected and disposed within a reasonable time after the generation thereof
- (3) An occupier or licensee may remove bulky waste, provided that once such waste has been collected from the premises on which it was generated, it is deposited at a facility or site in accordance with the provisions of section 50(5).
- (4) A large accumulation of bulky waste may be removed by Council at a tariff determined by Council.
- (5) Council, in the course of collecting domestic waste may, subject to section 31(1), collect bulky waste if the waste has been placed in an approved receptacle referred to in section 29 in the space designated for domestic waste, in which event the tariff for domestic waste applies.
- (6) A person who contravenes a provision of subsection (2), or who deposits waste in contravention of subsection (3) commits an offence.

48. Animal carcasses

- (1) The occupier who discovers on his or her premises a carcass must immediately –
 - (a) take steps to have the carcass removed by an animal organization or licensee;
 - (b) if the premises are suitable, bury the carcass at a depth which completely covers the whole carcass so that it cannot be dug up by an animal or cause any nuisance whatsoever; or
 - (c) if the animal died of a disease, take steps to have the carcass removed by an animal organization or licensee.
- (2) The occupier, owner or manager of a game farm or similar establishment must on

discovery of a carcass on the farm immediately and subject to the provisions of any other law –

- (a) bury the carcass at a depth which completely covers the whole carcass so that it cannot be dug up by an animal or cause any nuisance whatsoever; or
 - (b) if the animal was diseased, incinerate the carcass.
- (3) A person who contravenes a provision of this section commits an offence.

Part 7

Recovery and disposal of waste, and private landfilling

49. Recovery and disposal of waste

- (1) Waste must be recovered and disposed of without endangering human health and without the use of processes or methods likely to harm the environment.
- (2) The following activities constitute recovery operations:
 - (a) Recycling or reclamation of organic substances which are not used as solvents;
 - (b) recycling or reclamation of metals and metal compounds;
 - (c) recycling or reclamation of other inorganic materials;
 - (d) recovery of components used for pollution abatements;
 - (e) recovery of components from catalysts;
 - (f) oil re-refining or other re-uses of oil;
 - (g) use principally as a fuel or other means to generate energy;
 - (h) spreading on land resulting in benefit to agriculture or ecological improvement, including composting and other biological transformation;
 - (i) use of wastes obtained from any of the operations above;
 - (j) exchange of wastes for submission to any of the operations above; and
 - (k) storage of materials intended for submission to any operation in this Part, excluding temporary storage, pending collection, on the site where it is produced.
- (3) The following activities constitute disposal operations:
 - Landfill; and
 - incineration.

50. Waste recovery facilities and landfill sites

- (1) A waste recovery facility or landfill site may not be located in any of the following areas:
 - (a) A national park or wildlife area;
 - (b) a 25 year periodical flooding area;
 - (c) a geological fault area;
 - (d) an area having national, historical or archaeological significance; or
 - (e) any area not designated for a waste recovery facility or landfill site by Council in these By-laws.
- (2) A waste recovery facility or landfill site –
 - (a) must be located, designed and operated in accordance with these By-laws and all relevant national and provincial legislation;
 - (b) must be located such that an emission or discharge from the fill or facility does not unduly harm the public health and has minimal impact upon the environment; and
 - (c) may only be established when an environmental impact assessment in accordance with the rules and procedures of the DWAF has been undertaken.
- (3) A waste recovery facility or landfill site, whether public or private, must establish,

- fund and maintain a reserve fund to insure the proper closure and post closure monitoring of the site, the "size" of such fund to be determined by Council , and –
- (a) the fund must be established in the name of both the facility owner and the municipality;
 - (b) the fund must be funded from tariffs or other mutually agreeable fees; and
 - (c) any withdrawal from the fund requires the written approval of Council.
- (4) It may be required of a person who desires to dispose of waste at a waste disposal or processing site to pay a tariff, as Council may by resolution fix , for the reception and disposal of waste at the site, but any material which can be utilised for covering purposes, such as builders' rubble or soil, may be accepted at a site free of charge
- (5) Waste generated within municipal area must be disposed of at a waste recovery facility or landfill site that has been permitted to accept and dispose of that particular category of waste and in accordance with the provisions of any other law regulating the disposal of waste, and no person may knowingly dispose of waste at a waste recovery facility or landfill site that is not permitted to accept such waste.
- (6) The disposal of waste at a waste recovery facility or landfill site is subject to such conditions as Council may specify, including –
- (a) the hours of opening and closing of the facility;
 - (b) the nature of the waste which may be disposed of at the facility;
 - (c) the position in any facility in which the waste may be placed; and
 - (d) any other matters which Council considers necessary to ensure the environmentally sound management of waste
- (7) All waste disposal or processing sites within the municipality whether privately owned or not, are subject to the control of Council to ensure that hygienic and correct procedures are followed in the disposal of all types of waste.
- (8) Only a person, with the exception of a person specifically authorised by Council for reasons determined by Council such as, but not limited to, education, public participation and information sessions, who intends to dispose of waste may enter a disposal site and such person must –
- (a) enter the waste recovery facility or landfill site at an access point determined by the operator of the waste recovery facility or landfill site;
 - (b) on request, provide Council or the operator of the waste recovery facility or landfill site with any information regarding the composition of the waste;
 - (c) follow all instructions issued by the operator of the waste recovery facility or landfill site in regard to access to the actual place where, and the manner in which, the waste should be deposited; and
 - (d) on request of the operator supply such particulars or information to the operator as requested.
- (9) No person may –
- (a) enter a waste recovery facility or landfill site in an intoxicated state or consume any intoxicating substances on the premises;
 - (b) enter a waste recovery facility or landfill site for any purpose other than the disposal of waste in terms of these By-laws, unless authorised to do so by Council or the operator of the waste recovery facility or landfill site and then only at such times and on such conditions as Council or the operator may from time to time determine;
 - (c) dispose of waste at a waste recovery facility or landfill site which is not permitted for such waste;

- (d) without authorisation, light any fire upon or near any disposal area; or
- (e) squat in a recovery facility of landfill site.
- (10) The operator of the waste recovery facility or landfill site may at any time for the purpose of determining a charge or for any other purpose require a vehicle or a container on a vehicle that has entered the waste recovery facility or landfill site for the purposes of disposing waste to be weighed at a weigh-bridge.
- (11) The operator of the waste recovery facility or landfill site may, at a waste recovery facility or landfill site, inspect the content and nature of waste to be disposed of or processed and may take samples and test any waste found on a vehicle or in a container to ascertain its composition.
- (12) A person who improperly disposes of waste at a waste recovery facility or landfill area may be liable for all reasonable costs incurred by Council in removing or otherwise dealing with the waste.
- (13) A person delivering waste materials to a waste recovery facility or landfill site must separate the materials into the types of materials as designated in the facility's operating regulations according criteria decided on by Council .
- (14) A person contravening any of the provisions of this section may be refused entry or be removed from a disposal waste recovery facility or landfill site.
- (15) The municipality may sell for its own account waste collected or disposed of by Council, and any waste collected by Council belongs to Council and Council may deal with it accordingly.
- 16) A person who contravenes any of the provisions of subsection (1) to (3), (5), (6), (8), (9) or (13) or who refuses to comply with a request contemplated in subsection (10) or who interferes with an operator in the exercise of his or duty in terms of subsection (11) commits an offence.

51. Private landfilling areas

- (1) Subject to section 63(4) and (8), an owner or occupier of a plot or premises wishing to fill an area of the plot or premises with inert construction or demolition waste or any other inert material must apply in writing to Council for permission to do so, and must submit the following information:
 - (a) A map or sketch of the plot or premises to be filled showing the horizontal and vertical limits of the fill;
 - (b) the present condition of the site including all building, watercourses, vegetation and trees;
 - (c) the types of materials to be used in filling the site; and
 - (d) any other information which the municipality may request regarding the nature and environmental impacts of the filling operation.
- (2) Upon receipt and evaluation of an application for a fill area, Council may, upon written notice –
 - (a) accept the application as submitted, and issue a permit;
 - (b) amend the application after review and consultation; or,
 - (c) if the filling operation will create an adverse impact on the environment or public health, or constitute a public nuisance, reject the application.
- (3) A person who fills an area of the plot or premises with inert construction or demolition waste or any other inert material without the permission contemplated in subsection (1) or in contravention of subsection (2)(c) commits an offence.

Part 8

Unsolicited mail, littering, dumping, abandoned vehicles, and outside waste

52. Unsolicited mail

- (1) No person or business may, without the written consent of Council, in any manner and with or without the object of informing the public of any –
 - (a) opinion, event or phenomenon of whatever nature, be it factual or fictional, be it past, present or future; or
 - (b) product, commodity, or merchandise, be it in existence or not, disseminate to any person or attach to any object whatsoever a leaflet, handbill or any similar article in any public place or area within Council's jurisdiction.
- (2) A person who intends undertaking an activity specified in (1) must apply to Council.
- (3) Council may approve the application on such conditions as Council deems fit.
- (4) A person who contravenes a provision of subsection (1) commits an offence.

53. Littering

- (1) In accordance with the provisions of sections 19, 19A and 29A of the Environment Conservation Act, 1989, no person may –
 - (a) cause litter;
 - (b) other than in a receptacle provided or approved by Council for the discarding of litter by the public, discard any litter, accumulation of dirt, waste, decomposing animal, decaying vegetable matter, or other noxious matter;
 - (c) burn any litter, accumulation of dirt, waste, decomposing animal, decaying vegetable matter, or other noxious matter, in or upon any public place or premises, excluding land zoned for agricultural purposes;
 - (d) disturb anything in, or remove anything from, any receptacle which has been placed for the purposes of collecting litter;
 - (e) sweep anything contemplated in paragraph (a) into a gutter, onto a road reserve or onto any other public place; or
 - (f) allow a person under his or her control or an animal under his or her control to do any of the above acts.
- (2) An occupier or owner must monitor the premises for acts of littering by another person and must report such person to Council.
- (3) An occupier or owner of premises must, within a reasonable time after any litter has been discarded on the premises, remove the litter or cause it to be removed.
- (4) A person who contravenes a provision of subsection (1) or (3) commits an offence.

54. Dumping

- (1) No person may –
 - (a) except by permission of the owner or of the person or authority having control thereof; or
 - (b) unless authorised by law to do so, dump, accumulate, place, deposit or leave any waste whatsoever, whether for gain or otherwise, or cause or allow to be dumped, accumulated, placed, deposited or left such waste on or in –
 - (i) any road, highway, street, lane, public footway or pavement or any road verge;
 - (ii) any commonage land, village green, park, recreation ground or other open space to which the public have access;

- (iii) any drain, watercourse, flood prone areas, tidal or other water in or abutting on any such road, highway, street, lane, public footway or pavement, roadside or other open space to which the public have access; or
 - (iv) private or municipal land,
- (2) Should a person do any of the acts contemplated in subsection (1), Council may by written notice require any of the following persons to dispose of, destroy or remove the waste within the period stated in the notice:
- (a) The person directly or indirectly responsible for dumping, accumulating, placing, depositing, or leaving the waste;
 - (b) the owner of the waste, whether or not he is responsible for dumping, accumulating, placing, depositing, or leaving the waste; or
 - (c) the owner or occupier of the land or premises on which the waste was dumped, accumulated, placed, deposited, or left, whether or not he or she is responsible therefor,
- (3) If a person fails to comply with the requirements of a written notice, Council may dispose of, destroy or remove the waste and may recover the cost of doing so from the person or persons to whom the notice was issued.
- (4) If waste has been deposited in or on any land in contravention of subsection (1) and –
- (a) in order to remove or prevent pollution of land, water or air or harm to human health, it is necessary that the waste be forthwith removed or other steps taken to eliminate or reduce the consequences of the deposit or both;
 - (b) there is no occupier of the land; or
 - (c) the occupier neither made nor knowingly permitted the deposit of the waste, Council may remove the waste from the land or take other steps to eliminate or reduce the consequences of the deposit and is entitled to recover the cost incurred by it in removing the waste or taking the steps or both and in disposing of the waste –
 - (i) from the occupier of the land unless he or she proves that he or she neither made nor knowingly caused nor knowingly permitted the deposit of the waste; or
 - (ii) from any person who deposited or knowingly caused or knowingly permitted the deposit of any of the waste.
- (5) Any waste removed by Council belongs to Council and may be dealt with as Council deems fit.
- (6) A person who contravenes a provision of subsection (1) commits an offence.

55. Abandoned vehicle

- (1) A person may not abandon a vehicle in, or place, throw or discard vehicle scrap upon any street or public place.
- (2) When Council has been notified of an abandoned vehicle or vehicle scrap which has not been moved in at least thirty days, Council will make reasonable efforts to identify the owner of the vehicle or scrap, and when the owner has been identified, he or she may be ordered by Council to remove the vehicle or scrap within a specified time.
- (3) Any vehicle or scrap, the ownership of which cannot be reasonably be determined, or which has not been removed after being ordered to do so, may be removed by Council to an approved scrap yard or disposal facility.
- (4) In the event that ownership has been determined, Council may recover the costs of the removal from the owner.
- (5) Failure of the owner to remove the vehicle or scrap within the specified time constitutes an offence.

- (6) Any vehicle or scrap removed by Council belongs to Council and may be dealt with as Council deems fit.
- (7) A person who contravenes subsection (1) or fails to remove the vehicle or scrap when ordered to so within the time specified in subsection (2) commits an offence.
- 56. Outside waste**
- (1) A person, excluding a person arriving in the municipality by ship or airplane from a place outside the RSA, wishing to dispose or process any outside waste in a municipal waste disposal or processing facility must in writing apply to Council for permission to do so and must submit the following information:
- (a) Where the waste originated;
 - (b) the categories of waste to be considered;
 - (c) a description of the composition of the waste;
 - (d) the intended method of storage and transportation;
 - (e) the reason why the waste cannot be disposed of in the municipal area of origin; and
 - (f) any other information which Council may request regarding the nature of the waste and environmental impacts.
- (2) Upon receipt and evaluation of an application Council may, upon written notice –
- (a) accept the application as submitted and issue a permit;
 - (b) amend the application after review and consultation;
 - (c) attach conditions to the permit relative to the nature of the waste or threat to human health or the environment, including proof of insurance, spill prevention plans in the event of an accident during transportation or disposal; or
 - (d) if the disposal, processing or transportation of outside waste will create an undue impact on the environment or public health, or constitute a public nuisance, reject the application.
- (3) Council may levy a surcharge for the disposal, processing or transportation of outside waste within municipal boundaries.
- (4) A permit issued is valid for a period of 3 years or for such other period as Council may determine
- (5) Council may revoke a permit issued under this section for failure to abide by the permit conditions.
- (6) A person who contravenes a provision of subsection (1) commits an offence.

Part 9
Control of emergency incidents

57. Definitions

- (1) In this section, unless the context otherwise indicates –
- “environmental emergency”** means an unexpected or sudden occurrence that may cause or has caused serious harm to human health or damage to the environment, regardless of whether the potential for harm or damage is immediate or delayed;
- “incident”** means an unexpected sudden occurrence, including a major emission, fire or explosion leading to serious danger to the public or potentially serious pollution of or detriment to the environment, whether immediate or delayed;
- “responsible person”** means a person who –
- (a) is responsible for the incident;
 - (b) owns any hazardous substance involved in the incident;

- (c) was in control of any hazardous substance involved in the incident at the time of the incident; or
- (d) where the incident occurred in the course of that person's employment, his or her employer.

58. Duties of responsible person

- (1) The responsible person must, after the incident has come to his or her knowledge immediately report, through the most effective means reasonably available, to the South African Police Services and the relevant fire prevention service, Council, and all persons whose health may be affected by the incident –
 - (a) the nature of the incident;
 - (b) any risks posed by the incident to public health, safety or property;
 - (c) the toxicity of substances or by-products released by the incident; and
 - (d) any steps that should be taken in order to avoid or minimise the effects of the incident on public health and the environment to.
- (2) The responsible person must as soon as reasonably practicable after the incident has come to his or her knowledge –
 - (a) take all reasonable measures to contain and minimise the effects of the incident, including its effects on the environment and any risks posed by the incident to the health, safety or property of persons;
 - (b) undertake clean-up procedures;
 - (c) remedy the effects of the incident; and
 - (d) assess the immediate and long-term effects of the incident on the environment and public health;
- (3) The responsible person must within 14 days of the incident report to Council such information as is available to enable an initial evaluation of the incident, including –
 - (a) the nature of the incident;
 - (b) the substances involved and an estimation of the quantity released and their possible acute effect on persons and the environment and data needed to assess these effects;
 - (c) initial measures taken to minimise impacts;
 - (d) causes of the incident, whether direct or indirect, including equipment, technology, system, or management failure; and
 - (e) measures taken and to be taken to avoid a recurrence of such incident.
- (4) A person who contravenes a provision of this section commits an offence.

59. Directives by Council

- (1) Council may direct the responsible person to undertake specific measures within a specific time to fulfil his or her obligations under section 58, and for these purposes Council must, when considering any such measure or time period, have regard to the following:
 - (a) The principles set out in section 2;
 - (b) the severity of any impact on the environment as a result of the incident and the costs of the measures being considered;
 - (c) any measures already taken or proposed by the person on whom measures are to be imposed, if applicable;
 - (d) the desirability of the state fulfilling its role as custodian holding the environment in public trust for the people; and
 - (e) any other relevant factors.
- (2) A verbal directive must be confirmed in writing within seven days.

- (3) Should –
 - (a) the responsible person fail to comply, or inadequately comply with a directive under subsection (1);
 - (b) there be uncertainty as to who the responsible person is; or
 - (c) there be an immediate risk of serious danger to the public or potentially serious detriment to the environment, Council may take the measures it considers necessary to –
 - (i) contain and minimise the effects of the incident;
 - (ii) undertake clean-up procedures; and
 - (iii) remedy the effects of the incident.
- (4) Council may claim reimbursement of all reasonable costs incurred by it in terms of subsection (3) from every responsible person jointly and severally.
- (5) When Council has taken steps under subsection (3), Council must, as soon as reasonably practicable, prepare comprehensive reports on the incident, which reports must be made available through the most effective means reasonably available to –
 - (a) the public;
 - (b) the Director-General of the DWAF;
 - (c) the South African Police Services and the relevant fire prevention service; and
 - (d) all persons who may be affected by the incident.
- (6) If a person has caused an environmental emergency, Council may order the person, orally or in writing, to comply immediately with the provisions of section 58, and the person must immediately comply with the provisions of section 58 irrespective of any right that the person may have, or may in the future have, at common law or under any other law to any relief of whatever nature.
- (7) A person who contravenes a provision of subsection (3) or (6) or who does not comply with an order contemplated in subsection (6) commits an offence.

CHAPTER 6 LICENCES

Part 1

Licence to operate as waste collector

60. Waste collecting licence

- (1) For the purposes of these By-laws, no person may provide a commercial service as a waste collector within an area owned by or under control of Council unless he or she has first –
 - (a) been registered by Council as a waste collector; and
 - (b) obtained a licence from Council.
- (2) For the purposes of registration or obtaining a licence, a person must complete the required application form and submit the form and, where applicable, substantiating documentation to Council.
- (3) For the purposes of assessing an application, Council may require information additional to the information required on an application form.
- (4) After consideration of the application for a licence, Council may approve the application whereupon Council must issue a licence subject to conditions which Council may deem necessary.
- (5) Council must provide proof of registration and must –

- (a) detail the name, residential and postal address of the registered person, and if a company or close corporation, its registration number, names of its directors or members and the address of its registered head office;
 - (b) describe the nature of the waste management services provided or intended to be provided;
 - (c) specify the scope of the service, including –
 - (i) the number of clients served or intended to be served at the time of registration;
 - (ii) the geographical area of operation; and
 - (iii) the disposal facilities owned or intended to be utilised for the disposal of waste collected.
- (6) A person who contravenes subsection (1) commits an offence.

61. Duties of licensee

- (1) A licensee may not –
- (a) operate in contravention of the terms and conditions of his or her licence;
 - (b) fail or refuse to give information, or give false or misleading information, when required to do so in terms of these By-laws;
 - (c) fail to take all reasonable steps to prevent an act or an omission by an employee where the employee is or was acting on behalf of the licensee, when such an act or omission would constitute an offence if it were the act or omission of a licensee; or
 - (d) dispose of waste otherwise than by disposing of it at a waste recovery facility which has been permitted for the disposal of this category of waste.
- (2) Where a person has been registered, and –
- (a) the person acquires a firm providing commercial services;
 - (b) the person merges with another person or firm providing commercial services;
 - (c) there is a change in ownership of the enterprise;
 - (d) there is a change in the juristic nature of the enterprise;
 - (e) there is a change in the nature of the commercial services it provides;
 - (f) the person intends to cease providing such services; or
 - (g) the person is involved in winding-up proceedings;
- the person must immediately notify Council of that occurrence and, except in the circumstances set out in subsection (f) or (g), must re-register.
- (3) A person who contravenes a provision of this section commits an offence.

62. Supervision of licensee

- (1) An authorised official must –
- (a) inspect the activities of a licensee not less than twice a year, and is entitled to enter the workplace of a licensee for this purpose;
 - (b) keep a register recording each inspection that has been undertaken.
- (2) If a licensee is complying with these By-laws, the official may issue a licensee with a certificate confirming compliance, which certificate must state –
- (a) the name and residential and postal address of the licensee;
 - (b) the time, date and scope of the inspection; and
 - (c) any remarks which in the opinion of the authorised official may be relevant.
- (3) If a licensee fails to obtain a certificate confirming compliance at three inspections over a period of two years, the authorised official may recommend that Council review the licence, and should there be reasonable grounds, Council may revoke the licence.

63. Licence conditions, variation, revocation and suspension, transfer and payment of fees

The provisions of sections 65, with the necessary changes, and 68, 69, 70(1), 71 and 72 apply to a waste collector and a waste collecting licence.

Part 2

Licence to operate waste recovery facility or landfill site

64. Application for licence and registration

- (1) No person may operate a waste recovery facility or landfill site within an area owned by or under control of Council unless he or she has first –
 - (a) been registered by Council as a commercial service provider; and
 - (b) obtained a licence from Council.
- (2) For the purposes of registration or obtaining a licence, a person must complete the required application form and submit the form and, where applicable, substantiating documentation to Council.
- (3) For the purposes of assessing an application, Council may require information additional to the information required on an application form.
- (4) Council must consider each application for a licence and must have regard to the following:
 - (a) The financial, technical and managerial competency and experience of the applicant;
 - (b) the environmental, health and safety record of the applicant;
 - (c) the nature of the waste management service to be provided;
 - (d) that the person has, for any waste recovery facility or landfill site owned or to be owned by him or her appropriate property and liability insurance in accordance with an insurance programme approved by Council under the licence, which approval may not subject Council to any liability if the insurance programme proves inadequate;
 - (e) in the instance where a person is conducting another business activity which will not be regulated by the licence, that the business activity –
 - (i) does not conflict with or adversely affect the licensee's obligations under the licence, these By-laws or any other law; and
 - (ii) is separately accounted for; and
 - (f) any other relevant factors.
- (5) After consideration of the application for a licence, Council may approve the application whereupon it must issue a licence subject to such conditions as it deems necessary.
- (6) Council must provide proof of registration and must –
 - (a) detail the name, residential and postal address of the registered person, and if a company or close corporation, its registration number, names of its directors or members and the address of its registered head office;
 - (b) describe the nature of the waste management services provided or intended to be provided;
 - (c) specify the scope of the service, including –
 - (i) the number of clients served or intended to be served at the time of registration;
 - (ii) the geographical area of operation;
 - (iii) the actual or intended capital expenditure involved, or to be involved, in rendering the service; and

- (iv) the disposal facilities owned or intended to be utilised for the disposal of waste collected or generated.

(7) A person who contravenes subsection (1) commits an offence.

65. Licence

A licence –

- (a) must prescribe the payment of a licence fee which will be according to Council's tariff regulations;
- (b) must require the licensee to take reasonable steps to prevent his employees from committing any act or omission in the course of their employment that may cause harm to humans or damage to the environment;
- (c) must require the licensee to ensure compliance with these By-laws and conditions by its employees, agents and sub-contractors, and to ensure that sub-contractors are licensed to store, collect, transport and dispose of any waste that they have been contracted to manage;
- (d) must describe the geographical area of operation of the licensee;
- (e) must specify the licence period and the procedure for any licence renewal;
- (f) must specify the category or categories of waste the licensee may manage;
- (g) is personal to the licensee and incapable of cession or assignment without the prior written consent of Council;
- (h) is valid for the period stipulated in the licence, which period may not exceed five years, and may, upon application in terms of these By-laws, be renewed by Council for a further period;
- (i) may be suspended or revoked by Council; and
- (j) may contain any other term or condition that Council considers relevant.

66. Duties of licensee

(1) A licensee must keep monthly records in respect of the following:

- (a) The quantities of waste received, the location of the sources generating the waste, the identity of the generator and, where the licensee manages different categories of waste, the quantity of each category managed;
- (b) emission levels where the licensee manages a licensed incinerator;
- (c) any activity related to the achievement of local, provincial or national targets where such targets have been determined, including the results of monitoring such activity;
- (d) any waste minimisation or recovery activities in which the licensee is involved;
- (e) consumer supply figures; and
- (f) complaints received by members of the public, and measures taken to address the cause and nature of the complaints.

(2) A licensee may not –

- (a) cease operations at a waste recovery facility or landfill site without a closure plan approved by Council;
- (b) abandon a waste recovery facility or landfill site;
- (c) operate in contravention of the terms and conditions of his or her licence;
- (d) fail or refuse to give information, or give false or misleading information when required to do so in terms of these By-laws;
- (e) fail to take all reasonable steps to prevent an act or an omission by an employee where the employee is or was acting on behalf of the licensee, when such an act or omission would constitute an offence if it were the act or omission of a licensee;

- (f) dispose of any medical waste otherwise than by incineration, unless prior consent has been obtained from Council; or
 - (g) dispose of waste otherwise than by disposing of it at a waste recovery facility or landfill site which has been permitted for the disposal of this category of waste.
- (3) Where –
- (a) a licensee acquires a firm providing commercial services;
 - (b) a licensee merges with another person or firm providing commercial services;
 - (c) there is a change in ownership of the enterprise;
 - (d) there is a change in the juristic nature of the enterprise;
 - (e) there is a change in the nature of the commercial services it provides;
 - (f) a licensee intends to cease providing such services;
 - (g) a licensee is involved in winding-up proceedings; or
 - (h) a licensee increases its gross revenue or client base in excess of 25%, he or she must immediately notify Council of that occurrence and, except in the circumstances set out in subsection (f) or (g), must re-register.
- (4) A person who contravenes any of the provisions of this section commits an offence.

67. Supervision of licensee

- (1) An authorised official must –
- (a) inspect the workplace of a licensee not less than twice a year, and is entitled to enter the workplace of a licensee for this purpose; and
 - (b) keep a register recording each inspection that has been undertaken.
- (2) If a licensee is complying with these By-laws, the official may issue a licensee with a certificate confirming compliance, which certificate must state –
- (a) the name and residential and postal address of the licensee;
 - (b) the name and address of the waste recovery facility or landfill site;
 - (c) the time, date and scope of the inspection; and
 - (d) any remarks which in the opinion of the authorised official may be relevant.
- (3) If a licensee fails to obtain a certificate confirming compliance at three inspections over a period of two years, the authorised official may recommend that Council review the licence, and should there be reasonable grounds, Council may revoke the licence.

68. Variation of licence

- (1) While a licence is in force, Council may modify –
- (a) on its own initiative, the conditions of the licence to an extent which is desirable and is unlikely to require unreasonable expense on the part of the licensee;
 - (b) the conditions of the licence to the extent which is required for the purpose of ensuring that the activities authorised by the licence do not cause pollution of the environment or harm to human health; or
 - (c) on the application of the licensee accompanied by the prescribed tariff payable under section 5, modify the conditions of the licence to the extent requested in the application.
- (2) Any modification of a licence shall be effected by notice served on the licensee and the notice must state the time at which the modification is to take effect.
- (3) If within the period of two months beginning with the date on which Council received an application by the licensee for a modification of it, or within such longer period as Council and the licensee may at any time agree in writing, Council has neither granted a modification of the licence in consequence of the application, nor given notice to the

licensee that Council has rejected the application, Council shall be deemed to have rejected the application.

- (4) A person who contravenes a modification as contemplated in this section, commits an offence.

69. Revocation and suspension of licence

- (1) Where a licence is in force and it appears to Council that –
- (a) the licensee has ceased to be a fit and proper person by reason of his or her having been convicted of an offence under these By-laws; or
 - (b) the continuation of the activities authorised by the licence would cause pollution of the environment or harm to human health or would be seriously detrimental to the amenities of the locality affected; and
 - (c) the pollution, harm or detriment cannot be avoided by modifying the conditions of the licence, Council may revoke, entirely or partially, or suspend the licence in so far as it authorises the carrying on of the activities specified in the licence or such of them as Council specifies, and where the licence is revoked, may specify the requirements imposed by the licence, which requirements are to continue to bind the licensee.
- (2) A revocation or suspension of a licence or requirement imposed during the suspension of a licence must be effected by notice served on the licensee, and the notice must state the time at which the revocation or suspension or the requirement is to take effect, and in the case of suspension, the period at the end of which, or the event on the occurrence of which, the suspension is to cease
- (3) A licence which has been revoked ceases to have effect to authorise the carrying on of the activities specified in the licence or, as the case may be, the activities specified by Council in revoking the licence but does not affect the requirements imposed by the licence which Council, in revoking the licence, specify as requirements which are to continue to bind the licensee, and a person who fails to comply with any requirement imposed commits an offence.
- (4) A licence which has been suspended is, while the suspension has effect, of no effect to authorise the carrying on of the activities specified in the licence, or, as the case may be, the activities specified by Council in suspending the licence, and a person who fails to comply with any requirement imposed commits an offence.
- (5) Where a licence is suspended, Council, in suspending it or at any time while it is suspended, may require the licensee to take such measures to deal with or avert the pollution or harm as Council deems necessary.

70. Surrender of licence

- (1) A licensee may surrender a licence to Council.
- (2) The following provisions apply to the surrender and acceptance of the surrender of a licence:
- (a) The licensee who desires to surrender it must apply for that purpose to Council in such form, giving such information and accompanied by such evidence as Council prescribes by regulations and accompanied by the prescribed tariff payable under section 5.
 - (b) Council –
 - (i) must inspect the land to which the licence relates;
 - (ii) may require the licensee furnish to it further information or further evidence; and

- (c) must determine whether it is likely or unlikely that the condition of the land, so far as that condition is the result of the use of the land for the treatment, keeping or disposal of waste (whether or not in pursuance of the licence), will cause pollution of the environment or harm to human health.
- (3) If the condition of the land is unlikely to cause the pollution or harm, Council may accept the surrender.
- (4) Where Council accepts the surrender of a licence, Council will issue to the applicant, with the notice of its determination, a certificate (a "certificate of completion") stating that Council is satisfied that the condition of the land is unlikely to cause pollution or harm and, on the issue of that certificate, the licence will cease to have effect.
- (5) If within the period of three months beginning with the date on which Council receives an application to surrender a licence, or within such longer period as Council and the applicant may at any time agree in writing, Council has neither issued a certificate of completion nor given notice to the applicant that Council has rejected the application, Council shall be deemed to have rejected the application.

71. Transfer of licence

- (1) A licence may be transferred to another person in accordance with subsections (2) to (6) and may be so transferred whether or not the licence is partly revoked or suspended under any provision of this Part.
- (2) Where the licensee desires that the licence be transferred to another person ("the proposed transferee") the licensee and the proposed transferee must jointly make an application to Council for a transfer of it.
- (3) An application must be made in the form prescribed by Council and must include any information which Council requires, and must be accompanied by the prescribed tariff payable under section 5, and the licence.
- (4) If the proposed transferee is a fit and proper person, Council will effect a transfer of the licence to the proposed transferee, and the licence will be endorsed with the name and other particulars of the proposed transferee as licensee from such date specified in the endorsement as may be agreed with the applicants, and for the purpose of establishing if the proposed transferee is a fit and proper person, the provisions of section 64(4) apply.
- (5) If within the period of two months beginning with the date on which Council receives an application for the transfer of a licence, or within such longer period as Council and the applicants may at any time agree in writing, Council has neither effected a transfer of the licence nor given notice to the applicants that Council has rejected the application, Council shall be deemed to have rejected the application.

72. Payment of fees

If a licensee had failed to pay a charge due in consideration of the subsistence of the licence, Council may, by notice in writing served on the licensee, revoke the licence so far as it authorises the carrying on of the activities specified in the licence.

**CHAPTER 7
COMPLIANCE AND ENFORCEMENT**

73. Notice of compliance and representations

- (1) A notice of compliance must state –
 - (a) the name and residential or postal address of the person;

- (b) the requirement which has not been complied with;
 - (c) in detail the measures required to remedy the situation;
 - (d) that the person must within a specified period take the measures to comply with the notice and to complete the measures before a specified date; and
 - (e) that the person may within 14 days make written representations in the form of a sworn statement or affirmation to the Council at a specified place.
- (2) The Council, when considering any measure or period envisaged in subsection (1)(c) or (d), must have regard to the principles and objectives of these By-laws, the nature of the non-compliance, and other relevant factors.
- (3) Where a person does not make representations in terms of subsection (1)(e), and the person fails to take the measures before the date contemplated in subsection (1)(d), he or she commits an offence, and the Council may, irrespective of any penalty which may be imposed under section 83, act in terms of subsection (5).
- (4) (a) Representations not lodged within the time contemplated in subsection (1)(e) will not be considered, except where the person has shown good cause and the Council condones the late lodging of the representations.
- (b) The Council must consider the timely representations and any response thereto by an authorized official.
- (c) The Council may, on its own volition, conduct any further investigations to verify the facts if necessary, and the results of the investigation must be made available to the permit holder, who must be given an opportunity of making a further response if he or she so wishes, and the Council must also consider the further response.
- (d) The Council must, after consideration of the representations and any response and further response make an order in writing and serve a copy of it on the person, which order must confirm, in whole or in part, alter, or set aside the notice of compliance, and where the notice of compliance is confirmed, in whole or in part, or altered, the Council must inform the person that he or she must, within the period specified in the order, discharge the obligations set out in the order and that failure to do so constitutes an offence.
- (e) Where a person fails to discharge the obligations contemplated in subsection (4)(d), he or she commits an offence and the Council may, irrespective of any penalty which may be imposed under section 83, act in terms of subsection (5).
- (5) The Council may take such measures as it deems necessary to remedy the situation, and the cost thereof must be paid to the Council in accordance with section 74.

74. Costs

- (1) Should a person fail to take the measures required of him or her by a notice of compliance contemplated in section, the Council may, subject to subsection (3) recover, as a debt, and in accordance with Council's debt collection regulations, all costs incurred as a result of it acting in terms of section 73(5) from that person and any or all of the following persons:
- (a) The owner of the land, building or premises; or
 - (b) the person or occupier in control of the land, building or premises or any person who has or had a right to use the land at the time when the situation came about.
- (2) The costs recovered must be reasonable and may include, without being limited to, costs relating to labour, water, equipment, administrative and overhead costs incurred by the Council under section 73(5).

- (3) If more than one person is liable for costs incurred, the liability must be apportioned as agreed among the persons concerned according to the degree to which each was responsible for the emergency resulting from their respective failures to take the required measures.

CHAPTER 8 ADMINISTRATIVE AND OTHER MATTERS

75. Authentication and service of notices and other documents

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

76. Legal documents and steps valid under certain circumstances

- (1) A notice, or an authorisation, permit or other document, purportedly made or issued in terms of these By-laws or a specific environmental management Act –
- (a) which does not comply with a procedural requirement of the relevant Act, is nevertheless valid if the non-compliance is not material and does not prejudice any person; or
 - (b) may be amended or replaced without following a procedural requirement of the relevant Act if –
 - (i) the purpose is to correct an error; and
 - (ii) the correction does not change the rights and duties of any person materially.
- (2) The failure to take any steps in terms of these By-laws or a specific environmental management Act as a prerequisite for any decision or action does not invalidate the decision or action if the failure –
- (a) is not material;

- (b) does not prejudice any person; and
- (c) is not procedurally unfair.

77. Security for release of vehicles, vessels or aircraft

- (1) If a vehicle, vessel or aircraft is seized in terms of section 16(1)(b) for the purposes of criminal proceedings, the owner or agent of the owner may at any time apply to a court for the release of the vehicle, vessel or aircraft.
- (2) A court may order the release of a vehicle, vessel or aircraft on the provision of security determined by the court.
- (3) The amount of the security must at least be equal to the sum of –
 - (a) the market value of the vehicle, vessel or aircraft;
 - (b) the maximum fine that a court may impose for the alleged offence; and
 - (c) costs and expenses incurred or reasonably foreseen to be incurred by the state in connection with prosecuting the offence.
- (4) If the court is satisfied that there are circumstances which warrant a lesser amount of security, it may order the release of the vehicle, vessel or aircraft subject to the provision of security for such lesser amount.

78. Award of part of fine recovered to informant

- (1) A court which imposes a fine for an offence in terms of these By-laws may order that a sum of not more than one fourth of the fine, be paid to the person whose evidence led to the conviction or who assisted in bringing the offender to justice.
- (2) A person in the service of the municipality is not entitled to such an award.

79. Cancellation of permits and forfeiture of items

The court convicting a person of an offence involving a restricted activity, may –

- (a) withdraw any permit or other authorisation issued in terms of these By-laws to that person, if the rights conferred by the permit or authorisation were abused by that person;
- (b) disqualify that person from obtaining a permit or other authorisation for a period not exceeding five years;
- (c) declare any specimen, container, vehicle, vessel, aircraft, document or other item that was used for the purpose of or in connection with commission of the offence and was produced to the court, to be forfeited to the state, unless the court is satisfied that –
 - (i) the convicted person at the time of the commission of the offence was not the owner of the item; and
 - (ii) the owner was unable to prevent the use of the item by the convicted person; and
- (d) issue an order that all competent authorities authorised to issue permits be notified of any disqualification in terms of paragraph (b).

80. Appeal

- (1) A person whose rights are affected by a decision of an officer, may appeal against that decision by giving written notice of the appeal and reasons to the municipal manager within 21 days of the date of the notification of the decision.
- (2) The municipal manager must promptly submit the appeal to the appropriate appeal authority mentioned in subsection (4)
- (3) The appeal authority must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may

- have accrued as a result of the decision.
- (4) When the appeal is against a decision taken by -
- (a) a staff member other than the municipal manager, the municipal manager is the appeal authority
 - (b) the municipal manager, the Speaker is the appeal authority,
 - (c) a political structure or political officer bearer, or a councillor, a committee of councillors who were not involved in the decision and appointed by the municipal council for this purpose is the appeal authority.
- (5) An appeal authority must commence with an appeal within six weeks and decided the appeal within a reasonable time

81. Limitation of liability

Council is not liable for any damage or loss caused by -

- (a) the exercise of any power or the performance of any duty in good faith under these By-laws; or
- (b) the failure to exercise any power, or perform any function or duty in good faith under these By-laws.

82. Waivers

- (1) Council may waive compliance with or permit deviations, exceptions and exemptions from any provisions of these By-laws subject to such conditions as it may deem fit.
- (2) Council shall serve a written notice which is signed by the waste management inspector upon the person, and the notice must cite -
 - (a) the provision that was waived or relaxed; and
 - (b) the extent to which it has been waived.
- (3) Council will keep a record which contains a copy of the notice, and the public may, at all reasonable hours, inspect this record at the offices of Council.
- (4) A person whose rights are adversely affected by the waiver or relaxation is not bound thereby.

83. Penalties

A person who has committed an offence in terms of these By-laws is, on conviction, and subject to penalties prescribed in any other law, liable to a fine or in default of payment, to imprisonment, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment, and in the case of a successive or continuing offence, to a fine for every day such offence continues, or in default of payment thereof, to imprisonment.

84. Savings and transitional

- (1) An owner or occupier of premises on which industrial waste is generated on or before the effective date of these By-laws -
 - (a) is granted interim permission to continue transporting and disposing of the waste in the manner utilized prior to the effective date of these By-laws;
 - (b) must, within ninety days after the effective date of these By-laws, comply with the provisions of these By-laws.
- (2)
 - (a) A permit issued by Council for the transportation or disposal of industrial waste remains in effect for a period of five years.
 - (b) Any significant change in the volume or nature of the waste during the permit period requires written notification to Council by the person generating the waste.

- (c) Council reserves the right to alter the permit conditions and requirements during the five year permit period, and to adjust the tariff based on documented increases of Council's cost to transport or dispose of the waste.
- (3) A person who contravenes subsection (1)(b) or (2)(b) or who contravenes a permit condition contemplated in subsection (2)(c) commits an offence.
- 85. Consolidation of by-laws, adoption of standards, guidelines, regulations, codes, instructions, specifications or administrative procedures, enactment of new by-laws, and resolutions**
- (1) Any by-laws relating to the main objects of these By-laws must be maintained by Council in consolidated form together with these By-laws, and must be made available to the public on request.
- (2) Council may adopt wholly or in part or with modifications any rules, standards, guidelines, regulations, codes, instructions, specifications or administrative procedures prescribed by any Department either as in force at the time of prescription or publication or as amended from time to time thereafter.
- (3) Additional by-laws may be enacted by Council relating to any aspect of the waste stream.
- (2) Council may adopt additional by-laws on any one or more of the waste management activities specified in section 23 including, but not limited to –
- (a) the general conditions and provisions relating to the management of waste;
 - (b) specific conditions and provisions relating to the management of each category of waste;
 - (c) incentives that may be given to different categories of persons within the waste stream, and conditions under which incentives will be given;
 - (d) targets which must be met; and
 - (e) initiatives regarding the implementation and enforcement of waste minimisation, and which may include conditions and provisions relating to, but not limited to –
 - (i) the quantities of waste that will be collected and the times when the waste will be collected;
 - (ii) which premises, for reasons of health, safety and environmental protection require waste management services more frequently than the regular collection service;
 - (iii) the maximum amount of waste that may be placed for collection without the provision of an additional service or the imposition of an additional tariff;
 - (iv) the requirements for the provision of waste storage areas and access to such areas in respect of new premises which are constructed after the commencement of these By-laws;
 - (v) collection services;
 - (vi) categories of waste be disposed of at a particular depot or disposal site;
 - (vii) types of waste which are generated by the occupier of any premises and which are recyclable waste, and the conditions for their storage or collection; and
 - (viii) waste items that are unsuitable for collection.

- (3) Council may, subject to the provisions of these By-laws and any other legislation, by resolution provide for the establishment, funding, and general administration of and any other matters relating to any existing or new waste recovery facilities, garden waste facilities, transfer stations, landfill sites or any other waste collection or processing points or facilities.

86. Short title and commencement

These By-laws may be cited as the Umsobomvu Municipality Waste Management By-laws, 2009, and commence on the date of publication thereof in the Provincial Gazette.

By-law No. 19, 2009

WATER AND SANITATION SERVICES BY-LAW, 2009

BY-LAW

To provide for the provision and management of water and sanitation services in the Umsobomvu Municipality; and for matters connected therewith.

BE IT ENACTED by the Umsobomvu Municipality, as follows:-

Table of contents

1. Definitions
2. Principles and objectives
- CHAPTER 1: APPLICATION, PAYMENT AND TERMINATION
3. Customer Care and Revenue Management By-laws apply
- CHAPTER 2: SERVICE LEVELS
4. Service levels
- CHAPTER 3: CONDITIONS FOR WATER SUPPLY SERVICES
- Part 1: Connection to water supply systems*
5. Application for water service
6. Special agreements for water services
7. Change in purpose for which water services are used
8. Provision of connection pipe
9. Location of connection pipe
10. Provision of single water connection for supply to several consumers on same premises
11. Interconnection between premises or water installations
12. Disconnection of water installation from connection pipe
13. Communal water services works and provision of water service work for water supply to several consumers
14. Temporary supply from water supply system
- Part 2: Standards and conditions of supply*
15. Quantity, quality and pressure
16. General conditions of supply
17. Testing of pressure in water supply system
18. Pollution of Municipality's water supply
19. Owner to prevent pollution of water
20. Water restrictions
21. Specific conditions of supply
- Part 3: Measurement*
22. Measuring of quantity of water supplied
23. Quantity of water supplied to consumer
24. Special measurement
25. Sampling of water
26. Supply of non-potable water by Municipality
27. Pipes in streets or public places
- Part 4: Audit*
28. Water audit
- Part 5: Installation work*
29. Approval of installation work

30. Persons permitted to do installation and other work
31. Technical requirements for water installation
32. Provision and maintenance of water installations
33. Use of pipes and water fittings to be authorized
34. Labelling of terminal water fittings and appliances
35. Water demand management

Part 6: Communal water supply services

36. Provision of water supply to several consumers

Part 7: Temporary water supply services from fire hydrant

37. Water supplied from fire hydrant

Part 8: Boreholes

38. Notification of boreholes

Part 9: Fire services connections

39. Connection to be approved by Municipality
40. Special provisions
41. Dual and combined installations
42. Connection pipes for fire extinguishing services
43. Valves and meters in connection pipes
44. Meters in fire extinguishing connection pipes
45. Sprinkler extinguishing installations
46. Header tank or double supply from main
47. Sealing of private fire hydrants

CHAPTER 4: CONDITIONS FOR SANITATION SERVICES

Part 1: Connection to sanitation system

48. Obligation to connect to sanitation system
49. Standards for sanitation services
50. Objectionable discharge to sewage disposal system

Part 2: On-site sanitation services and associated services

51. Application for infrastructure
52. Use of on-site sanitation services not connected to sanitation system
53. Septic tanks and on-site sewage treatment plants
54. French drains
55. Conservancy tanks
56. Operation and maintenance of on-site sanitation services
57. Disused conservancy and septic tanks
58. Services associated with on-site sanitation services
59. Charges in respect of services associated with on-site sanitation services

Part 3: Sewage disposal

60. Provision of connecting sewer
61. Location of connecting sewer
62. Provision of one connecting sewer for several consumers on same premises
63. Interconnection between premises
64. Disconnection of draining installation from connecting sewer

Part 4: Standards and Conditions of Supply

65. Standard for sanitation services

Part 5: Methods for determining discharges

66. Measurement of quantity of standard domestic effluent discharged
67. Measurement of quantity and determination of quality of industrial effluent discharged
68. Reduction in measured quantity of effluent discharged

Part 6: Drainage installations

69. Installation of drainage installations

70. Construction or installation of drainage installations
71. Disconnection of drainage installations
72. Drains in streets or public places
73. Construction by Municipality
74. Maintenance of drainage installation
75. Technical requirements for drainage installations
76. Drains
77. Sewer blockages
78. Grease traps
79. Industrial grease traps
80. Mechanical appliances for lifting sewage
81. Installation of pre-treatment facility

Part 7: Protection of infrastructure

82. Protection from ingress of flood waters
83. Trespassing on sewage disposal system
84. Interference with sewage disposal system
85. Damage to sewage disposal system
86. Consequential maintenance of sewers
87. Obstruction to access to sewage disposal system
88. Work by private person

Part 8: Industrial effluent

89. Application for disposal of industrial effluent
90. Approval to discharge industrial effluent
91. Letter of approval
92. Unauthorized discharge of industrial effluent
93. Quality standards for disposal of industrial effluent
94. Conditions for disposal of industrial effluent
95. Withdrawal of approval to discharge industrial effluent

Part 9: Sewage delivered by road haulage

96. Acceptance of sewage delivered by road haulage
97. Approval for delivery of sewage by road haulage
98. Conditions for delivery of sewage by road haulage
99. Withdrawal of permission for delivery of sewage by road haulage

Part 10: Other sanitation services

100. Stables and similar premises
101. Mechanical food-waster or other disposal units

Part 11: Installation work of sanitation sewers

102. Approval of installation work
103. Persons permitted to do installation and other work
104. Use of pipes and water fittings to be authorized
105. Testing of drainage installations
106. Cisterns

CHAPTER 5: WATER SERVICES INTERMEDIARIES

107. Application for registration
108. Additional information to make decision
109. Approval of application
110. Provision of water services
111. Charges for water services provided

CHAPTER 6: UNAUTHORIZED WATER SERVICES AND RELATED MATTERS

112. Unauthorized use of water services
113. Interference with infrastructure for provision of water services

114. Obstruction of access to infrastructure for provision of water services
115. Waste of water unlawful
116. Unauthorized and illegal discharges
117. Illegal connection
118. Interference with infrastructure
119. Use of water from sources other than water supply system provided by Municipality

CHAPTER 7: ENFORCEMENT

120. Responsibility for compliance with By-laws
121. Notice of compliance and representations
122. Costs

CHAPTER 8: MISCELLANEOUS PROVISIONS

123. Provision of information
124. Appeal
125. Authentication and serving of notices and other documents
126. Offences
127. Prima facie evidence
128. Power of entry and inspection
129. Indemnification from liability
130. Exemption
131. Availability of By-laws
132. Conflict of law
133. Co-operation between municipalities and application
134. Liaison forums in community
135. Transitional arrangements
136. Repeal of existing water services by-laws
137. Short title and commencement

Schedules

1. Definitions

(1) In these By-laws, unless the context otherwise indicates –

“**accommodation unit**” in relation to any premises, means a building or section of a building occupied or used or intended for occupation or use for any purpose;

“**Act**” means the Water Services Act, 1997 (Act 108 of 1997);

“**approved**” means approved by the Municipality in writing;

“**area of supply**” means any area within or partly within the area of jurisdiction of the Municipality to which water services are provided;

“**authorized agent**” means –

- (a) any person authorized by the Municipality to perform any act, function or duty in terms of, or exercise any power under these By-laws;
- (b) any person to whom the Municipality has transferred the performance of certain rights, duties and obligations in respect of providing water services; or
- (c) any person appointed by the Municipality in terms of a written contract as a service provider to provide water services to consumers on its behalf, to the extent authorized in such contract;

“**authorized officer**” has the meaning assigned to the word “officer” in section 1 of the Customer Care, Debt Collection and Revenue Management By-Laws;

“**average consumption**” means the average water consumption of a consumer of a municipal service during a specific period, which consumption is calculated by dividing the total measured consumption of that municipal service during the specific period by the specific period of consumption;

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

"borehole" means a hole sunk into the earth for the purpose of locating, abstracting or using subterranean water and includes a spring;

"Building Regulations" means the National Building Regulations made under the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977);

"charges" means the rate, charge, tariff, flat rate or subsidy determined by the Municipality;

"cleaning eye" means any access opening to the interior of a discharge pipe or trap provided for the purposes of internal cleaning;

"combined installation" means a water installation used for fire-fighting and domestic, commercial or industrial purposes;

"commercial consumer" means any consumer other than a domestic consumer and indigent consumer, including, without limitation, business, industrial, governmental and institutional consumers;

"communal water services work" means a consumer connection through which services are supplied to more than one person;

"connecting point" means the point at which the drainage installation joins the connecting sewer;

"connecting sewer" means a pipe owned by the Municipality and installed by it for the purpose of conveying sewage from a drainage installation on a premises to a sewer beyond the boundary of those premises or within a servitude area or within an area covered by a way-leave or by agreement;

"connection" means the point at which a consumer gains access to water services;

"connection pipe" means a pipe, the ownership of which is vested in the Municipality and installed by it for the purpose of conveying water from a main to a water installation, and includes a "communication pipe" referred to in SABS 0252 Part I;

"conservancy tank" means a covered tank used for the reception and temporary retention of sewage and which requires emptying at intervals;

"consumer" means a person with whom the Municipality has concluded a services agreement for the provision of a municipal service as provided for in the Customer Care, Debt Collection and Revenue Management By-Laws;

"Council" means the council of the Umsobomvu Municipality;

"Customer Care, Debt Collection and Revenue Management By-laws" means the Customer Care, Debt Collection and Revenue Management By-Laws, 2009 of the Municipality;

"delivery system" means a water delivery mechanism, which delivers a predetermined quantity of water to a consumer on agreed terms;

"determined" means determined by the Municipality by resolution and published in the Provincial Gazette;

"domestic consumer" means a consumer using water for domestic purposes and producing domestic sewage;

"domestic purposes" in relation to the supply of water means water supplied for drinking, ablution and culinary purposes to premises used predominantly for residential purposes;

"drain" means that portion of the drainage installation that conveys sewage within any premises;

"drainage installation" means a system situated on any premises and vested in the owner thereof and which is used for or intended to be used for or in connection with the reception, storage, treatment or conveyance of sewage on that premises to the connecting point and includes drains, fittings, appliances, septic tanks, conservancy tanks, pit latrines and private pumping installations forming part of or ancillary to such systems;

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

"**duly qualified sampler**" means a person who is authorized to take samples for analysis from the sewage disposal system, and stormwater disposal system, from public waters, bulk water supply sources, water treatment works, water reticulation systems and natural water sources and who has been certified to do so by an authorized agent;

"**DWAF**" means the Department of Water Affairs and Forestry;

"**dwelling unit**" means an interconnected suite of rooms, including a kitchen or scullery, designed for occupation by a single family, irrespective of whether the dwelling unit is a single building or forms part of a building containing two or more dwelling units;

"**effluent**" means any liquid whether or not containing matter in solution or suspension;

"**emergency**" means any situation that poses a risk or potential risk to life, health, the environment or property;

"**environmental cost**" means the cost of all measures necessary to restore the environment to its condition prior to the damaging incident;

"**estimated consumption**" means the deemed consumption by a consumer whose consumption is not measured during a specific period, which estimated consumption is rationally determined taking into account at least the consumption of water supply services for a specific level of service during a specific period in the area of supply of the Municipality;

"**fire installation**" means a potable water installation that conveys water for fire-fighting purposes only, and "fire hydrant" has a similar meaning;

"**fixed charge**" means the average fixed cost per consumer associated with providing water services in a continuous, effective and efficient manner;

"**fixed quantity water delivery system**" means a water installation, which delivers a fixed quantity of water to a consumer in any single day;

"**french drain**" means a soil soak pit for the disposal of sewage and effluent from a septic tank;

"**high strength sewage**" means industrial sewage with a strength or quality greater than standard domestic effluent in respect of which a specific charge 14 may be charged;

"**household**" means a traditional family unit, as determined by the Municipality from time to time taking into account the number of persons comprising a household, the relationship between the members of a household, the age of the persons who are members of the household and any other relevant factor;

"**illegal connection**" means a connection to any system through which water services are provided that is not authorized or approved by the Municipality;

"**industrial effluent**" means effluent emanating from the use of water for industrial purposes and includes for purposes of these By-laws any effluent other than standard domestic effluent or stormwater;

"**industrial purposes**" in relation to the supply of water means water supplied to any premises which constitutes a factory as defined in the General Administrative Regulations, published in terms of the Occupational Health and Safety Act, 1993 (Act 85 of 1993);

"**installation work**" means any work done in respect of a water services installation, including the construction, rehabilitation, improvement and maintenance thereof;

"**JASWIC**" means the Joint Acceptance Scheme for Water Installation Components;

"**manhole**" means any access chamber to the interior of the sewer provided for the purpose of maintenance and internal cleaning;

"**main**" means a pipe, other than a connection pipe, of which the ownership vests in the Municipality and which is used by it for the purpose of conveying water to consumers;

"**measuring device**" means any method, procedure, process, device, apparatus or installation that enables the quantity of water services provided to be quantified and includes any method, procedure or process whereby the quantity is estimated or assumed;

"meter" means a water meter as defined by the Regulations published in terms of the Trade Metrology Act, 1973 (Act 77 of 1973) or, in the case of water meters of sizes greater than 100 mm, a device which measures the quantity of water passing through it, including a pre-paid water meter;

"municipal account" has the meaning assigned to it in section 1 of the Customer Care, Debt Collection and Revenue Management By-Laws;

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

"municipal manager" means the person appointed as the municipal manager of the Municipality by the Municipality in terms of section 82 of the Local Government Municipal Structures Act, 1998 (Act 117 of 1998), and includes any person –

- (a) acting in such position; and
- (b) to whom the municipal manager has transferred a power, function or duty in respect of such a power, function or duty;

"municipal services" has the meaning assigned to it in section 1 of the Customer Care, Debt Collection and Revenue Management By-laws;

"occupier" has the meaning assigned to it in section 1 of the Customer Care, Debt Collection and Revenue Management By-laws;

"on-site sanitation services" means any sanitation services other than water borne sewerage disposal through a sewerage disposal system;

"owner" has the meaning assigned to it in the Customer Care, Debt Collection and Revenue Management By-laws;

"person" means any person, whether natural or juristic and includes, but is not limited to a local government body, a company or close corporation incorporated under any law, a body of persons whether incorporated or not, a statutory body, public utility body, voluntary association or trust;

"plumber" means a person who has passed a qualifying trade test in plumbing or has been issued with a certificate of proficiency in terms of the Manpower Training Act, 1981 (Act 56 of 1981), or such other qualification as may be required under national legislation;

"pollution" means the introduction of any substance into the water supply system, a water installation or a water resource that may make the water harmful to health or the environment or impair its quality for the use for which it is normally intended;

"premises" has the meaning assigned to it in section 1 of the Customer Care, Debt Collection and Revenue Management By-laws, and includes a register held by a tribal authority or in accordance with a sworn affidavit made by a tribal authority;

"prescribed charge" means a charge prescribed by the Municipality;

"professional Engineer" means a person registered in terms of the Engineering Profession Act, 2000 (Act 46 of 2000), as a professional engineer;

"public notice" means publication in appropriate media that may include one or more of the following:

- (a) publication of a notice, in the official languages determined by the Municipality –
 - (i) in any local newspaper or newspapers circulating in the area of supply of the Municipality;
 - (ii) in the newspaper or newspapers circulating in the area of supply of the Municipality determined by the Municipality as a newspaper of record;
 - (iii) by means of radio broadcasts covering the area of supply of the Municipality; or
- (b) displaying a notice at appropriate offices and pay-points of the Municipality; or

- (c) communication with consumers at public meetings and ward committee meetings;
- "public water"** means any river, watercourse, bay, estuary, the sea and any other water to which the public has the right of use or access;
- "sanitation services"** has the meaning assigned to it in section 1 of the Act and includes for purposes of these By-laws the disposal of industrial effluent;
- "sanitation system"** means the structures, pipes, valves, pumps, meters or other appurtenances used in the conveyance through the sewer reticulation system and treatment at the sewage treatment plant under the control of the Municipality and which may be used by it in connection with the disposal of sewage, and "sewage disposal system" has the same meaning;
- "septic tank"** means a water tight tank designed to receive sewage and to effect the decomposition of organic matter in sewage by bacterial action;
- "service agreement"** means the contractual relationship between the Municipality and a consumer, whether written or deemed as provided for in section 5(3) of the Customer Care, Debt Collection and Revenue Management By-Laws;
- "service pipe"** means a pipe which is part of a water installation provided and installed on any premises by the owner or occupier and which is connected or to be connected to a connection pipe to serve the water installation on the premises;
- "sewage"** means waste water, industrial effluent, standard domestic effluent and other liquid waste, either separately or in combination, but does not include stormwater;
- "sewer"** means any pipe or conduit which is the property of or is vested in the Municipality and which may be used for the conveyance of sewage from the connecting sewer, and does not include a drain as defined;
- "shared consumption"** means the consumption of a consumer of a municipal service during a specific period, which consumption is calculated by dividing the total metered consumption of that municipal service within the supply zone within which a consumer's premises are situated for the same period by the number of consumers within that supply zone, during the same period;
- "standpipe"** means a connection through which water is supplied in a public space or a yard, and which is supported by various means, in a vertical or near vertical position, with a stopcock at its end;
- "standard domestic effluent"** means domestic effluent with prescribed strength characteristics as determined by the Municipality in respect of chemical oxygen demand and settleable solids as being appropriate to sewage discharges from domestic premises within the jurisdiction of the Municipality, but shall not include industrial effluent;
- "stormwater"** means water resulting from natural precipitation or accumulation and includes rainwater, subsoil water or spring water;
- "terminal water fitting"** means a water fitting at an outlet of a water installation that controls the discharge of water from a water installation;
- "trade premises"** means premises upon which industrial effluent is produced;
- "trap"** means a pipe fitting or portion of a sanitary appliance designed to retain in position a water seal which serves as a barrier against the flow of foul air or gas;
- "unauthorized services"** means receipt, use or consumption of any water services which is not in terms of a services agreement, or authorized or approved by the Municipality;
- "waste water"** means waste water resulting from the supply of water to a household, offices, shops or any other premises other than industrial premises;
- "water fitting"** means a component of a water installation, other than a pipe, through which water passes or in which it is stored;
- "water installation"** means the pipes and water fittings which are situated on any premises and ownership of which vests in the owner thereof and used or intended to be used in connection with the use of water on such premises, and includes a pipe and water fitting situated outside the

boundary of the premises, which either connects to the connection pipe relating to such premises or is otherwise laid with the permission of the Municipality;

“**Water Services Authority**” means a local authority duly established in accordance with law and appointed as Water Services Authority;

“**Water Services Provider**” has the meaning assigned to it in section 1 of the Act, and includes

- (a) an entity established or appointed by the Municipality as its authorized agent to operate and maintain a water supply scheme in accordance with these By-laws and in accordance with the Act; and
- (b) the Municipality where it has not appointed an agent to act as water services provider on its behalf and fulfills this duty itself;

“**water services**” means water supply services and sanitation services;

“**water supply services**” has the same meaning assigned to it in section 1 of the Act and includes, for purposes of these By-laws, water for industrial purposes and fire extinguishing services;

“**water supply system**” means the structures, aqueducts, pipes, valves, pumps, meters or other apparatus relating thereto of which the ownership vests in the Municipality and which are used or intended to be used by it in connection with the supply of water, and includes any part of the system;

“**working day**” means a day other than a Saturday, Sunday or public holiday.

- (2) Unless the context indicates otherwise and subject to subsection (1), any word or expression used in this By-law to which a meaning has been assigned in –
 - (a) the Act and Regulation 22355 promulgated in terms of the Act on 8 June 2003, has that meaning; and
 - (b) the National Building Regulations and Building Standards Act, 1977, has that meaning.

2. Principles and objectives

- (1) The Municipality adopts the following principles:
 - (a) The Municipality recognises that all consumers have the right of access to basic water supply and basic sanitation in the area of jurisdiction of the Municipality within an environment not harmful to human health or well being;
 - (b) the Municipality acknowledges that it has the authority to administer water supply services and sanitation services and arising therefrom a concomitant duty to ensure the supply of water services of an acceptable quality within its area of jurisdiction in an efficient, affordable, economical and sustainable manner for subsistence and sustainable economic activity;
 - (c) the Municipality recognizes that, in striving to provide water services it, together with all role-players in the sector and all spheres of government, must observe and adhere to the principle of co-operative governance;
 - (d) the Municipality acknowledges the requirement to draft and promulgate by-laws to govern the provision of water services to its consumers and to govern the relationship between it and its consumers within its area of jurisdiction;
 - (e) the Municipality recognizes that, in the supply of water services, the interests of the consumers and the broader goals of public policy must be promoted;
 - (f) the Municipality acknowledges that there is a duty upon it to prepare and adopt a water services development plan for its area of jurisdiction after thorough consultation with all stakeholders and thereafter to update, manage and report thereon on an annual basis;
 - (g) the Municipality recognises that the provision of water supply services and sanitation services, although an activity distinct from the

- overall management of water resources, must be undertaken in a manner consistent with the broader goals of water resource management;
- (h) the Municipality through its Customer Care, Debt Collection and Revenue Management By-laws recognises its duty to have a consumer service to which non-compliance with the provisions of above By-Law, as contained in these By-laws, can be reported;
 - (i) the Municipality confirms its duty to provide access to water services in an orderly manner within the nation's available water resources.
- (2) The Municipality, in these By-laws strives to –
- (a) provide for the rights of access to basic water supply and basic sanitation within its area of jurisdiction, as contemplated in section 27(1)(b) of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996), and regulations 2 and 3 of Regulation 22355 promulgated in terms of the Act on 8 June 2001;
 - (b) provide for the establishment of a regulatory framework within which to deliver water services;
 - (c) provide for the setting of terms and conditions to ensure compliance with the legislation relating to the water sector;
 - (d) provide for the monitoring of water services within its area of jurisdiction, and being the Water Services Authority and Provider as provided for in terms of the Act, within its area of jurisdiction, where necessary, to provide for –
 - (i) the gathering of information within its area of jurisdiction;
 - (ii) the collation thereof to a central data base; and
 - (iii) the distribution of information to all stakeholders and role-players; and
 - (e) provide for matters related to the supply of water services within its area of jurisdiction.

CHAPTER 1: APPLICATION, PAYMENT AND TERMINATION

3. Customer Care and Revenue Management By-laws apply

The provisions of the Municipality's Customer Care, Debt Collection and Revenue Management By-laws apply to all matters relating to and incidental to –

- (a) the application for and supply of municipal services;
- (b) municipal service agreements;
- (c) the payment and non-payment of a municipal accounts; and
- (d) the limitation and termination of water services.

CHAPTER 2 : APPOINTMENT : WATER SERVICE PROVIDER

4. APPOINTMENT OF WATER SERVICE PROVIDER

- 1) Subject to compliance with the provisions of Section 78 of the Municipal Systems Act, No 32 of 2000, the Water Service Authority may elect to perform the function of a Water Service Provider itself and/or it may enter into a written contract with a Water Service Provider as authorised agent, or form a joint venture with another water service institution to provide water services within its area of jurisdiction.

- 2) When performing the function of a Water Service Provider as authorised agent, a Water Service Authority must manage and account separately for those functions.
- 3) When the Water Service Authority appoints a Water Service Provider as authorised agent to provide water services on its behalf the said Water Service Provider shall be designated as the authorised agent of the Water Service Authority and thereby shall be enabled as Water Service Provider to fulfil the said function as Water Service Provider on behalf of the Water Service Authority in terms of the contract entered into between the Water Service Authority and Water Service Provider.
- 4) When the Water Service Authority, in the event it decides not to perform the function of a Water Service Provider for any local Municipality within its jurisdiction may appoint the said local Municipality as its Water Service Provider as authorised agent and shall then and thereafter enter into written contract with the said local Municipality to provide water services within the local Municipality's area of jurisdiction, in line and in accordance with these by-laws.
- 5) If, after carrying out an assessment in terms of section 78 of the Municipal Systems Act, No 32 of 2000, it is decided by the Water Service Authority not to act as the Water Service Provider in respect of such area of jurisdiction and/or of a specific water scheme and the said Water Service Authority decides not to appoint a local Municipality or a state or parastatal entity, as its Water Service Provider as authorised agent then it may, in respect of any water scheme established or to be established in its area of jurisdiction as contemplated in section 19(1)(a) of the Act, by public notice, call for proposals from suitable persons or institutions to seek the approval of the Water Service Authority to be the Water Service Provider as authorised agent in respect of such water scheme as contemplated in section 22 (1), read with section 19(1)(b), of the Act.

5. WATER SERVICE PROVIDER – APPROVAL

- 1) The public notice referred to in Section 4(5) shall be delivered to every public sector Water Service Provider as authorized agent known to the Water Service Authority and shall also be published in a newspaper or newspapers circulating in the area where the water scheme is situated, which notice shall be published in the predominant language of such newspaper and of the majority of people to be served by such water scheme.
- 2) The Water Service Authority shall give prior consideration to any proposals submitted by any public sector Water Service Provider as authorised agent as contemplated in section 19(2) of the Act before considering any proposals submitted by any private sector Water Service Provider as authorised agent.
- 3) The Water Services Authority shall, in respect of every water scheme for which it intends to approve a Water Service Provider as authorised agent
 - a) prepare a full and detailed description of the water scheme or scheme which will be operated by the Water Service Provider as authorised agent and which shall provide that the Water Service Authority complies with the criteria set in Section 11 of the Act, these by-laws and the water development plan adopted by the Water Service Authority in terms of section 15 of the Act, which description shall include, but not be limited to :

- i) the name or names of the water scheme or scheme,
 - ii) an indication of the nature of the water services to be provided by the Water Service Provider as authorised agent;
 - iii) detailed plans or drawings, with co-ordinates and scales, and specifications depicting the physical installation associated with the water scheme or scheme, including all the structures, aqueducts, pipes, valves, pumps, meters or other apparatus relating thereto used or intended to be used by it in connection with the provision of water services contemplated in the proposal;
 - iv) a detailed description, including numbers and locality, of the clients or potential clients that will be supplied with water by the Water Service Provider as authorised agent;
 - v) details of the source, the quality and quantity of water that will be supplied to clients or potential clients and what arrangements are in place to ensure that such quality and quantity is consistently maintained; and
 - vi) a certificate indicating who the legal owner or owners of the water scheme or schemes is or are; and
 - vii) certified copies of all documents and deeds reflecting the legal status of the water scheme or schemes, including deeds of servitudes where appropriate;
- b) make such information available to all persons or institutions who wish to submit a proposal in response to the public notice published in terms of Section 5(1) above of this by-law. in t
- 4) Any proposal submitted in response to the public notice contemplated herein shall include the following -
- a) a certified copy of the identity document of the applicant, or a certified copy of the founding document or constitution of the applicant, if the applicant is a legal person;
 - b) a certified resolution adopted by the management body of the applicant, if the applicant is a legal person, resolving to apply for a approval as a Water Service Provider as authorised agent;
 - c) a certified list of the names and addresses of all persons occupying a leadership and decision-making power in the applicant;
 - d) a detailed statement, supported by adequate proof of authenticity, setting out the applicants qualifications, capacity to undertake the work associated with the provision of water services in the circumstances reflected in the application, and the experience, skills and financial resources available to it to undertake the provision of water services to be provided by the applicant;
 - e) a business plan setting out how the water scheme or water schemes will be operated and maintained during the period the Water Service Provider as authorised agent will undertake the supply of water services as contemplated in the proposal, and what arrangements have been adopted to deal with any emergency, including natural disasters and drought;

- f) a budget describing the financial administration of the water scheme or water schemes, the source of any capital or revenue requirements, and an indication of the sustainability of the water scheme or water schemes;
- g) details of tariffs and charges that the applicant will levy on all clients and potential clients, the method of calculations such tariffs and charges, the process whereby increases or decreases in such tariffs and charges will be dealt with and the manner in which such tariffs and charges comply with the national norm set by the Minister of Water Affairs and Forestry in terms of Section 10 of the Act; and
- h) full details of the conditions that will be imposed in terms of Section 4 of the Act and full details required in terms of Section 19(4) of the Act.

6. APPLICATION FOR APPROVAL

- 1) Any person or institution seeking approval from the Water Service Authority in terms of Sections 6(1) or 22(1) of the Act under circumstances other than in response to a notice published in terms of Section 5(1), or the renewal of an existing approval, shall do so in accordance with the provisions of these by-laws and at its own expense.
 - a) No application for approval in terms of Section 6(1) of the Act shall be granted in respect of any water scheme where the clients or potential clients exceed fifty (50) persons or where the population density exceeds one person per hectare.
 - b) Any application for an approval in terms of Section 30(2)(d) of the Act shall be made under the provisions of Section 22(1) of the Act.
- 2) An application for such approval, or the renewal of such approval, shall be made to the Water Service Authority in writing.
- 3) Immediately on receipt of an application made in terms of Section 22(1) of the Act, if the applicant is a private sector Water Service Provider as authorised agent the Water Service Authority shall, in terms of Section 19(2) of the Act, notify all public sector water providers known to it and -
 - a) request such public sector water services providers to notify the Water Service Authority within a period of 30 days from the date of the receipt by the public sector water provider of such notice whether it is willing and able to perform the functions contained in the application, and if it is, to provide the Water Service Authority with the documents and particulars referred to in Section 5 and 6, and
 - b) on receipt of such documentation and particulars, the Water Services Authority shall consider such application and decide whether to approve a public sector Water Service Providers or a private sector Water Service Provider as authorised agent in respect of the water scheme concerned.
- 4) Any application for approval in terms of Section 5 and 6, or the renewal of any approval granted by the Water Services Authority, shall be accompanied by, at least, the following documents or particulars, provided that, in the case of a renewal of an approval, the Water Service Authority may, in its discretion, dispense with some of the documents or particulars to avoid unnecessary duplication :
 - a) a certified copy of the identity document of the applicant, if a natural person, or a certified copy of the founding document or constitution of the applicant, if the applicant is a legal person;

- b) a certified resolution adopted by the management body of the applicant, if the applicant is a legal person, resolving to apply for approval as a Water Service Provider as authorised agent;
- c) a certified list of the names and addresses of all persons occupying a leadership and decision-making power in the applicant;
- d) a detailed statement, supported by adequate proof of authenticity, setting out the applicants qualifications, capacity to undertake the work associated with the provision of water services in the circumstances reflected in the application, and the experience, skills and financial resources available to it to undertake the provision of water services to be provided by the applicant;
- e) a full and detailed description of the water scheme or schemes which will be operated by the applicant containing sufficient information to enable the Water Supply Authority to determine whether the water scheme or schemes complies with the criteria set in Section 11 of the Act, these by-laws and the water development plan adopted by the Water Service Authority in terms of Section 15 of the Act, which description shall include, but not be limited to :
 - (i) the name or names of the water scheme or schemes,
 - (ii) indication of the nature of the water services to be provided by the applicant;
 - (iii) detailed plans or drawings, with co-ordinates and scales, and specifications depicting the physical installation associated with the water scheme or schemes, including all the structures, aqueducts, pipes, valves, pumps, meters or other apparatus relating thereto used or intended to be used by it in connection with the provision of water services contemplated in the application;
 - (iv) a detailed description, including numbers and locality, of the clients or potential clients that will be supplied with water by the applicant;
 - (v) details of source, the quality and quantity of water that will be supplied to clients or potential clients and what arrangements are in place to ensure that such quality and quantity is consistently maintained;
 - (vi) a business plan setting out how the water scheme or water schemes will be operated and maintained during the period the applicant undertakes the supply of water services as contemplated in the application, and what arrangements have been adopted to deal with any emergency, including natural disasters and drought;
 - (vii) a budget describing the financial administration of the water scheme or water schemes, the source of any capital or revenue requirements, and an indication of the sustainability of the water scheme or water schemes; and
 - (viii) details of tariffs and charges that the applicant will levy on all clients and potential clients, the method of calculating such tariffs and charges, the process whereby increases or decreases in such tariffs and charges will be dealt with, and the manner in which such tariffs and charges comply with the national norm set by the Minister of Water Affairs and Forestry in terms of Section 10 of the Act.
 - (ix) a certificate indicating who the legal owner or owners of the water scheme or schemes is or are;
 - (x) certified copies of all documents and deeds reflecting the legal status of the water scheme or schemes, including deeds of servitude where appropriate; and

- (xi) full details of the conditions that will be imposed in terms of Section 4 of the Act and full details required in terms of Section 19(4) of the Act.

7. ADDITIONAL INFORMATION TO MAKE DECISION

- 1) The Water Service Authority may call for any additional information or documents reasonably required to enable it to determine whether the proposer or applicant, including a public sector water provider, or the water scheme or schemes will comply with the Act, these by-laws and the water development plan of the Water Service Authority, and whether the obligations of the Water Service Authority, imposed on it by the Act, will be met.
- 2) The Water Service Authority may, and it shall, if it initially decides to refuse to accept a proposal made as contemplated in Section 5 and 6, or if it, initially decides to refuse an application made in terms of Section 5 and 6, including an application made by a public sector water provider, prior to making a final decision, meet with the proposer or applicant, as the case may be, and any organization reasonably representative of the clients or potential clients of the water scheme or schemes, in order to hear representations made by the applicant and such representative organizations in support of, or against, the applications, and it shall take such representations into account in arriving at its final decision.

8. PROCEDURE ON APPROVAL

- 1) In the event of the Water Service Authority granting such approval it shall,
 - i) in the case of an application for approval in terms of Section 7(1) of the Act, issue a letter of approval to the applicant containing such conditions as the Water Service Authority may deem appropriate, which conditions shall be binding on the applicant, and which may contain an obligation to comply with any provision of the by-laws as though such person or institution was an approved Water Service Provider as authorised agent;
 - ii) in the case of an application for approval in terms of Section 22(1) of the Act,
 - iii) if the applicant is a private sector Water Service Provider as authorised agent, cause a notice to be published in a newspaper or newspapers circulating in the area where the water scheme to which the application relates is situated, publicly disclosing its intention to approve such application; and
 - iv) enter into a contract with the applicant, as contemplated in Section 19(1)(b)(i) of the Act, provided that, in the case of a private sector Water Service Provider as authorised agent, such contract shall not commence until a period of thirty days has elapsed after the date of publication of the notice contemplated in Section 19(1)(b)(i) of the Act and after the Water Service Authority has taken into account any representations made by any person or institution in response to the said notice; and

- v) enter into a joint venture agreement with the Water Service Provider as authorised agent as contemplated in Section 19(1)(b)(ii) of the Act upon such terms and conditions as may be negotiated by such parties, provided that, in the case of a private sector water service provider, such agreement shall not commence until a period of thirty days has elapsed after the Water Service Authority has taken into account any representations made by any person or institution in response to the said notice.
- 2) Any notice contemplated in Section (1)(b)(i) of the Act shall be published in a newspaper or newspapers, and in the predominant language of such newspaper, which is or are most likely to be read by a majority of the clients or potential clients of the water scheme and by the public generally in the area of jurisdiction of the Water Service Authority.
- 3) The by-laws in this Section shall apply in all cases where the Water Service Authority has granted its approval to a person or institution in terms of Section 22(1) of the Act read with the provisions of these by-laws;
- 4) The Water Service Authority shall designate each water scheme in its area of jurisdiction into one or other category defined in by-law 9.

9 WATER SCHEME CATEGORIES

- 1) The categories of water scheme contemplated in Section 5 and 6 shall be -
 - a) "Category A" being a range of water schemes from elementary and/or rudimentary water schemes providing water supply services by drawing water from a hand pump or protected spring, and/or the provision of sanitation services to a rural community to more advanced water schemes providing water supply services by way of an abstraction system which is more sophisticated, which was a metered connection to a bulk main and the capacity to supply both communal stand-pipes and private connection provision, and/or sanitation services to a rural or semi-urban community;
 - b) "Category B" being a range of water schemes from water schemes where the abstraction and reticulation provides water to laid out or clearly identified sites, and/or sanitation services, to small towns, including un-proclaimed towns, to water schemes providing water supply services and/or sanitation services to a township proclaimed or approved under any law relating to the establishment of townships and/or water supply services for industrial use, and/or for the disposal of industrial effluent.
- 2) The Water Service Authority may from time to time in appropriate circumstances change the category to which any water scheme has been allocated to.
- 3) A Water Service Authority shall give written notice to the appropriate approved Water Service Provider as authorised agent of its intention to change the category to which any water scheme is allocated to such water services of its intention to change the category to which any water scheme is allocated to such Water Service Provider as authorised agent, and the change in allocation shall take effect from the date upon

- which such notice is delivered to the relevant Water Service Provider as authorised agent.
- 4) The decision of the Water Services Authority to allocate a category to a water scheme shall be final, provided that any person or institution which has an interest in a particular water scheme who is aggrieved by such allocation on the grounds that he or she is materially prejudiced by such allocation, shall be entitled to appeal to the council of the Water Service Authority against such allocation in accordance with the following provisions -
- i) an appeal shall be noted in writing delivered to a recognized main office of the Water Service Authority or by pre-paid post addressed to the recognized postal address of the Water Service Authority;
 - ii) the document evidencing the appeal shall state the grounds upon which the appellant considers that he or she is prejudiced by the allocation appealed against;
 - iii) the appeal shall be considered and disposed of by the Council within 45 days of the receipt by it of the document evidencing the appeal;
 - iv) The decision of the Council shall be final, but does not preclude the appellant from approaching and utilizing the Courts of Law.
- 5) Subject to the provisions of this By Law, the Water Service Authority may, in its discretion, in respect of any water scheme falling into Category "A", suspend any by-laws
- 6) Any such suspension shall be reviewed at each Council sitting thereafter with a full motivated submission placed before the full Council as to why the suspension should remain in place. No by-law shall be suspended if the consequences of such suspension shall constitute a contravention of the Act.

10 WATER SERVICE PROVIDER CATEGORIES

- 1) Every approved Water Service Provider as authorised agent shall be designated as a Category 1 or a Category 2 provider in accordance with the following criteria -
- a) A Category 1 provider shall be a person or institution which, in the opinion of the Water Service Authority, has the capacity, without external assistance, to manage and administer the water scheme in respect of which approval has been granted in terms of Section 22(1) of the Act and to maintain and operate the water scheme efficiently and effectively.
 - b) A Category 2 provider shall be a person or institution which, in the opinion of the Water Service Authority, does not have the capacity, without external assistance, to manage and administer the water scheme in respect of which approval has been granted in terms of Section 22 (1) of the Act and maintain and operate the water scheme efficiently and effectively.
- 2) The decision of the Water Service Authority to allocate a category to an approved Water Service Provider as authorised agent shall be final, provided that any person or institution

which has an interest in a particular provider who is aggrieved by such allocation on the grounds that he or she is materially prejudiced by such allocation, shall be entitled to appeal to the Council of the Water Service Authority against such allocation in accordance with the following provisions -

- a) an appeal shall be noted in writing delivered to a recognized main office of the Water Service Authority or by pre-paid post addressed to the recognized postal address of the Water Service Authority;
 - b) the document evidencing the appeal shall state the grounds upon which the appellant considers that he or she is prejudiced by the allocation appealed against;
 - c) the appeal shall be considered and disposed of by the Council within 45 days of the receipt by it of the document evidencing the appeal;
 - d) the decision of the council shall be final.
- 3) The Water Service Authority may, in its discretion, require a Category 2 Water Service Provider, as a condition of approval in terms of Section 22(1) of the Act, to enter into a contract with a support services agent who shall in the opinion of the Water Service Authority, have the capacity to provide resources and assistance to the Water Service Provider as authorised agent required to enable the Water Service Provider as authorised agent to comply with the provisions of the Act, these by-laws and any contract or joint venture agreement contemplated in Section 19(1)(b)(i) or (ii) of the Act.
- 4) A certified copy of the agreement referred to in Section 8 above of this by-law shall be lodged with the Water Service Authority and such copy shall at all times reflect the true agreement between the parties to it.
- 5) Any contract entered into in terms of Section 8 above of this by-law shall be approved by the Water Service Authority and may not be amended by the Water Service Provider as authorised agent and the support services agent without the prior written consent of the Water Service Authority.

11 MONTHLY REPORT

- 1) An approved Water Service Provider as authorised agent shall submit a monthly report to the Water Service Authority providing at least the following information -
 - a) such information as the Water Service Authority may reasonably require in order to enable it to monitor and evaluate the operation of the water scheme concerned and to satisfy itself that the said scheme is being operated in such a manner so as to fulfil the requirements of the Act, the applicable water development plan, these by-laws and the contract or joint venture contemplated in Section 19(1)(b)(i) or (ii) of the Act;
 - b) Failure to submit the said report shall constitute grounds upon which the Water Service Authority shall be entitled to review the approval granted by it in terms of Section 22(1) of the Act to the Water Service Provider as authorised concerned.
 - c) Such information pertaining to the quality of water so that the Water Service Authority may monitor and evaluate to such quality of water being delivered to the community within the area of jurisdiction of the Water Service Provider as authorised agent.

12 QUARTERLY REPORT

- 1) An approved Water Service Provider as authorised agent shall submit a quarterly report to the Water Service Authority providing the following information :
 - a) the names and addresses of all clients;
 - b) the quantity of water consumed by each client;
 - c) the record of payments made by each client;
 - d) arrears owing by clients to the approved Water Service Provider as authorised agent and the steps being taken to recover such arrears;
 - e) arrears written off as irrecoverable and reasons why they are deemed to be irrecoverable; and
 - f) circumstances where water services are limited or discontinued and the reasons why such services are so limited or discontinued.
- 2) Failure to submit the said report shall constitute grounds upon which the Water Service Authority shall be entitled to review the approval granted by it in terms of Section 22(1) of the Act to the Water Service Provider as authorised agent concerned.

13 DISPUTES

Any dispute or conflict arising between the Water Service Authority and an approved Water Service Provider as authorised agent shall be resolved by mediation and arbitration and every agreement made and entered into under the provisions of these by-laws shall contain appropriate provisions to that effect.

CHAPTER 2: SERVICE LEVELS**14. Service levels**

- (1) The Municipality may in accordance with national policy, but subject to principles of sustainability and affordability determine the service levels it is able to provide to consumers and must make these known by public notice.
- (2) The Municipality may, in determining service levels, differentiate between types of consumers, geographical areas and socio-economic areas.
- (3) The following levels of service may, subject to subsection (1), be provided by the Municipality:
 - (a) Communal water supply services and on-site sanitation services –
 - (i) constituting the minimum level of service provided by the Municipality;
 - (ii) consisting of reticulated standpipes or a stationery water tank serviced either through a network pipe or a water tanker located within a reasonable walking distance from any household with a Ventilated Improved Pit latrine located on each premises, with premises meaning the lowest order of visibly demarcated area on which some sort of informal dwelling has been erected;
 - (iii) installed free of charge;
 - (iv) provided free of any charge to consumers; and
 - (v) maintained by the Municipality;
 - (b) a yard connection not connected to any water installation and an individual connection to the Municipality's sanitation system –

- (i) consisting of an un-metered standpipe on a premises not connected to any water installation and a pour-flush toilet pan, wash-trough and suitable toilet top structure connected to the Municipality's sanitation system;
 - (ii) installed free of charge;
 - (iii) provided free of any charge to consumers; and
 - (iv) maintained by the Municipality; and
- (c) a metered pressured water connection with an individual connection to the Municipality's sanitation system –
- (i) installed against payment of the relevant connection charges;
 - (ii) provided against payment of the prescribed tariff; and
 - (iii) with the water and drainage installations maintained by the consumer.

CHAPTER 3: CONDITIONS FOR WATER SUPPLY SERVICES

Part 1: Connection to water supply systems

15. Application for water service

- (1) Application for water services is to be made in terms of section 5 of the Customer Care, Debt Collection and Revenue Management By-Laws, 2009.
- (2) Where premises or a consumer are provided with a water service, it is deemed that a services agreement contemplated in section 5(3) of the Customer Care, Debt Collection and Revenue Management By-Laws, 2009, exists.
- (3) The Municipality must, on application as contemplated in subsection (1), inform the applicant of the different levels of services contemplated in section 14(3) and the tariffs or charges associated with each level of services, and the applicant must elect the level of services to be provided to him or her or it.
- (4) A consumer may at any time apply that the level of services elected in terms of the agreement entered into be altered, provided that –
 - (a) such services are available; and
 - (b) any costs and expenditure associated with altering the level of services are payable by the consumer.
- (5) When a person applies in terms of section 5 of the Customer Care, Debt Collection and Revenue Management By-Laws, 2009, the Municipality must ensure, through a process of interaction with the applicant, that the applicant understands the contents of the application form.
- (6) In the instance where an illiterate or similarly disadvantaged person applies, the Municipality must take additional steps to ensure that the applicant understands such contents.

16. Special agreements for water services

The Municipality may enter into a special agreement with an applicant for the provision of water services to –

- (a) an applicant inside its area of jurisdiction, if the services applied for necessitates the imposition of conditions not contained in the form contemplated in section 5(1) of the Customer Care and Revenue Management By-laws 2006; and
- (b) an applicant outside its area of jurisdiction, if such application has been approved by the Water Services Authority having jurisdiction or supplying water services in the area in which the water is sourced.

17. Change in purpose for which water services are used

Where the purpose for or extent to which water services used is changed from that provided for in the agreement, the responsibility is on the consumer to advise the Municipality of such change, and the consumer must then enter into a new agreement with the Municipality.

18. Provision of connection pipe

- (1) If a services agreement for water supply services in respect of premises has been concluded and no connection pipe exists in respect of the premises, the owner must apply on the prescribed form, and pay the prescribed tariff for the installation of such a pipe.
- (2) If an application is made for a water supply service which is of such an extent or so situated that it is necessary to extend, modify or upgrade the water supply system in order to supply water to the premises, the Municipality may agree to the extension subject to such conditions as it may impose.
- (3) Only the Municipality may install a connection pipe, but the owner or consumer may connect the water installation to the connection pipe.
- (4) A person may not commence any development on any premises unless the Municipality has installed a connection pipe and meter.

19. Location of connection pipe

- (1) A connection pipe provided and installed by the Municipality must –
 - (a) be located in a position agreed to between the owner and the Municipality and be of the size determined by the Municipality;
 - (b) terminate at –
 - (i) the boundary of the land owned by or vested in the Municipality, or over which the Municipality has a servitude or other right;
 - (ii) the outlet of the water meter if it is situated on the premises; or
 - (iii) the isolating valve if it is situated on the premises.
- (2) In reaching agreement with an owner concerning the location of a connection pipe, the Municipality must ensure that the owner is aware of –
 - (a) practical restrictions that may exist regarding the location of a connection pipe;
 - (b) the cost implications of the various possible locations of the connection pipe; and
 - (c) whether or not the Municipality requires the owner to indicate the location of the connection pipe by providing a portion of his or her water installation at or outside the boundary of his or her premises, or such agreed position inside or outside his or her premises where the connection is required, for the Municipality to connect to such installation.
- (3) The Municipality may on application by any person agree, subject to such conditions as it may impose, to a connection to a main other than that which is most readily available for the provision of water supply to the premises, but the applicant is responsible for any extension of the water installation to the connection point designated by the Municipality and for obtaining at his or her cost, such servitudes over other premises as may be necessary.
- (4) An owner must pay the prescribed connection charge in advance before a water connection can be effected.

- 20. Provision of single water connection for supply to several consumers on same premises**
- (1) Despite section 18, only one connection pipe to the water supply system may be provided for the supply of water to any premises, irrespective of the number of accommodation units, business units or consumers located on such premises.
 - (2) Where the owner, or the person having the charge or management of any premises on which several accommodation units are situated, requires the supply of water to such premises for the purpose of supply to the different accommodation units, the Municipality may provide and install either –
 - (a) a single measuring device in respect of the premises as a whole or any number of such accommodation units; or
 - (b) a separate measuring device for each accommodation unit or any number thereof.
 - (3) Where the Municipality has installed a single measuring device as contemplated in subsection (2)(a), the owner or the person having the charge or management of the premises, as the case may be –
 - (a) must, if the Municipality so requires, install and maintain on each branch pipe extending from the connection pipe to the different accommodation units –
 - (i) a separate measuring device; and
 - (ii) an isolating valve; and
 - (b) is liable to the Municipality for the tariffs and charge for all water supplied to the premises through such a single measuring device, irrespective of the different quantities consumed by the different consumers served by such measuring device.
 - (4) Despite subsection (1), the Municipality may authorise that more than one connection pipe be provided on the water supply system for the supply of water to any premises –
 - (a) comprising sectional title units; or
 - (b) if undue hardship or inconvenience would be caused to any consumer on such premises by the provision of only one connection pipe.
 - (5) Where the provision of more than one connection pipe is authorized by the Municipality under subsection (4), the tariffs and charges for the provision of a connection pipe is payable in respect of each water connection so provided.
 - (6) Where premises are supplied by a number of connection pipes, the Municipality may require the owner to reduce the number of connection points and alter his or her water installation accordingly.
- 21. Interconnection between premises or water installations**
- (1) An owner of premises must ensure, subject to subsection (2), that no interconnection exists between –
 - (a) the water installation on his or her premises and the water installation on other premises; or
 - (b) where several accommodation units are situated on the same premises, between the water installations of the accommodation units.
 - (2) Interconnection may exist only if he or she –
 - (a) has obtained the prior written consent of the Municipality; and
 - (b) complies with any conditions that it may have imposed.

22. Disconnection of water installation from connection pipe

The Municipality may disconnect a water installation from the connection pipe and remove the connection pipe if –

- (a) the agreement for supply has been terminated and it has not received an application for a subsequent supply of water to the premises served by the pipe within a period of 90 days of such termination; or
- (b) the building on the premises concerned has been demolished.

23. Communal water services works and provision of water service work for water supply to several consumers

The Municipality may install a communal water services work for the provision of water services to several consumers at a location that the Municipality deems appropriate, provided that the consumers to whom water services will be provided by that water services work have been consulted in respect of –

- (a) the level of service;
- (b) the tariff that will be payable; and
- (c) the location of the work.

24. Temporary supply from water supply system

- (1) The Municipality may authorise a temporary supply of water to be taken from one or more water supply systems specified by it, subject to such conditions and period as it may prescribe.
- (2) A person who desires a temporary supply of water referred to in subsection (1) or the use of a portable water meter in terms of subsection (4) or both a supply and a meter, must apply to the Municipality for such service.
- (3) Supply of water in terms of subsection (1) must be measured.
- (4) The Municipality may for purposes of measuring provide a portable water meter to be returned to the Municipality on termination of the temporary supply, and the portable meter and all other fittings and apparatus used for the connection of the portable water meter to the system –
 - (a) remain the property of the Municipality; and
 - (b) may be provided subject to any conditions imposed by the Municipality.

Part 2: Standards and conditions of supply

25. Quantity, quality and pressure

Water supply services provided by the Municipality must comply with the minimum standards set for the provision of water supply services as required in terms of regulations 3, 5 and 15 of Regulation 22355 promulgated in terms of the Act on 8 June 2001.

26. General conditions of supply

- (1) The Municipality may specify the maximum pressure to which water will be supplied from the water supply system but where a consumer requires water to be supplied at a greater pressure and this is technically feasible the consumer will be responsible for the costs.
- (2) The Municipality may, in an emergency, interrupt the supply of water to any premises without prior notice.
- (3) If the consumption of water by a consumer adversely affects the supply of water to another consumer, the Municipality –

- (a) may apply restrictions to the supply of water to the first mentioned consumer in order to ensure a reasonable supply of water to the other consumer; and
- (b) must in writing inform the first mentioned consumer of the restrictions.

27. Testing of pressure in water supply system

The Municipality may, on application by an owner and on payment of the determined charge, determine and furnish the owner with the value of the pressure in the water supply system relating to his or her premises over such period as he or she may request.

28. Pollution of Municipality's water supply

- (1) A person may not, unless the person is specifically authorized to do so in writing by the Municipality on application and if the water is used by it in connection with the water supply, in any manner pollute –
 - (a) water in a reservoir or other place –
 - (i) which is either in whole or in part vested in the Municipality; or
 - (ii) which the Municipality owns or controls, either in whole or in part; and
 - (b) water or the environment in the jurisdiction of the Municipality, including but not restricted to all water sources such as streams, rivers, and dams.
- (2) (a) A person may not deposit or discharge rubbish, night-soil, industrial waste or other matter which may cause pollution of any nature on a portion of a catchment area, which has been designated by notice boards as an area where such acts are prohibited, relating to the Municipality's water supply.
- (b) A person may deposit or discharge rubbish, night-soil, industrial waste or other matter only at places designated by notice boards or in receptacles as are provided by the Municipality.
- (3) If a person contravenes subsection (1) or (2)(a), the Municipality may –
 - (a) by written notice require the person immediately to stop the prohibited act and to take specified action within the specified period; or
 - (b) if the situation is a matter of urgency, without prior notice take such action as may be necessary and recover the cost from the person.

29. Owner to prevent pollution of water

- (1) An owner must provide and maintain approved measures to prevent the entry of a substance which may be a danger to health or adversely affect the possibility of water or affect its fitness for use into –
 - (a) the water supply system; and
 - (b) any part of the water installation on his or her premises,
- (2) If an owner fails to comply with subsection (1) and pollution occurs, the Municipality may serve a notice contemplated in section 131 on the owner.

30. Water restrictions

- (1) The Municipality may –
 - (a) for the purposes of water conservation;
 - (b) where drought conditions prevail or are imminent;
 - (c) to prevent the wasteful use of water, or;
 - (d) in the event of a water shortage, drought or flood, by public notice –
 - (i) prohibit or restrict the consumption of water in the whole or part of its area of jurisdiction in general or for –

- (aa) specified purposes;
- (bb) during specified hours of the day or on specified days; or
- (cc) in a specified manner;
- (ii) determine and impose –
 - (aa) a limit on the quantity of water that may be consumed over a specified period;
 - (bb) charges additional to those the prescribed tariff in respect of the supply of water in excess of a limit contemplated in item (aa); or
 - (cc) a general surcharge on the prescribed tariff in respect of the supply of water; or
- (iii) impose restrictions or prohibitions on –
 - (aa) the use or manner of use or disposition of an appliance by means of which water is used or consumed; or
 - (bb) the connection of such appliances to the water installation.
- (2) A public notice contemplated in subsection (1) must, except in the event of a flood or other disaster necessitating the immediate restriction or prohibition of the consumption of water, set out the date and time when such restrictions become effective, being not less than three days after the date of publication of the public notice.
- (3) The Municipality may –
 - (a) limit the application of the provisions of a public notice contemplated by subsection (1) to specified areas and categories of consumers, premises and activities; or
 - (b) permit deviations and exemptions from, and the relaxation of, any of the provisions on reasonable grounds.
- (4) The Municipality may –
 - (a) take measures, or by written notice require a consumer at his or her own expense to take measures, including the installation of measurement devices and devices for restricting the flow of water, as may be necessary to ensure compliance with a public notice published contemplated in subsection (1); or
 - (b) for such period as it may deem fit, limit the supply of water to any premises in the event of –
 - (i) a contravention of the public notice on such premises; or
 - (ii) failure to comply with the terms of a public notice contemplated in of subsection (1), and where the supply has been limited, it shall only be restored when the prescribed tariff for reconnecting the supply has been paid.
- (5) The provisions of this section also apply in respect of water supplied directly by the Municipality to consumers outside its area of jurisdiction, despite anything to the contrary in the conditions governing such supply, unless otherwise specified in the public notice contemplated in subsection (1).

31. Specific conditions of supply

- (1) Despite section 25, the granting of a supply of water by the Municipality does not constitute an undertaking by it to maintain at all times or at all points in its water supply system –
 - (a) an uninterrupted supply, subject to the provisions of regulations 4 and 14 of Regulation 22355 promulgated in terms of the Act on 8 June 2003; or
 - (b) a specific pressure or rate of flow in such supply other than required in terms of regulation 15(2) of Regulation 22355 promulgated in terms of the Act on 8 June 2001.

- (2) The Municipality may, subject to the provisions of subsection (1)(b), specify the maximum pressure to which water will be supplied from the water supply system.
- (3) If an owner requires –
 - (a) that any of the standards referred to in subsection (1); or
 - (b) a higher standard of service than specified in section 25, be maintained on his or her premises, he or she must take the necessary steps to ensure that his or her water installation is able to meet such standards.
- (4) The Municipality may, in an emergency, interrupt the supply of water to any premises without prior notice.
- (5) The Municipality is not liable for any damage to property caused by water flowing from any water installation left open when the water supply is re-instated, following an interruption in supply.
- (6) Every steam boiler, hospital, industry and any premises which requires, for the purpose of the work undertaken on the premises, a continuous supply of water must have a storage tank where water can be stored when the continuous supply is disrupted, and the storage tank –
 - (a) must comply with the specification for water storage tanks as stipulated in SABS 0252 Part 1; and
 - (b) must have a capacity of not less than 24 hours water supply calculated as the quantity required to provide the average daily consumption.

Part 3: Measurement

32. Measuring of quantity of water supplied

- (1) The Municipality may install at any point on the service pipe on the premises a measuring device, and its associated apparatus.
- (2) If the Municipality installs a measuring device on a service pipe in terms of subsection (4), it may install a section of pipe and associated fittings between the end of its connection pipe and the meter, and such section is deemed to form part of the water supply system.
- (3) If the Municipality installs a measuring device together with its associated apparatus on a service pipe in terms of subsection (4), the owner –
 - (a) must provide a suitable place in which to install it;
 - (b) must ensure that unrestricted access is available at all times;
 - (c) is responsible for its protection and is liable for the costs arising from damage thereto, excluding damage arising from normal wear and tear;
 - (d) must ensure that no connection is made to the pipe in which the measuring device is installed, between the measuring device and the connection pipe serving the installation;
 - (e) must provide for the drainage of water which may be discharged, from the pipe in which the measuring device is installed, in the course of work done by the Municipality on the measuring device; and
 - (f) may not use or permit to be used on any water installation, any fitting, machine or appliance which causes damage or is likely to cause damage to any meter.
- (4) A person other than the Municipality may not –
 - (a) disconnect a measuring device and its associated apparatus from the pipe in which they are installed;
 - (b) break a seal which the Municipality has placed on a meter; or
 - (c) in any other way interfere with a measuring device and its associated apparatus.

- (5) If the measuring device is a meter and its size is unsuitable by reason of the quantity of water supplied to premises, the Municipality may –
 - (a) install a meter of such size as is necessary; and
 - (b) recover from the owner of the premises concerned the prescribed tariff for the installation of the meter.
- (6) The Municipality may require that the owner, at his or her expense, install a measuring device to each dwelling unit on any premises, to determine the quantity of water supplied to each unit, but where fixed quantity water delivery systems are used, a single measuring device may be used to supply more than one unit.

33. Quantity of water supplied to consumer

- (1) Where water supplied by the Municipality to any premises is in any way taken by the consumer without such water passing through any measuring device provided by the Municipality, the Municipality, for the purpose of rendering an account, may estimate, in accordance with subsection (3), the quantity of water supplied to the consumer during the period that water is so taken by the consumer.
- (2) For the purposes of subsection (2), an estimate of the quantity of water supplied to a consumer is based on, as the Municipality may decide –
 - (a) the average monthly consumption of water on the premises registered over three succeeding measuring periods after the date on which the irregularity referred to in subsection (2) was discovered and rectified; or
 - (b) the average monthly consumption of water on the premises during any three consecutive measuring periods during the 12 months' period before the date on which it was discovered that the water was taken in the manner mentioned in subsection (2).
- (3) Nothing in these By-laws may be construed as imposing on the Municipality an obligation to cause any measuring device installed by the Municipality on any premises to be read at the end of every month or any other fixed period, and the Municipality may charge the consumer an average consumption during the interval between successive readings of the measuring device.
- (4) Until such time as a measuring device has been installed in respect of water supplied to a consumer, the estimated or shared consumption of that consumer must be based on the average consumption, during a specific period, of water supplied to the specific supply zone within which the consumer's premises is situated.
- (5) Where it is not reasonably possible or cost effective to measure water supplied to each consumer within a determined supply zone, the Municipality may determine a tariff or charge based on the estimated or shared consumption of water supplied to that supply zone.
- (6) The Municipality must, within seven days measure the quantity of water supplied to the consumer at a time or on a day other than that upon which it would normally be measured –
 - (a) on receipt of a written notice from the consumer; and
 - (b) subject to payment of the determined charge.

34. Special measurement

- (1) If the Municipality requires, for purposes other than charging for water consumed, to ascertain the quantity of water which is used in a part of a water installation, it may by written notice advise the owner concerned of its intention to install a measuring device at such point in the water installation as it may specify.

- (2) The installation of a measuring device, its removal, and the restoration of the water installation after such removal must be carried out at the expense of the Municipality.
- (3) Section 32(2) and (3) apply insofar as they may be applicable in respect of a measuring device installed in terms of subsection (1).

35. Sampling of water

- (1) The Municipality must determine times and must, at those times, at its cost, take samples of water in the water supply systems for domestic purposes and cause the samples to be tested for compliance with any national standards prescribed in terms of section 9 of the Act.
- (2) The Municipality may take samples of water obtained from a source, authorized in terms of section 6 or 7 of the Act, other than the water supply system for domestic purposes, and cause the samples to be tested for compliance with any national standards prescribed in terms of section 9 of the Act.
- (3) The person to whom approval was granted in terms of section 6(1) or 7(1) of the Act to use the water for potable water, must pay the relevant charge in the prescribed tariff for the taking and testing of the samples referred to in subsection (1).

36. Supply of non-potable water by Municipality

- (1) The Municipality may on application, and subject to such terms and conditions as it may impose, agree to supply non-potable water to a consumer.
- (2) Any supply of water agreed to in terms of subsection (1) may not be used for domestic or any other purposes if it may give rise to a health risk.
- (3) No warranty, expressed or implied, applies to the purity of any non-potable water supplied by the Municipality or its suitability for the purpose for which the supply was granted.
- (4) The supply of non-potable water, both as to condition and use, is entirely at the risk of the consumer, who is liable for any consequential damage or loss arising to himself, herself or others, including the consequences of any bona fide fault without negligence of the Municipality or the malfunction of a treatment plant.

37. Pipes in streets or public places

No person may, for the purpose of conveying water derived from whatever source, lay or construct a pipe or associated component on, in or under a street, public place or other land owned by, vested in, or under the control of any the Municipality, except with the prior written permission of the Municipality and subject to such conditions as it may impose.

Part 4: Audit

38. Water audit

- (1) The Municipality may, in order to assist it in its duty under regulations 10, 11 and 13 of Regulation 22355 promulgated in terms of the Act on 8 June 2001, require a consumer, within one month after the end of a financial year of the Municipality, to undertake an annual water audit at his or her or its own cost.
- (2) A copy of the audit must be available for inspection by officials from –
 - (a) the Department of Water Affairs and Forestry; and
 - (b) the Municipality.
- (3) The audit must contain details in respect of -
 - (a) the amount of water used during the financial year;
 - (b) the amount paid for water for the financial year;
 - (c) the number of people living on the stand or premises;

- (d) the number of people permanently working on the stand or premises;
- (e) the seasonal variation in demand according to monthly consumption figures;
- (f) the water pollution monitoring methods;
- (g) the plans to manage demand for water;
- (h) estimates of consumption by various components or uses, and a comparison of the above factors with those reported in each of the previous three years, where available;
- (i) the current initiatives to manage demand for water; and
- (j) a comparison of the above factors with those reported in each of the previous 3 years (where available).

Part 5: Installation work

39. Approval of installation work

- (1) If an owner wishes to have installation work done, he or she must first obtain the Municipality's written approval, but the approval is not required –
 - (a) in the case of water installations in dwelling units or installations where no fire installation is required in terms of SABS Code 0400; or
 - (b) for the repair or replacement of an existing pipe or water fitting other than a fixed water heater and its associated protective devices.
- (2) Application for the approval referred to in subsection (1) must be made on the prescribed form, and must be accompanied by –
 - (a) the prescribed tariff, if applicable;
 - (b) copies of the drawings as prescribed by the Municipality, giving information in the form required by Clause 4.1.1 of SABS Code 0252: Part I; and
 - (c) a certificate certifying that the installation has been designed in accordance with SABS Code 0252: Part 1 or has been designed on a rational basis.
- (3) The provisions of subsections (1) and (2) do not apply to a plumber who replaces a fixed water heater or its associated protective devices.
- (4) Approval given in terms of subsection (1) lapses at the expiry of a period of 24 months after the first day of the month succeeding the month in which the approval is given.
- (5) Where approval was required in terms of subsection (1), a complete set of approved drawings of installation work must be available at the site of the work at all times until such work has been completed.
- (6) If installation work has been done in contravention of subsection (1) and (2), the Municipality may by written notice require the owner of the premises concerned to –
 - (a) rectify the contravention within a specified period;
 - (b) if work is in progress, to cease the work; or
 - (c) remove all such work which does not comply with this section.

40. Persons permitted to do installation and other work

- (1) A person, except a plumber or a person working under a plumber may not –
 - (a) do installation work other than the replacement or repair of an existing pipe or water fitting;
 - (b) replace a fixed water heater or its associated protective devices;
 - (c) inspect, disinfect and test a water installation, fire installation or storage tank;
 - (d) service, repair or replace a back flow preventer; or

- (e) install, maintain or replace a meter provided by an owner in a water installation.
- (2) A person may not require or engage a person who is not a plumber to do the work referred to in subsection (1).
- (3) Despite subsection (1), the Municipality may on application in writing permit a person who is not a plumber to do installation work on his or her own behalf on premises owned and occupied solely by himself or herself and his or her immediate household, but such work must be inspected and approved by a plumber at the direction of the Municipality.

41. Technical requirements for water installation

Subject to regulation 14 of Regulation 22355 promulgated in terms of the Act on 8 June 2001, application for approval must be accompanied by a certificate and drawings in terms of SABS 0252, and all water installations must comply with SABS 0252 Part 1, and all fixed electrical storage water heaters must comply with SABS 0254.

42. Provision and maintenance of water installations

- (1) An owner must provide and maintain his or her water installation situated within the boundary of his or her premises at his or her own cost.
- (2) Before doing work in connection with the maintenance of a portion of his or her water installation which is situated outside the boundary of his premises, an owner must obtain the written permission of the Municipality or the owner of the land on which such portion is situated, as the case may be.
- (3) An owner must install an isolating valve –
 - (a) in the case of a meter installed outside the boundary, at a suitable point on a service pipe immediately inside the boundary of the property; and
 - (b) in the case of a meter installed on the premises, at a suitable point on his or her service pipe.
- (4) In accordance with regulation 12 of Regulation 22355 promulgated in terms of the Act on 8 June 2001, the Municipality must repair any major, visible or reported leak in its water services system within 48 hours of becoming aware thereof.

43. Use of pipes and water fittings to be authorized

- (1) A person may not, without the prior written authority of the Municipality, install or use a pipe or water fitting in a water installation within the Municipality's area of jurisdiction, unless it is included in the schedule of approved pipes and fittings contemplated in subsection (6) as compiled by the Municipality.
- (2) Application for the inclusion of a pipe or water fitting in the schedule referred to in subsection (1) must be made on the prescribed form, and be accompanied by the relevant charge set out in the prescribed tariff.
- (3) A pipe or water fitting may be included in the schedule referred to in subsection (1) if –
 - (a) it bears the standardisation mark of the South African Bureau of Standards in respect of the relevant SABS specification issued by the Bureau;
 - (b) it bears a certification mark issued by the SABS to certify that the pipe or water fitting complies with an SABS mark specification or a provisional specification issued by the SABS, provided that no certification marks shall be issued for a period exceeding two years; or
 - (c) it is deemed acceptable by the Municipality.
- (4) The Municipality may, in respect of any pipe or water fitting included in the schedule, impose such additional conditions as it may deem necessary in respect of the use or method of installation thereof.

- (5) A pipe or water fitting must be removed from the schedule if it –
 - (a) no longer complies with the criteria upon which its inclusion was based; or
 - (b) is no longer suitable for the purpose for which its use was accepted.
- (6) The schedule of approved pipes and fittings must be available for inspection at the office of the Municipality at any time during working hours.
- (7) The Municipality may sell copies of the current schedule at the relevant charge set out in the prescribed tariff.

44. Labelling of terminal water fittings and appliances

All terminal water fittings and appliances using or discharging water must be marked, or must have included within the packaging of each item –

- (a) the range of pressure in kPa over which the water fitting or appliance is designed to operate; and
- (b) the flow rates, in litres per minute, related to the design pressure range, and this information must be given for at least the water pressures of 20kPa, 100kPa, and 400 kPa.

45. Water demand management

- (1) A shower head with a maximum flow rate of greater than 10 litres per minute may not be installed in any water installation where –
 - (a) the dynamic water pressure is more than 200 kPa at a shower control valve; and
 - (b) the plumbing has been designed to balance the water pressures on the hot and cold water supplies to the shower control valve.
- (2) The maximum flow rate from any tap installed on a wash hand basin may not exceed six litres per minute.

Part 6: Communal water supply services

46. Provision of water supply to several consumers

- (1) The Municipality may install a communal standpipe for the provision of water supply services to several consumers at a location it deems appropriate, provided that the consumers to whom water supply services will be provided by that communal standpipe have been consulted.
- (2) The Municipality may provide communal water supply services by a communal installation designed to provide a controlled volume of water to several consumers.

Part 7: Temporary water supply services from fire hydrant

47. Water supplied from fire hydrant

- (1) The Municipality may in writing authorise a temporary supply of water to be taken from one or more fire hydrants specified by it, subject to such conditions and period as may be stated by it in the authority, and payment of such applicable charges, including a deposit, as may be determined by it.
- (2) A person who desires a temporary supply of water referred to in subsection (1) must apply for such water supply services in terms of provisions of the Customer Care and Revenue Management By-laws of the Municipality.
- (3) The Municipality must provide a portable water meter and all other fittings and apparatus necessary for the temporary supply of water from a hydrant.

- (4) The portable meter and all other fittings and apparatus provided for the temporary supply of water from a hydrant remains the property of the Municipality on termination of the temporary supply, and failure to return the portable meter and all other fittings and apparatus is an offence.

Part 8: Boreholes

48. Notification of boreholes

- (1) A person may not sink a borehole on premises situated in a dolomite area, and a person must, before he or she sinks a borehole, determine if the premises on which the borehole is to be sunk is situated within a dolomite area.
- (2) The Municipality may require the owner or occupier of any premises who intends to sink a borehole as contemplated in subsection (4)(b) to undertake an environmental impact assessment for such intended borehole before sinking the borehole.
- (3) Boreholes are subject to the requirements of the National Water Act, 1998 (Act 36 of 1998).
- (4) The Municipality may, by public notice, require –
 - (a) the owner of any premises within the area of jurisdiction of the Municipality upon which a borehole exists or, if the owner is not in occupation of such premises, the occupier thereof, to notify it on a form similar to the DWAF form DW805 of the existence of a borehole on such premises, and provide it with such information in respect thereof as it may require; and
 - (b) the owner or occupier of any premises who intends to sink a borehole on premises to notify it on a form similar to the DWAF form DW805 of such intention before work in connection therewith is commenced.
- (5) The Municipality may –
 - (a) by notice require an owner or occupier who has an existing borehole used for water services; or
 - (b) or by public notice require owners or occupiers who have existing boreholes used for water services, to obtain approval from it for the use of a borehole for potable water supply services in accordance with sections 6, 7 and 22 of the Act.
- (6) The Municipality may, in the notices contemplated in subsection (5)(a) and (b) –
 - (a) impose conditions in respect of the use of a borehole for potable water services; and
 - (b) impose a fixed charge in respect of the use of a borehole.

Part 9: Fire services connections

49. Connection to be approved by Municipality

- (1) The Municipality may grant or refuse an application for the connection of a fire extinguishing installation to the Municipality's main.
- (2) No water may be supplied to any fire extinguishing installation until a certificate in terms of section 39(2)(c) has been submitted to the Municipality and until the installation complies with the requirements of these By-laws and any other relevant by-laws of the Municipality.
- (3) The Municipality is entitled, if it has allowed a fire extinguishing installation to be connected to its main, either to require the installation to be disconnected from the main or itself to carry out the work of disconnecting it at the consumer's expense, if the fire extinguishing installation is –
 - (a) not being kept in proper working order;

- (b) otherwise not being properly maintained; or
- (c) is being used for a purpose other than fire fighting.

50. Special provisions

The provisions of SABS 0252-1:1994 apply to the supply of water for fire fighting purposes.

51. Dual and combined installations

All new buildings erected after these By-laws commence, must comply with the following requirements in relation to the provision of fire extinguishing services:

- (a) If boosting of the system is required, a dual pipe system must be used, one for fire extinguishing purposes and the other for general domestic purposes;
- (b) combined installations are only permitted subject to paragraph (c) where no booster pumping connection is provided on the water installation, and in such case the Municipality must provide a fire hydrant, at the consumer's expenses within 90m of the property to provide a source of water for the fire tender to extinguish the fire;
- (c) combined installations where a booster pumping connection is provided are only permitted when designs have been approved and certified by the Municipality; and
- (d) all pipes and fittings –
 - (i) must be capable of handling pressures in excess of 1 800 kPa, which could be expected when boosting takes place; and
 - (ii) must maintain their integrity when exposed to fire conditions.

52. Connection pipes for fire extinguishing services

- (1) The Municipality must provide at all premises where provision has been made for fire extinguishing services, a single connection pipe for both fire extinguishing services (excluding sprinkler systems) and potable water supply services.
- (2) At all premises where provision has been made for fire extinguishing services, the Municipality must provide and install at the cost of the owner a combination meter on the connection pipe.
- (3) A separate connection pipe must be laid and used for every fire sprinkler extinguishing system unless otherwise approved.
- (4) A connection pipe must be equipped with a measuring device that will not obstruct the flow of water while operating under fire fighting conditions.

53. Valves and meters in connection pipes

Every connection pipe to a fire extinguishing installation must be fitted with valves and a measuring device which is –

- (a) supplied by the Municipality at the expense of the consumer;
- (b) installed between the consumer's property and the main; and
- (c) installed in such position as may be determined by the Municipality.

54. Meters in fire extinguishing connection pipes

If it appears to the Municipality that water has been drawn for purposes other than for the purpose of extinguishing a fire from a connection pipe which is used solely for fire extinguishing purposes, the Municipality is entitled to install a water meter in the pipe, and the owner of the premises is liable for all costs in so doing.

55. Sprinkler extinguishing installations

A consumer may install a sprinkler installation in direct communication with the main, but the Municipality is not regarded to guarantee any specified pressure at any time.

56. Header tank or double supply from main

- (1) The consumer must, unless the installation is provided with a duplicate supply from a separate main, install a header tank for its sprinkler installation at such elevation as will compensate for any failure or reduction of pressure in the Municipality's main.
- (2) The main pipe leading from such header tank to the sprinkler installation may be in direct communication with the main, provided that such main pipe must be equipped with a reflux valve which, if for any reason the pressure in the main fails or is reduced, will shut off the supply from the main.
- (3) Where a sprinkler installation is provided with a duplicate supply from a separate main, each supply pipe must be equipped with a reflux valve situated within the premises.

57. Sealing of private fire hydrants

- (1) Except in the case of a combined system with a combination meter, all private hydrants and hose-reels must be sealed by the Municipality and the seals may not be broken by any person other than the Municipality, except
 - (a) for the purposes of opening the hydrant in the case of fire; or
 - (b) in the course of servicing and testing.
- (2) The consumer must give the Municipality at least 48 hours written notice prior to a fire extinguishing installation being serviced and tested.
- (3) The consumer must bear the cost of resealing such a hydrant and hose-reel except when such seals are broken by the Municipality's officers for testing purposes.
- (4) The consumer must pay for any water consumed by a fire installation or sprinkler system at the relevant charges in the prescribed tariff.

CHAPTER 4 : CONDITIONS FOR SANITATION SERVICES

Part 1: Connection to sanitation system

58. Obligation to connect to sanitation system

- (1) Unless consent for the use of on-site sanitation services was obtained in accordance with section 64, a premises on which sewage is produced must be connected to the Municipality's sanitation system if –
 - (a) a connecting sewer is available; or
 - (b) it is reasonably possible or cost effective for the Municipality to install a connecting sewer.
- (2) The Municipality may, by serving a written notice, require the owner of premises which is not connected to the Municipality's sanitation system to connect to the sanitation system.
- (3) The owner of premises required to connect to the Municipality's sanitation system in accordance with subsection (2), must inform the Municipality in writing of the on-site sanitation services provided by the Municipality that will no longer be required as a result of the connection to the sanitation system, and the owner remains liable for any charges payable in respect of on-site sanitation services until the agreement for such services has been terminated in accordance with section 9 of the Customer Care, Debt Collection and Revenue Management By-Laws, 2009.
- (4) If the owner fails to connect to the sanitation system in accordance with the notice contemplated in subsection (2) the Municipality may, despite any other actions it may take in terms of these By-laws, impose penalties as determined by it.

59. Standards for sanitation services

Sanitation services provided by the Municipality must comply with the minimum standards for basic sanitation services as required in terms of regulation 2 of Regulation 22355 promulgated in terms of the Act on 8 June 2001.

60. Objectionable discharge to sewage disposal system

- (1) Subject to regulations 7 and 8 of Regulation 22355 promulgated in terms of the Act on 8 June 2001, a person may not discharge, or permit the discharge or entry into the sewage disposal system or sea outfalls discharge point or in any public water of any sewage or other substance which does not comply with the standards and criteria set out in section 59, and which –
- (a) contains any substance in such concentration as will produce or be likely to produce in the effluent for discharge at any sewage treatment plant or sea outfalls discharge point or in any public water, any offensive or otherwise undesirable taste, colour, odour, temperature or any foam;
 - (b) may prejudice the re-use of treated sewage;
 - (c) may adversely affect any of the processes whereby sewage is treated for re-use;
 - (d) may adversely affect any of the processes whereby sewage is treated to produce sludge for disposal;
 - (e) contains any substance or thing of whatever nature which is not amenable to treatment to a satisfactory degree at a sewage treatment plant;
 - (f) contains any substance or thing of whatever nature which causes or is likely to cause a breakdown or inhibition of the processes in use at a sewage treatment plant;
 - (g) contains any substance or thing of whatever nature which is of such strength, or which is amendable to treatment only to a degree as will result in effluent from the sewage treatment plant or discharge from any sea outfalls not complying with standards prescribed under the National Water Act, 1998 (Act 36 of 1998);
 - (h) may cause danger to the health or safety of any person;
 - (i) may be injurious to the structure or materials of the sewage disposal system;
 - (j) may prejudice the use of any ground used by the Municipality; or
 - (k) may inhibit the unrestricted conveyance of sewage through the sewage disposal system.
- (2) A person may not cause or permit any storm water to enter the sewage disposal system.
- (3) Subject to regulation 6 of Regulation 22355 promulgated in terms of the Act on 8 June 2001, the Municipality may, by written notice, order the owner or occupier to conduct, at his or her cost, periodic expert inspections of the premises in order to identify precautionary measures which would ensure compliance with these By-laws and to report such findings to an authorized agent.
- (4) If any person becomes aware of a contravention of any provision of subsection (1) or (2) he or she must within 12 hours, or earlier if possible, advise the Municipality of the details of the contravention and the reasons for it.

Part 2: On-site sanitation services and associated services

61. Application for infrastructure

- (1) If a services agreement for on-site sanitation and associated services has been concluded or if it is not reasonably possible or cost effective for the Municipality to install a connecting sewer or no infrastructure in connection therewith exists on the premises, the

owner must immediately make application for on-site sanitation services on the prescribed form and –

- (a) pay the prescribed charge for the installation of necessary infrastructure; or
 - (b) with the approval by the Municipality, install the connection sewer or on-site sanitation services in accordance with the specifications of the Municipality.
- (2) The Municipality may specify in the approval the type of on-site sanitation services to be installed.

62. Use of on-site sanitation services not connected to sanitation system

- (1) A person may not use or permit the use, for domestic, commercial or industrial purposes, of on-site sanitation services which are not connected to the Municipality's sanitation system, except with the consent of the Municipality first having been obtained, and in accordance with such conditions as it may impose.
- (2) A person desiring the consent referred to in subsection (1) must provide the Municipality with evidence that the sanitation facility is not likely to have a detrimental effect on health or the environment.
- (3) The Municipality may withdraw consent given in terms of subsection (1) if –
 - (a) a condition imposed in terms of subsection (1) is breached; or
 - (b) the sanitation facility has a detrimental impact on health or the environment.
- (4) The Municipality may undertake investigations to determine if a sanitation facility has a detrimental impact on health or the environment.
- (5) The person to whom consent was granted in terms of subsection (1) is liable for the costs associated with an investigation undertaken in terms of subsection (4) if the result of the investigation indicates that the sanitation facility has a detrimental impact on health or the environment.

63. Septic tanks and on-site sewage treatment plants

- (1) The Municipality may, on such conditions as it may specify, approve the disposal of sewage or other effluent by means of septic tanks or other on-site sewage treatment plants.
- (2) A septic tank or other on-site sewage treatment plant may not be situated nearer than three metres to any dwelling unit or to any boundary of the premises on which it is situated.
- (3) Effluent from a septic tank or other on-site sewage treatment plant must be disposed of by french drains approved under section 64.
- (4) A septic tank must be watertight, securely covered and provided with gas-tight means of access to its interior adequate to permit the inspection of the inlet and outlet pipes and adequate for the purpose of removing sludge.
- (5) A septic tank serving a dwelling unit must –
 - (a) have a capacity below the level of the invert of the outlet pipe of not less than 500 litres per bedroom, subject to a minimum capacity below such invert level of 2 500 litres;
 - (b) have an internal width of not less than one metre measured at right angles to the direction of the flow;
 - (c) have an internal depth between the cover and the bottom of the tank of not less than 1,7 m; and
 - (d) retain liquid to a depth of not less than 1,4 m.
- (6) The design of septic tanks serving premises other than a dwelling unit must, prior to construction, be approved and certified by the Municipality.

64. French drains

- (1) The Municipality may approve the disposal of waste water or other effluent by means of french drains, soakage pits or other approved works on such conditions as it may specify having regard to the quantity and the nature of the effluent and the nature of the soil as determined by the permeability test prescribed by the South African Bureau of Standards.
- (2) A french drain, soakage pit or other similar work may not –
 - (a) be situated closer than five metres to any dwelling unit or to any boundary of any premises on which it is situated;
 - (b) be in any position as will cause contamination of any borehole or other source of water which is or may be used for drinking purposes; or
 - (c) cause dampness in any building.
- (3) The dimensions of any french drain, soakage pit or other similar work must be determined in relation to the absorbent qualities of the soil and the nature and quantity of the effluent.
- (4) The design of french drains serving premises other than a dwelling house must be approved and certified by the Municipality.

65. Conservancy tanks

- (1) The Municipality may, on such conditions as it may specify, approve the construction of a conservancy tank and ancillary appliances for the retention sewage or effluent.
- (2) No rain water, storm-water or effluent other than that approved by the Municipality may be discharged into a conservancy tank.
- (3) No conservancy tank may be used as such, unless –
 - (a) the invert of the tank slopes towards the outlet at a gradient of not less than 1 in 10;
 - (b) the tank is gas and water tight;
 - (c) the tank has an outlet pipe, 100 mm in internal diameter, made of wrought iron, cast iron or other approved material and, except if otherwise approved by the Municipality, an approved valve and fittings for connection to removal vehicles;
 - (d) the valve and fittings referred to in paragraph (c) or the outlet end of the pipe, as the case may be, are located in a chamber having an approved hinged cover and situated in such position as required by the Municipality; and
 - (e) access to the conservancy tank is provided by means of an approved manhole fitted with a removable cast iron cover placed immediately above the visible spigot of the inlet pipe.
- (4) The Municipality may, having regard to the position of a conservancy tank or the point of connection for a removal vehicle, make it a condition of its emptying the tank that the owner or consumer indemnify the Municipality, in writing, against any liability for any damages that may result from rendering that service.
- (5) Where the removal vehicle has to traverse private premises for the emptying of a conservancy tank, the owner must –
 - (a) provide a roadway at least 3,5 m wide, so hardened as to be capable of withstanding a wheel load of four metric tons in all weather; and
 - (b) ensure that no gateway through which the vehicle is required to pass to reach the tank, is less than 3,5 m wide.
- (6) A conservancy tank serving a premises must –
 - (a) have a capacity below the level of the invert of the inlet pipe of not less than 10 000 litres;
 - (b) have an internal depth between the cover and the bottom of the tank of not less than 1,7 m; and

- (7) The design of conservancy tanks serving premises must, prior to construction, be approved and certified by the Municipality.
- (8) The owner or occupier of premises on which a conservancy tank is installed must at all times maintain the tank in good order and condition.

66. Operation and maintenance of on-site sanitation services

The operation and maintenance of on-site sanitation services and all costs pertaining thereto remain the responsibility of the owner of the premises, unless the on-site sanitation services are subsidised services determined in accordance with the Customer Care, Debt Collection and Revenue Management By-Laws, 2009.

67. Disused conservancy and septic tanks

- (1) If an existing conservancy tank or septic tank is no longer required for the storage or treatment of sewage, or if permission for such use is withdrawn, the owner must –
 - (a) cause it to be completely removed; or
 - (b) cause it to be completely filled with earth or other suitable material.
- (2) The Municipality may –
 - (a) require the tank to be reasonably dealt with in another way; or
 - (b) approve the use of the tank for other purpose subject to such conditions as it may specify.

68. Services associated with on-site sanitation services

- (1) The Municipality may undertake in specified areas to –
 - (a) remove or collect conservancy tank contents; or
 - (b) remove or collect night soil.
- (2) Copies of the schedule are available at the municipal offices on request.

69. Charges in respect of services associated with on-site sanitation services

- (1) Charges in respect of the removal or collection of conservancy or septic tank contents or night soil are based on –
 - (a) the volume removed or collected; and
 - (b) the distance travelled to effect such removal.
- (2) If the volume of the contents of a conservancy or septic tank removed or collected or of night soil removed or collected cannot be quantified, the Municipality may charge a prescribed fixed charge, as determined from time to time.

Part 3: Sewage disposal

70. Provision of connecting sewer

- (1) If a services agreement for the use of the sewage disposal system exists and no connecting sewer exists in respect of the premises, the owner must immediately apply on the prescribed form for a connecting sewer to be installed and –
 - (a) must pay the prescribed tariff for the installation of such a connecting sewer; or
 - (b) with the approval by the Municipality, install the connecting sewer in accordance with any specifications of the Municipality.
- (2) If the owner applies for use of the sewage disposal system on premises which is so situated that it is necessary to extend the sewer in order to connect the sewage disposal system to the premises, the Municipality may agree to the extension subject to such conditions as it may impose.

- (3) Only the Municipality may install or approve an installed connecting sewer.
- (4) The owner or consumer may connect the sanitation installation to the connecting sewer.
- (5) A person may not commence with any development on any premises unless the Municipality has installed a connecting sewer.

71. Location of connecting sewer

- (1) A connecting sewer provided and installed by the Municipality or owner in terms of section 70 must –
 - (a) be located in a position agreed to between the owner and the Municipality and be of a size determined by the Municipality; and
 - (b) terminate at a connection point approximately one metre inside the premises from the boundary of the land owned by or vested in the Municipality or over which the Municipality has a servitude or other right or when subsection (3) applies, at the connecting point designated in terms of that subsection.
- (2) In reaching agreement with an owner concerning the location of a connecting sewer, the Municipality must determine –
 - (a) practical restrictions that may exist regarding the location of a connecting sewer pipe;
 - (b) the cost implications of the various possible locations of the connecting sewer; and
 - (c) whether or not the Municipality requires the owner to fix the location of the connecting sewer by providing a portion of his or her water installation at or outside the boundary of his or her premises for the Municipality to connect to such installation.
- (3)
 - (a) The Municipality may at the request of a person and subject to such conditions as it may impose, agree to a connection to a sewer other than that which is most readily available for the drainage of the premises.
 - (b) The person concerned is then responsible for –
 - (i) any extension of the drainage installation to the connecting point designated by an authorized officer; and
 - (ii) obtaining at his or her cost, such servitudes over other premises as may be necessary.
- (4) An owner must pay the relevant charge set out in the prescribed tariff before a connection to the connecting sewer can be effected.
- (5) Where an owner is required to provide a sewage lift as provided for in terms of the Building Regulations, the Municipality must approve the rate and time of discharge into the sewer.

72. Provision of one connecting sewer for several consumers on same premises

- (1) Despite section 70, but subject to subsection (2)(b), only one connecting sewer to the sewage disposal system may be provided for the disposal of sewage from any premises, irrespective of the number of accommodation units of consumers located on such premises.
- (2) Where the owner, or the person having the charge or management of any premises on which several accommodation units are situated, requires the disposal of sewage from several accommodation units, the Municipality may provide and install either –
 - (a) a single connecting sewer in respect of the premises as a whole or any number of such accommodation units; or
 - (b) a separate connecting sewer for each accommodation unit or any number thereof.

- (3) Where the Municipality has installed a single connecting sewer as contemplated in subsection (2)(a), the owner or the person having the charge or management of the premises, as the case may be –
- (a) must, if the Municipality so requires, install and maintain on each branch pipe extending from the connecting sewer to the different accommodation units –
 - (i) a separate connecting sewer; and
 - (ii) an isolating valve; and
 - (b) is liable to the Municipality for the tariffs and charges for all sewage disposed from the premises through such a single connecting sewer, irrespective of the fact that by such connecting sewer, different quantities of sewage are disposed by the different consumers served.
- (4) Despite subsection (1), the Municipality may authorise that more than one connecting sewer be provided on the sewage disposal system for the disposal of sewage from any premises comprising sectional title units or, if undue hardship or inconvenience would be caused to any consumer on such premises by the provision of only one connecting sewer.
- (5) Where the provision of more than one connecting sewer is authorized by the Municipality, the tariffs and charges for the provision of a connecting sewer must be paid in respect of each sewage connection so provided.

73. Interconnection between premises

- (1) An owner of one or more premises must, subject to subsection (2), ensure that no interconnection exists between the drainage installation on his or her premises and the drainage installation on other premises.
- (2) Interconnection may exist only if he or she –
- (a) has obtained the prior written consent of the Municipality; and
 - (b) complies with any conditions that it may have imposed.

74. Disconnection of draining installation from connecting sewer

The Municipality may disconnect a drainage installation from the connecting sewer and remove the connecting sewer if –

- (a) the agreement for provision has been terminated and it has not received an application for subsequent provision to the premises served by the sewer within a period of 90 days of such termination; or
- (b) the building on the premises concerned has been demolished.

Part 4: Standards and Conditions of Supply

75. Standard for sanitation services

Sanitation services provided by the Water Services Provider must comply with the minimum standards set for the provision of sanitation services in terms of section 9 of the Act.

Part 5: Methods for determining discharges

76. Measurement of quantity of standard domestic effluent discharged

- (1) The quantity of standard domestic effluent discharged will be regarded to be a percentage of water supplied by the Municipality, but where such a percentage in respect of specific premises is excessive, having regard to the purposes for which water is consumed on those premises, the Municipality may reduce the percentage applicable to those premises to a figure which, in the light of the available information, reflects the

proportion between the likely quantity of sewage discharged from the premises and the quantity of water supplied thereto.

- (2) Where premises are supplied with water from a source other than or in addition to the Municipality's water supply system, including abstraction from a river or borehole, the quantity will be regarded to be a percentage of the total water used on those premises as may be reasonably estimated by the Municipality.

77. Measurement of quantity and determination of quality of industrial effluent discharged

- (1) The quantity of industrial effluent discharged into the sanitation system must be determined –
- (a) where a measuring device is installed, by the quantity of industrial effluent discharged from a premises as measured by that measuring device; or
 - (b) until such time as a measuring device is installed, by a percentage of the water supplied by the Municipality to those premises as may be reasonably estimated by the Municipality.
- (2) Subject to regulation 9 of Regulation 22355 promulgated in terms of the Act on 8 June 2001, the Municipality may require the owner of any premises to incorporate in any drainage installation which convey industrial effluent to a sewer, a control meter or gauge or other device of an approved type and in the control of the Municipality for the purpose of ascertaining the tempo, volume or composition of the effluent.
- (3) The Municipality may install and maintain any such meter, gauge or device at the expense of the owner of the premises on which it is installed.
- (4) Where premises are supplied with water from a source other than or in addition to the Municipality's water supply system, including abstraction from a river or borehole, the quantity of industrial effluent will be regarded to be a percentage of the total water used on that premises as may be reasonably estimated by the Municipality.
- (5) The Municipality may on application reduce the assessed quantity of industrial effluent where a portion of the water supplied to the premises –
- (a) forms part of the end product of any manufacturing process; or
 - (b) is lost by reaction or evaporation during the manufacturing process or for any other reason,
- (6) The Municipality may enter into a services agreement with any person who discharges industrial effluent into the sanitation system, to establish an alternative method of assessing the quantity and rate of effluent so discharged.
- (7) Charges relating to the quality of industrial effluent are based on the formula for industrial effluent discharged as set out in Schedule 4.
- (8) The following conditions apply in respect of the assessment of the quality of industrial effluent discharged:
- (a) Each consumer must conduct the prescribed tests, on a regular schedule as provided for in the approval to discharge industrial effluent under section 100, and report the results to the Municipality;
 - (b) the Municipality may conduct random compliance tests to correlate those of the industry, and –
 - (i) if discrepancies are found, the values of the Municipality are to be taken as correct; and
 - (ii) further tests may be requested by the Municipality to determine the values for the formula, at the cost of the consumer;

- (c) the average of the values of the different analyses results of 24 hourly composite or snap samples of the effluent, taken during the period of charge, must be used to determine the quality charges payable;
- (d) in the absence of a complete daily set of 24 hourly composite or snap samples, the average of not less than two values of the sampled effluent, taken during the period of charge, must be used to determine the charges payable;
- (e) in order to determine –
 - (i) the strength (chemical oxygen demand, suspended solids concentration, Ammonia concentration, ortho-phosphate concentration) in the effluent;
 - (ii) the concentration of Groups 1 and 2 metals;
 - (iii) the pH value; and
 - (iv) conductivity,the Municipality must use the tests normally used by municipalities for these respective purposes,¹ and test results from an accredited laboratory will have precedence over those of the Municipality;
- (f) the strength must be calculated on the basis of the different analyses results of individual snap or composite samples, and the period applicable to the calculation may not be less than one full 24-hour period, unless strong evidence is submitted to the Municipality that a lesser period is actually applicable;
- (g) the terms of the industrial effluent formula may not assume a negative value;
- (h) the total system values for quality charges must remain constant, initially for a period of one month, but in any case not longer than 12 months from the date of commencement of these charges, after expiry of which they may be amended or revised from time to time depending on such changes in the analyses results or further samples as may be determined from time to time, but the Municipality, in any particular case, may levy the minimum charges contemplated in subsection (7) without taking any samples;
- (i) whenever the Municipality takes a sample, one half thereof must be made available to the consumer;
- (j) for the purpose of calculating the quantity of effluent discharged from each point of discharge of effluent, the total quantity of water consumed on the premises must be allocated among the several points of discharge as accurately as is reasonably practicable;
- (k) the costs of conveying and treating industrial effluent must be determined and apply with effect from such date as may be determined; and
- (l) the Municipality may change the charges for industrial effluent to a fixed monthly charge, and the minimum charge is to be determined taking into consideration the effluent strengths, the volume and the economic viability of micro and small industries.

78. Reduction in measured quantity of effluent discharged

- (1) A person is entitled to a reduction in the quantity of effluent discharged into the sanitation system as determined in terms of sections 76 and 77 if he or she can demonstrate that the quantity of water on which the percentage is calculated was measured during a period when water was wasted or a leakage went undetected.
- (2) The reduction in the quantity is based on the quantity of water loss through leakage or wastage during the leak period.
- (3) The leak period is, whichever results in the greater reduction in the quantity,

¹ Details of the appropriate test may be ascertained from the Municipality or the SABS

either –

- (a) the measuring period immediately before the date of repair of the leak; or
 - (b) the measurement period during which the leak is repaired,
- (4) The quantity of water loss must be calculated as the consumption for the leak period less an average consumption, based on the preceding three months, for the same length of time, and if no previous consumption history is available, the average water consumption must be determined by the Municipality after due consideration of all information.
- (5) There may be no reduction in the quantity if the loss of water, directly or indirectly, resulted from the consumer's failure to comply with, or is in contravention of these or other by-laws of the Municipality.

Part 6: Drainage installations

79. Installation of drainage installations

- (1) The owner must provide and maintain his or her drainage installation at his or her own cost and must ensure that the installation is situated within the boundary of his or her premises, except where otherwise approved.
- (2) The Municipality may –
 - (a) specify in an approval –
 - (i) to what point in the sewer a drainage installation is to be connected;
 - (ii) at what depth below the ground a drainage installation is to be connected; and
 - (iii) the route to be followed by the drain to the connecting point; and
 - (b) require the owner not to commence with the construction or connection of the drainage installation until the Municipality's connecting sewer has been laid.
- (3) A drainage installation constructed or installed must comply with –
 - (a) any applicable specifications in terms of the Building Regulations; and
 - (b) any standards prescribed in terms of the Act.
- (4) A person may not permit the entry of any liquid or solid substance whatsoever, other than clean water for testing purposes, to any drainage installation before the drainage installation has been connected to the sewer.
- (5) The plumber responsible for executing the work must after the completion of any drainage installation or after any alteration to any drainage installation is completed, submit to the building inspection section of the Municipality a certificate certifying that the work was completed to the standards as set out in the Building Regulations, these By-laws and any other relevant law or by-laws.

80. Construction or installation of drainage installations

- (1) Where the draining installation is a pit latrine, it must be of the ventilated improved pit latrine type or equivalent having –
 - (a) a pit latrine of at least 2m³ capacity;
 - (b) lining as required;
 - (c) a slab designed to support the superimposed loading; and
 - (d) protection preventing children from falling into the pit.
- (2) A pit latrine must conform with the following specifications:
 - (a) The pit must be ventilated by means of a pipe, sealed at the upper end with insect proof screening fixed in place;

- (b) the ventilation pipe –
 - (i) may not project less than 0.5 m above the nearest roof;
 - (ii) must be of at least 150 mm in diameter; and
 - (iii) must be installed vertically with no bend;
 - (c) the interior of the closet must be finished smooth so that it can be kept in a clean and hygienic condition;
 - (d) the superstructure must be ventilated in order to allow the free flow of air into the pit to be vented through the pipe;
 - (e) the opening through the slab must be of such size as to prevent fouling, and the rim must be raised so that liquids used for washing the floor do not flow into the pit; and
 - (f) the pedestal must be equipped with a lid to prevent the egress of flies and other insects when the toilet is not in use;
- (3) A pit latrine must be sited in a position that is independent of the residential structure and is accessible to a road vehicle having a width of 3.0 m in order to facilitate the emptying of the pit.
- (4) In situations where –
- (a) there is the danger of polluting an aquifer due to the permeability of the soil, the pit of a pit latrine must be lined with an impermeable material that will not crack under stress; and
 - (b) the ground in which the pit of the pit latrine is to be excavated is unstable, support is to be given to prevent the collapse of the soil into the pit.
- (5) A pit latrine should not be used by more than one household.
- (6) A pit latrine must have access to water for hand washing within 10 metres of the pit latrine.
- (7) The Municipality may levy a charge in the form of a monthly contribution, or levied as a single payment when the service is rendered, that covers all the operating and maintenance costs in the –
- (a) removal of the pit contents;
 - (b) transportation to a disposal site;
 - (c) treatment of the contents to achieve a sanitary condition; and
 - (d) final disposal of any solid residues.

81. Disconnection of drainage installations

- (1) Except for the purpose of carrying out maintenance or repair work, no drainage installation may be disconnected from the connection point.
- (2) Where any part of a drainage installation is disconnected from the remainder thereof because it will no longer be used, the disconnected part must, unless the Municipality approves otherwise –
- (a) be destroyed; or
 - (b) entirely removed from the premises on which it was used.
- (3) The Municipality must issue a certificate to certify that the disconnection has been completed in terms of the Building Regulations –
- (a) after all the requirements of the Building Regulations in regard to disconnection have been complied with; and
 - (b) on request of the owner.
- (4) Any charges raised in respect of the disconnected portion of the drainage installation must cease to be levied with effect from the first day of the month following the issue of such certificate.
- (5) When a drainage installation is disconnected from a sewer, the Municipality –

- (a) must seal the opening so caused; and
 - (b) may recover the cost of such work from the owner of the premises on which the installation is disconnected.
- (6) Where a drainage system is connected to or disconnected from the sewer system during a month, charges must be calculated as if such connection was made on the first day of the month following the month in which such connection or disconnection was effected.

82. Drains in streets or public places

A person may not, except with the prior written permission of the Municipality and subject to such conditions as it may impose, for the purpose of conveying sewage derived from whatever source, lay or construct a drain on, in or under a street, public place or other land owned by, vested in, or under the control of, the Municipality.

83. Construction by Municipality

The Municipality may agree with the owner of any premises that any drainage work which the owner desires, or is required to construct in terms of Part P of SABS 0400-1990, will be constructed by the Municipality against payment, in advance or on demand, of all costs associated with the construction.

84. Maintenance of drainage installation

- (1) An owner must provide and maintain his or her drainage installation at his or her own cost.
- (2) Where any part of a drainage installation is used by two or more owners or occupiers, they are jointly and severally liable for the maintenance of the installation.
- (3) The owner of any premises –
 - (a) must ensure that each sewage manhole on the premises is permanently visible and accessible; and
 - (b) is responsible for ensuring the visibility of each cleaning eye and manhole on the premises at all times.
- (4) Any person who requests the Municipality to clear a drainage installation is liable to pay the appropriate charge set out in the prescribed tariff.
- (5) The Municipality may, on the written application of the owner or occupier of any premises, inspect and test the drainage installation of the premises or a section thereof and may recover from the owner or occupier the cost of the inspection and test, calculated at the rate specified in the prescribed tariff.

85. Technical requirements for drainage installations

All drainage installations must comply with SABS 0252 and the Building Regulations.

86. Drains

- (1) Drains passing through ground which are liable to movement, must be laid on a continuous bed of river sand or similar granular material not less than 100 mm thick under the barrel of the pipe with a surround of similar material and thickness, and the joints of such drains must be approved flexible joints.
- (2) A drain or part thereof may only be laid within, pass under or through a building with the approval of the Municipality.
- (3) A drain or part thereof which is laid in an inaccessible position under a building may not bend or be laid at a gradient less than 1:50.
- (4) If a drain passes through or under a wall, foundation or other structure, precautions must be taken to prevent the discharge of any substance into such a drain.

87. Sewer blockages

- (1) A person may not cause or permit such an accumulation of grease, oil, fat, solid matter or any other substance in any trap, tank, or fitting as will cause its blockage or ineffective operation.
- (2) When the owner or occupier of premises has reason to believe that a blockage has occurred in any drainage installation on the premises, he or she must immediately take steps to have it cleared.
- (3) When the owner or occupier of premises has reason to believe that a blockage has occurred in the sewer system, he or she must immediately inform the Municipality in writing of it.
- (4) Where a blockage occurs in a drainage installation, any work necessary for its removal must be done by or under the supervision of a plumber.
- (5) Should a drainage installation on premises overflow as a result of an obstruction in the sewer, and the obstruction was caused by objects emanating from the drainage installation, the owner of the premises served by the drainage installation is liable for the cost of clearing the blockage.
- (6) Where a blockage has been removed from a drain or portion of a drain which serves two or more premises the owners are jointly and severally liable for the cost of clearing the blockage.
- (7) Where a blockage in the sanitation system has been removed by the Municipality and such removal necessitated the disturbance of an owner's paving, lawn or other artificial surface, the Municipality is not responsible for reinstating it.

88. Grease traps

A grease trap of approved type, size and capacity must be provided –

- (a) in respect of each premises that discharges sewage into on-site sanitation systems; or
- (b) where the discharge of grease, oil and fat is likely to –
 - (i) cause an obstruction to the flow in sewers or drains; or
 - (ii) interfere with the proper operation of any waste water treatment plant.

89. Industrial grease traps

- (1) Industrial effluent which contains, or is likely to contain grease, oil, fat or inorganic solid matter in suspension must, before it is allowed to enter any sewer, be passed through one or more tanks or chambers of approved type, size and capacity designed to intercept and retain such grease, oil, fat or solid matter.
- (2) Oil, grease or any other substance which is contained in any industrial effluent or other liquid and which gives off an inflammable or noxious vapour at a temperature of or exceeding 20° C, must be intercepted and retained in a tank or chamber so as to prevent entry thereof into the sewer.
- (3) A tank or chamber which is referred to in subsection (2) must comply with the following requirements:
 - (a) It must be of adequate capacity, constructed of hard durable materials, and water-tight when completed;
 - (b) the water-seal of its discharge pipe may be not less than 300 mm in depth; and
 - (c) it must be provided with such number of manhole covers as may be adequate for the effective removal of grease, oil fat and solid matter.
- (4) Any person who discharges effluent to a tank or chamber must –

- (a) regularly remove grease, oil, fat or solid matter from the tank or chamber; and
- (b) maintain a register in which the following is contained:
 - (i) The dates on which the tank or chamber was cleaned;
 - (ii) the name of the company which was employed to clean the tank or chamber; and
 - (iii) a certificate from the cleaning company –
 - (aa) certifying that the tank or chamber was cleaned; and
 - (bb) stating the manner in which the contents of the tank or chamber were disposed of.

90. Mechanical appliances for lifting sewage

- (1) The owner of any premise must in accordance with subsection (2) apply for the approval and obtain the approval of the Municipality before he or she installs any mechanical appliance for the raising or transfer of sewage in terms of the Building Regulations.
- (2) A Professional Engineer must apply for approval, and the application must –
 - (a) be accompanied by drawings prepared in accordance with the relevant provisions of the Building Regulations; and
 - (b) show details of –
 - (i) the compartment containing the appliance;
 - (ii) the sewage storage tank;
 - (iii) the stilling chamber and its position; and
 - (iv) the position of the drains, ventilation pipes, rising main and the sewer connection.
- (3) Despite any approval given in terms of subsection (1), the Municipality is not liable without fault for any injury or damage to life or property caused by the use, malfunctioning or any other condition arising from the installation or operation of a mechanical appliance for the raising or transfer of sewage.
- (4) Every mechanical appliance installed for the raising or transfer of sewage must be –
 - (a) specifically designed for the purpose; and
 - (b) fitted with a discharge pipe, sluice valves and non-return valves located in approved positions.
- (5) Unless otherwise permitted by the Municipality, such mechanical appliances must be installed in duplicate and each appliance must be so controlled that either will immediately begin to function automatically in the event of failure of the other.
- (6) Every mechanical appliance forming part of a drainage installation must be so located and operated as to not cause any nuisance through noise or smell or otherwise, and every compartment containing any such appliance must be effectively ventilated.
- (7) The maximum discharge rate from any mechanical appliance and the times between which the discharge may take place must be as determined by the Municipality which may, at any time, require the owner to install such fittings and regulating devices as may be necessary to ensure that the determined maximum discharge rate is not exceeded.
- (8) A sewage storage tank must be provided in conjunction with a mechanical appliance, except where sewage storage space is incorporated as an integral part of the appliance.
- (9) Every sewage storage tank required in terms of subsection (8) must –
 - (a) be constructed of hard, durable materials and must be watertight and the internal surfaces of the walls and floor must be rendered smooth and impermeable;
 - (b) have a storage capacity below the level of the inlet equal to the quantity of sewage discharged there into in 24 hours, or 900 litres, whichever is the greater quantity; and

- (c) be so designed that the maximum proportion of its sewage content is emptied at each discharge cycle of the mechanical appliance.
- (10) Every storage tank and stilling chamber must be provided with a ventilation pipe in accordance with the Municipality's specifications.

91. Installation of pre-treatment facility

The Municipality may require that any new premises must be provided with a minimum pre-treatment facility of a type specified by it prior to that premises being connected to the sewage disposal system.

Part 7: Protection of infrastructure

92. Protection from ingress of flood waters

Where premises is situated in the 1 in 50 years flood plain, the top level of service access holes, inspection chambers and gullies must be above the 1 in 50 years flood level, except if, in the case of service access holes and inspection chambers, the cover is secured in place by approved means.

93. Trespassing on sewage disposal system

A person may not, without the prior written permission of an authorized officer enter -

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

94. Interference with sewage disposal system

Except with the prior authority of an authorized officer, no person may -

- (a) interfere or tamper with the sewage disposal system;
- (b) make a connection to the sewage disposal system save as contemplated in section 58;
- (c) within an area that is subject to a sewer servitude -
 - (i) construct a building; or
 - (ii) raise or lower the ground level.

95. Damage to sewage disposal system

- (1) A person may not damage or endanger the sewage disposal system, or cause or permit it to be damaged or endangered.
- (2) A person who intends performing work which may cause damage to the sewage disposal system on land owned by or vested in the Municipality or over which it has a servitude or other right, must, before he or she commences the work, ascertain from an authorized officer if any part of the sewage disposal system is situated on the land.
- (3) If work which could damage or endanger the sewage disposal system is to be performed or is being performed on land referred to in subsection (2), or on land adjacent thereto, the authorized officer may by notice in writing require the person concerned not to commence, or to cease performing the work until such time as he or she has complied with the conditions specified in the notice

96. Consequential maintenance of sewers

Whenever a sewer is damaged or becomes obstructed or in need of repair as a result of the act or omission of any person, whether by reason of the failure of such person to comply with the requirements of these By-laws or otherwise, the Municipality may carry out such work of

maintenance or repair as is necessary or remove the obstruction and recover from him or her the full cost of doing so.

97. Obstruction to access to sewage disposal system

- (1) A person may not prevent or restrict access to a sewage disposal system.
- (2) If a person contravenes subsection (1), the authorized officer may –
 - (a) by written notice require the person to restore access at his or her own costs within a specified period; or
 - (b) if the situation is a matter of urgency, without prior notice, restore access and recover the full costs of doing so from such person.

98. Work by private person

- (1) The Municipality must lay all sewers and connecting sewers, unless it elects not to do so in which case the work must be executed in accordance with the Municipality's conditions of contract applicable to the work and the following provisions apply:
 - (a) Any person carrying out such work must, before he or she commences the work –
 - (i) lodge with an authorized officer a written indemnity in which he or she indemnifies the Municipality against all liability in respect of any accident or injury to a person or loss or damage to property which may occur as the direct result of the execution of such works; and
 - (ii) obtain from an authorized officer the written requirements to be complied with; and
 - (b) where the surface of any street or road has been disturbed in the course of such work, only the Municipality may, at the expense of the person carrying out such work, restore the surface.
- (2) Before the surface of a street or road is disturbed, the person must deposit with the Municipality a sum of money which is sufficient to cover the estimated cost of such restoration.
- (3) When the actual cost is greater than the deposit, the excess is recoverable from the person, and when the actual cost is less, any balance must be refunded to the person.
- (4) All work contemplated in subsection (1)(a) must be carried out in accordance with the written requirements by an authorized officer.

Part 8: Industrial effluent

99. Application for disposal of industrial effluent

- (1) A person may not, except with the approval of the Municipality as contemplated in section 7(2) of the Act, discharge or cause or permit industrial effluent to be discharged into the sanitation system.
- (2) A person or institution must apply for approval, including a renewal of an approval, to the Municipality.
- (3) A person or institution applying as contemplated in subsection (2), must do so in accordance with the provisions of this section, and at his, her or its own expense.
- (4) If an applicant intends applying simultaneously for approval in terms of this section and any other provision of the Act, he, she or it must deal with each application separately, however, information may be incorporated by reference in one of the applications.
- (5) An application for approval contemplated in subsection (2), must be made to the Municipality in writing on a form similar to the form in Schedule 3.
- (6) The Municipality may call for any additional information or documents reasonably required to enable it to determine whether the proposer or applicant, including a public sector provider, or the water scheme or schemes will comply with the Act, these By-laws

and the water services development plan of the Municipality, and whether the obligations of the Municipality, imposed on it by the Act, will be met.

- (7) The Municipality may, and it must, if it initially decides to refuse an application made in terms of subsection (1), including an application made by a public sector water provider, prior to making a final decision, meet with the applicant and any organisation reasonably representative of the consumers or potential consumers of the water scheme or schemes, in order to hear representations made by the applicant and such representative organisations in support of, or against, the applications, and it must take such representations into account in arriving at its final decision.

100. Approval to discharge industrial effluent

- (1) The Municipality must, if its records indicate that the capacity of the sanitation system is sufficient to permit the conveyance and effective treatment and lawful disposal of the industrial effluent, for such period and subject to such conditions it may impose, approve the discharge of industrial effluent to the sanitation system.
- (2) A person who wishes to construct or cause to be constructed, a building which is to be used as trade premises, must at the time of lodging a building plan in terms of section 4 of the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977), also lodge applications for the provision of sanitation services and for approval to discharge industrial effluent.

101. Letter of approval

In the event of the Municipality granting approval to discharge effluent waste, it must issue to the applicant a letter of approval which contains such conditions as the Municipality may deem appropriate, which conditions are binding on the applicant.

102. Unauthorized discharge of industrial effluent

- (1) A person may not, except with and in terms of the written approval of the Municipality and in accordance the provisions of this part, discharge or cause or permit to be discharged into the sanitation system any industrial effluent.
- (2) A person to whom such permission is granted must pay to the Municipality the appropriate charge set out in the prescribed tariff.

103. Quality standards for disposal of industrial effluent

- (1) A person to whom permission has been granted for disposal of industrial effluent under section 102 must ensure that no industrial effluent is discharged into the sewage disposal system of the Municipality unless the industrial effluent complies with the standards and criteria set out in Schedule 1, Part A and Part B, which Schedule refers.
- (2) The Municipality may, by writing in the permission concerned, relax or vary the standards in Schedule 1, provided that any such relaxation represents the best practicable environmental option.
- (3) In determining whether relaxing or varying the standards in Schedule 1 represents the best practicable environmental option, the Municipality must consider –
- (a) whether the applicant's undertaking is operated and maintained at optimal levels;
 - (b) whether technology used by the applicant represents the best available option to the applicant's industry and, if not, whether the installation of such technology would entail unreasonable cost to the applicant;
 - (c) whether the applicant is implementing a program of waste minimisation which complies with national and local waste minimisation standards;

- (d) the cost to the Municipality of granting the relaxation or variation; and
 - (e) the environmental impact or potential impact of such a relaxation or variation.
- (4) A duly qualified sampler may take test samples at any time to ascertain whether the industrial effluent complies with Schedule 1 or any other standard laid down in the written permission, granted in terms of section 101.

104. Conditions for disposal of industrial effluent

- (1) The Municipality may, in the written permission or at any time, by written notice, require a person to –
- (a) subject the industrial effluent to preliminary treatment to ensure that the industrial effluent conforms to the standards in Schedule 1 before being discharged into the sewage disposal system;
 - (b) install such equalising tanks, valves, pumps, appliances, meters and other equipment as are necessary to control the rate and time of discharge into the sewage disposal system in accordance with the conditions imposed by it;
 - (c) install, for the conveyance of his or her industrial effluent into the sewage disposal system at a given point, a drainage installation separate from the drainage installation for waste water and standard domestic effluent, and the Municipality may prohibit the person from disposing of his or her industrial effluent at any other point and from disposing of his or her waste water and standard domestic effluent by means other than into a sewage disposal system;
 - (d) construct a pipe conveying his or her industrial effluent to any sewer, a service access point or stop-valve in such position and of such dimensions and materials as the Municipality may specify in the permission or notice;
 - (e) provide all such information as may be required by the Municipality to enable it to assess the tariffs or charges due to the Municipality;
 - (f) provide adequate facilities such as level or overflow detection devices, standby equipment, overflow catch-pits or other appropriate means to prevent a discharge into the sewage disposal system which contravenes these By-laws;
 - (g) cause any meter, gauge or other device installed in terms of this section to be calibrated by an independent authority at the cost of the person at such intervals as required by the Municipality and copies of the calibration to be forwarded to it; and
 - (h) cause his or her industrial effluent to be analysed as often and in such manner as may be specified by the Municipality, and provide the Municipality with the results of these tests when completed.
- (2) The commercial consumer concerned must bear the cost of any treatment, plant, works or analysis which he or she may be required to carry out, construct or install in terms of subsection (1).
- (3) The commercial consumer concerned must obtain the written permission of the Municipality for any proposed changes to the composition of industrial effluent discharged into the sewage disposal system.
- (4) In the event that industrial effluent that does not comply with the standards in Schedule 1 or the written permission issued in respect of that process or premises, is discharged into the sewage disposal system, the commercial consumer must, within 12 hours of such discharge, inform the Municipality of the incident and the reasons therefore.

105. Withdrawal of approval to discharge industrial effluent

- (1) The Municipality may withdraw any approval granted under section 101 after giving at least 14 days written notice of its intention, to a commercial consumer authorized to discharge industrial effluent into the sanitation system if the consumer –
- (a) fails to ensure that the industrial effluent discharged conforms to the industrial effluent standards set out in Schedule 1, Part A or the written approval;
 - (b) fails or refuses to comply with any notice lawfully served on him or her in terms of these By-laws or contravenes any provisions of these By-laws or any condition imposed in terms of any approval granted to him or her; or
 - (c) fails to pay the assessed charges in respect of any industrial effluent discharged.
- (2) The Municipality may, on withdrawal of any approval –
- (a) in addition to any steps prescribed in these By-laws, and on 14 days written notice, authorise the closing or sealing of the connecting sewer of the premises; and
 - (b) refuse to accept any industrial effluent until adequate steps have been taken to ensure that the industrial effluent to be discharged conforms to the standards set out in section 103.

Part 9: Sewage delivered by road haulage

106. Acceptance of sewage delivered by road haulage

The Municipality may subject to such conditions as it may specify, accept sewage for disposal delivered to the Municipality's sewage treatment plants by road haulage.

107. Approval for delivery of sewage by road haulage

- (1) A person may not discharge sewage into the Municipality's sewage treatment plants by road haulage, except with the approval of the Municipality and subject to such period and any conditions that the Municipality may impose.
- (2) The charges for any sewage delivered for disposal to the Municipality's sewage treatment plants must be assessed by the Municipality in accordance with the prescribed tariffs.

108. Conditions for delivery of sewage by road haulage

When sewage is delivered by road haulage –

- (a) the time and place of delivery must be arranged with the Municipality; and
- (b) the nature and composition of the sewage must be established prior to the discharge thereof and no person may deliver sewage that does not comply with the standards laid down in these By-laws.

109. Withdrawal of permission for delivery of sewage by road haulage

The Municipality may withdraw any permission, after giving at least 14 days written notice of its intention to a person permitted to discharge sewage by road haulage if the person –

- (a) fails to ensure that the sewage so delivered conforms to the standards prescribed in Schedule 1, Part 1, as applicable, or the conditions in the approval; or
- (b) fails or refuses to comply with any notice served on him or her in terms of these By-laws; or
- (c) contravenes any provision of these By-laws or any condition imposed on him or her in terms of any approval; or
- (d) fails to pay the relevant charge as assessed in respect of any sewage delivered.

Part 10: Other sanitation services**110. Stables and similar premises**

The Municipality may approve the connection of stables, cowsheds, dairies, kennels and other premises for the accommodation of animals and tanneries to a drainage installation subject to the payment of relevant charges and such conditions as the Municipality may impose, provided that –

- (a) the floor of the premises must be paved with approved impervious materials and graded to a silt trap, grease trap or gully of adequate capacity; and
- (b) every part of the floor of the premises must be covered by a roof and otherwise effectively protected to prevent the entry of rain or storm water into the drainage installation.

111. Mechanical food-waster or other disposal units

The Municipality may approve the connection or incorporation of a mechanical food waster, other disposal unit or garbage grinder into a drainage installation which has a capacity in excess of 500W, subject to the payment of relevant charges and such conditions as the Municipality may impose, provided that –

- (a) a water meter is installed by the Municipality;
- (b) the Municipality is satisfied that the sewerage and sewage treatment system will not negatively be affected; and
- (c) the installation or incorporation is installed in conformity with the Municipality's By-laws relating to electricity.

Part 11: Installation work of sanitation sewers**112. Approval of installation work**

- (1) If an owner wishes to have installation work done, he or she must first apply for and obtain the written approval of the Municipality.
- (2) Application for the approval must be made on the prescribed form and must be accompanied by –
 - (a) the determined charge in the prescribed tariff, if applicable;
 - (b) copies of the drawings as may be determined by the Municipality; and
 - (c) a certificate certifying that the installation has been designed in accordance with any applicable SABS Codes.
- (3) Approval given in terms of subsection (1) lapses at the expiry of a period of 24 months.
- (4) A complete set of approved drawings of installation work must be available at the site of the work at all times until such work has been completed.
- (5) If installation work has been done in contravention of subsections (1) or (2), the Municipality may by notice require the owner –
 - (a) to rectify the contravention within a specified period; or
 - (b) if work is in progress, to cease the work and to remove all such work which does not comply with this section.

113. Persons permitted to do installation and other work

- (1) A person who is not a plumber or not working under the control of a plumber, may not

- (a) do installation work other than the replacement or repair of an existing pipe or sanitation fitting;
 - (b) inspect, disinfect and test a drainage installation, fire installation or storage tank;
 - (c) service, repair or replace a back flow preventer; or
 - (d) install, maintain or replace a meter provided by an owner in a drainage installation.
- (2) A person may not require or engage a person who is not a plumber to do the work referred to in subsection (1).
- (3) Despite subsections (1) and (2), the Municipality may permit a person who is not a plumber to do installation work on his or her own behalf on premises owned and occupied solely by himself or herself and his or her immediate household, but such work must be inspected and approved by a plumber at the direction of the Municipality.

114. Use of pipes and water fittings to be authorized

- (1) A person may not, without the prior written authority of the Municipality, install or use a pipe or water fitting in a water installation within the Municipality's area of jurisdiction, unless it is included in the list of approved pipes and water fittings.
- (2) Application for the inclusion of a pipe or water fitting in the list referred to in subsection (1) must be made on the prescribed form.
- (3) A pipe or water fitting may be included in the list referred to in subsection (1) if –
- (a) it bears the standardisation mark of the South African Bureau of Standards in respect of the relevant SABS specification issued by the Bureau; or
 - (b) it bears a certification mark issued by the SABS to certify that the pipe or water fitting complies with –
 - (i) an SABS Mark specification; or
 - (ii) a provisional specification issued by the SABS, provided that no certification marks may be issued for a period exceeding two years; or
 - (c) it is included in the list of water and sanitation installations accepted by JASWIC.
- (4) The Municipality may, in respect of any pipe or water fitting included in the list referred to in subsection (1), impose such additional conditions as it may consider necessary in respect of the use or method of installation thereof.
- (5) A pipe or sanitation fitting may be removed from the list if it –
- (a) no longer complies with the criteria upon which its inclusion was based; or
 - (b) is no longer suitable for the purpose for which its use was accepted.
- (6) The current list is available for inspection at the office of the Municipality at any time during working hours.
- (7) The Municipality may sell copies of the current list at the appropriate charge in the prescribed tariff.

115. Testing of drainage installations

- (1) The provisions of SABS 1200 apply.
- (2) Where the Municipality has reason to believe that any drainage installation or any part thereof has become defective, it may require the owner thereof to conduct any or all of the tests prescribed in the Code contemplated in subsection (1), and if the installation fails to withstand any such tests, the Municipality may by notice require the owner to take reasonable measures necessary to enable the installation to withstand any or all of the tests.

116. Cisterns

A cistern, and related pan designed to operate with such cistern, may not be installed with a cistern capacity of greater than nine litres, and all cisterns not intended for public use must be

fitted with flushing devices allowing interruptible or multiple flushes, but such flushing device is not required in a cistern with a capacity of 4,5 litres or less.

CHAPTER 5: WATER SERVICES INTERMEDIARIES

117. Application for registration

- (1) A person or institution seeking registration with the Municipality as a water services intermediary in terms of section 24 of the Act, must do so in accordance with this section and at his, her or its own expense.
- (2) An application for such registration must be made in writing to the Municipality.
- (3) An application for registration must be accompanied by, at least, the following documents or particulars:
 - (a) if a natural person, a certified copy of the identity document of the applicant;
 - (b) if a legal person –
 - (i) a certified copy of the founding document or constitution of the applicant;
 - (ii) a certified resolution adopted by the management body of the applicant, resolving to apply for registration as a water services intermediary; and
 - (iii) a certified list of the names and addresses of all persons occupying a leadership position and having decision-making power in the applicant's organisation;
 - (c) a detailed statement supported by proof of authenticity, which sets out –
 - (i) the applicant's qualifications;
 - (ii) the applicant's capacity to undertake the work associated with the provision of water services in the circumstances reflected in the application;
 - (iii) the applicant's experience and skills; and
 - (iv) the financial resources available to the applicant to undertake the provision of water services to be provided by the applicant;
 - (d) the grounds upon which the applicant contends that he or she or it is a water services intermediary as defined in the Act;
 - (e) a full and detailed description of the water scheme or schemes which will be operated by the applicant containing information to enable the Municipality to determine whether the water scheme or schemes comply with the criteria set in section 11 of the Act, these By-laws and the water development plan adopted by the Municipality in terms of section 15 of the Act, which description must include, but is not be limited to –
 - (i) the name or names of the water scheme or schemes;
 - (ii) an indication of the nature of the water services to be provided by the applicant;
 - (iii) detailed plans or drawings, with co-ordinates and scales, and specifications depicting the physical installation associated with the water scheme or schemes, including all structures, aqueducts, pipes, valves, pumps, meters or other apparatus relating thereto used or intended to be used by him or her or it in connection with the provision of water services contemplated in the application;
 - (iv) a detailed description, including numbers and locality, of the consumers or potential consumers that will be supplied with water services by the applicant;

- (v) details of the source, the quality and quantity of water that will be supplied to consumers or potential consumers;
- (vi) what arrangements are in place to ensure that such quality and quantity is consistently maintained;
- (vii) a business plan setting out how the water scheme or schemes will be operated and maintained during the period the applicant undertakes the supply of water services as contemplated in the application, and what arrangements have been adopted to deal with any emergency, including natural disasters and drought;
- (viii) a budget describing the financial administration of the water scheme or schemes, the source of any capital or revenue requirements, and an indication of the sustainability of the water scheme or schemes; and
- (ix) details of charges that the applicant will levy on all consumers, the method of calculating such charges, the process whereby increases or decreases in such tariffs and charges will be dealt with and the manner in which such tariffs and charges comply with the national norm set by the Minister of Water Affairs and Forestry in terms of section 10 of the Act;
- (f) a certificate indicating who the legal owner or owners of the water scheme or schemes is or are;
- (g) certified copies of all documents and deeds reflecting the legal status of the water scheme or schemes, including deeds of servitude where appropriate;
- (h) full details of the conditions that will be imposed in terms of section 4 of the Act; and
- (i) full details required in terms of section 19(4) of the Act.

118. Additional information to make decision

- (1) The Municipality may call for any additional information or documents reasonably required to enable it to determine whether –
 - (a) the proposer or applicant, including a public sector provider, or the water scheme or schemes will comply with the Act, these By-laws and the water development plan of the Municipality; and
 - (b) the Municipality will be able to meet the obligations imposed on it by the Act.
- (2) The Municipality, in order to hear representations made by the applicant and such representative organisations in support of, or against, the applications, as the case may be, may and shall, before it makes a final decision, if it initially decides to refuse an application made in terms of subsection (1), including an application made by a public sector water provider, meet with the applicant and any organisation reasonably representative of the consumers or potential consumers of the water scheme or schemes, and it must take such representations into account in arriving at its final decision.

119. Approval of application

- (1) The Municipality may approve or refuse the application, provided that –
 - (a) if it approves the application, it may make such approval subject to such reasonable and relevant conditions as it deems necessary; and
 - (b) if it refuses the application, it must advise the applicant in writing of the reasons for such refusal.
- (2) In the event of the Municipality granting such approval it must deliver a written notification thereof to the applicant and in such notice it must –
 - (a) draw the applicants attention to the provisions of sections 25, 26 and 27 of the Act;

- (b) draw the applicant's attention to the provisions of this Chapter; and
- (c) set out any conditions imposed under subsection (1)(a).

120. Provision of water services

- (1) A water services intermediary must ensure that water services, including such basic services as determined by the Municipality, are provided to such persons it is obliged to provide with water services.
- (2) The quality, quantity and sustainability of water services provided by a water services intermediary must meet any minimum standards prescribed in terms of the Act and must at least be of the same standards as provided by the Municipality to consumers.

121. Charges for water services provided

- (1) A water services intermediary may not charge for water services at a price which does not comply with any norms and standards prescribed under the Act and any additional norms and standards as may be determined by the Municipality.
- (2) A Water Services Intermediary must provide subsidised water services, as determined by the Municipality in terms of the Municipality's by-laws relating to credit control and debt collection from time to time to a consumer at a price that is the same or less than the charges at which the Municipality provides such services.

CHAPTER 6: UNAUTHORIZED WATER SERVICES AND RELATED MATTERS**122. Unauthorized use of water services**

- (1) A person may not gain access to water services from the water supply system, sewage disposal system or any other sanitation services unless a services agreement has been entered into with the Municipality for the rendering of those services.
- (2) The Municipality may, irrespective of any other action it may take against such person in terms of these By-laws, by written notice order a person who has gained access to water services from the water supply system, sewage disposal system or any other sanitation services provided by the Municipality without a services agreement with the Municipality for the rendering of those services –
 - (a) to apply for such services in terms of the Customer Care and Revenue Management By-laws of the Municipality; and
 - (b) to undertake such work as may be necessary to ensure that the consumer installation through which access was gained complies with these By-laws.
- (3) The provisions of section 131 apply to a notice in terms of subsection (2).

123. Interference with infrastructure for provision of water services

- (1) A person other than the Municipality may not manage, operate or maintain a water supply system or any sanitation system unless authorized in writing by the Municipality.
- (2) A person other than the Municipality may not effect a connection to the water supply system or sewage disposal system or render any other sanitation services.
- (3) The Municipality may recover from the offender any costs associated with repairing damage caused as a result of a contravention of subsection (1) or (2), and the costs recoverable by the Municipality is the full cost associated with repairing the damage and includes, but is not restricted to, any exploratory investigation, surveys, plans, specifications, schedules of quantities, supervision, administration charge, the use of tools, the expenditure of labour involved in disturbing or rehabilitating any part of a street or ground affected by the repairs and the environmental cost.

124. Obstruction of access to infrastructure for provision of water services

- (1) A person may not by constructions prevent or restrict physical access to the water supply system or sewage disposal system.
- (2) If a person contravenes subsection (1), the Municipality may –
 - (a) by written notice require the person to restore access at his or her own expense within a specified period; or
 - (b) if the situation is a matter of urgency, without prior notice, restore access and recover the cost from the person.
- (3) The costs recoverable under subsection (2)(b) by the Municipality is the full cost associated with restoring access and includes, but is not restricted to, any exploratory investigation, surveys, plans, specifications, schedules of quantities, supervision, administration charge, the use of tools, the expenditure of labour involved in disturbing or rehabilitating of any part of a street or ground affected by restoring access and the environmental cost.

125. Waste of water unlawful

- (1) A consumer may not permit –
 - (a) the purposeless or wasteful discharge of water from terminal water fittings;
 - (b) pipes or water fittings to leak;
 - (c) the use of maladjusted or defective water fittings;
 - (d) an overflow of water to persist; or
 - (e) an inefficient use of water to persist.
- (2) An owner must repair or replace any part of his or her water installation which is in such a state of disrepair that it is either causing or is likely to cause an occurrence listed in subsection (1).
- (3) If an owner fails to take measures as contemplated in subsection (2), the Municipality must, by written notice in terms of section 134 require the owner to comply with the provisions of subsection (2).
- (4) A consumer must ensure that any equipment or plant connected to his or her water installation uses water in an efficient manner.
- (5) The Municipality may, by written notice, prohibit the use by a consumer of any equipment in a water installation if its use of water is inefficient, and the equipment may not be used until its efficiency has been restored and a written application to do so has been approved by the Municipality.

126. Unauthorized and illegal discharges

- (1) A person may not discharge or cause or permit any sewage to be discharged directly or indirectly into a storm water drain, river, stream or other watercourse, whether natural or artificial.
- (2) The owner or occupier of any premises on which steam or any liquid, other than potable water, is stored, processed or generated must provide all facilities necessary to prevent any discharge or leakage of such liquid to any street, storm water drain or watercourse, whether natural or artificial, except where, in the case of steam, the Municipality has approved such discharge.
- (3) Where the hosing down or flushing by rainwater of an open area on any premises is likely to cause the discharge of objectionable matter into any street, stormwater drain, river, stream or other watercourse, whether natural or artificial, or to cause or contribute towards the pollution of any such watercourse, the Municipality may, by notice, require the owner of the premises to take reasonable measures to prevent or minimise such discharge or pollution.

- (4) A person may not discharge or cause or permit the discharge of –
- (a) any substance, including storm water, other than sewage to be discharged into a drainage installation;
 - (b) water from any swimming pool directly or indirectly over any road or into a gutter, storm water drain, watercourse, open ground or private premises other than the premises of the owner of such swimming pool;
 - (c) water from artificial fountains, reservoirs or swimming pools situated on the premises into a drainage installation, without the approval of the Municipality and subject to the payment of relevant charges set out in the prescribed tariff and under such conditions as the Municipality may impose;
 - (d) any sewage, industrial effluent or other liquid or substance which –
 - (i) may be offensive to or may cause a nuisance to the public;
 - (ii) is in the form of steam or vapour or has a temperature exceeding 44° C at the point where it enters the sewer;
 - (iii) has a pH value less than 6.0;
 - (iv) contains any substance of whatever nature likely to produce or release explosive, flammable, poisonous or offensive gases or vapours in any sewer;
 - (v) contains any substance having an open flashpoint of less than 93°C or which releases a poisonous vapour at a temperature below 93° C;
 - (vi) contains any material of whatever nature, including oil, grease, fat or detergents capable of causing obstruction to the flow in sewers or drains or interference with the proper operation of sewerage treatment works;
 - (vii) shows any visible signs of tar or associated products or distillates, bitumens or asphalts;
 - (viii) contains any substance in such concentration to produce an undesirable taste after chlorination or an undesirable odour or colour, or excessive foam;
 - (ix) has either a greater PV (Permanganate Value) or COD (Chemical Oxygen Demand) value, a lower pH value, or a higher caustic alkalinity or electrical conductivity than specified in Schedule 2, which Schedule refers, without the prior approval and subject to the payment of relevant charges set out in the prescribed tariff and such conditions as the Municipality may impose;
 - (x) contains any substance which –
 - (aa) cannot be treated at the sewage treatment work to which it could be discharged;
 - (bb) will negatively affect the treatment processes at the sewage treatment work to which it could be discharged; or
 - (cc) will negatively impact on the ability of the sewage treatment work to produce discharges that meet the waste water discharge standards set in terms of the National Water Act, 1998 (Act 36 of 1998), or
 - (xi) either alone or in combination with other substance may –
 - (aa) generate or constitute a toxic substance dangerous to the health of persons employed at the sewage treatment works or entering the Municipality's sewers or manholes in the course of their duties;

- (bb) be harmful to sewers, treatment plant or land used for the disposal of treated waste water; or
 - (cc) adversely affect any of the processes whereby sewage is treated or any re-use of sewage effluent.
- (5) A person may not cause or permit the accumulation of grease, oil, fat or solid matter in any drainage installation that will adversely affect its effective functioning.
- (6) The Municipality may, despite any other actions that may be taken in terms of these By-laws, recover from any person who discharges industrial effluent or any substance which is unauthorized or illegal, all costs incurred by the Municipality as a result of such discharges, including costs that result from –
- (a) injury to persons,
 - (b) damage to the sanitation system; or
 - (c) a prosecution in terms of the National Water Act, 1998 (Act 36 of 1998).

127. Illegal connection

Where a consumer's access to water supply services has been restricted or disconnected, and he or she –

- (a) intentionally unlawfully reconnects to services; or
- (b) intentionally or negligently interferes with infrastructure through which water supply services are provided, then his or her water supply shall on written notice be disconnected.

128. Interference with infrastructure

- (1) A person may not unlawfully and intentionally or negligently interfere with infrastructure by which the Municipality provides municipal services.
- (2) If a person contravenes subsection (1), the Municipality may –
- (a) by written notice require such person to cease or rectify the interference at his or her own expense within a specified period; or
 - (b) if the situation is a matter of urgency, without prior notice, prevent or rectify the interference and recover the cost from such person.

129. Use of water from sources other than water supply system provided by Municipality

- (1) A person may not use or permit the use of water obtained from a source other than the water supply system or rain water tanks which are not connected to the water installation, except with the prior approval of the Municipality, and in accordance with such conditions as it may impose, for domestic, commercial or industrial purposes.
- (2) Any person desiring the approval referred to in subsection (1) must provide the Municipality with evidence to the effect that –
- (a) the water referred to in subsection (1) complies, whether as a result of treatment or otherwise, with the requirements of SABS 241: Drinking Water; or
 - (b) the use of such water does not or will not constitute a danger to health.
- (3) An approval given in terms of subsection (1) may be withdrawn if –
- (a) a condition imposed in terms of subsection (1) is breached; or
 - (b) the water quality no longer conforms to the requirements referred to in subsection (2).
- (4) The Municipality may take samples of water obtained from a source, other than the water supply system, and cause the samples to be tested for compliance with the requirements referred to in subsection (2).

- (5) The relevant charge set out in the prescribed tariff for the taking and testing of the samples referred to in subsection (4) must be paid by the person to whom approval was granted in terms of subsection (1).
- (6) If water obtained from a borehole or other source of supply on any premises is used for a purpose which gives rise to the discharge of such water or a portion thereof into the Municipality's sewerage system, the Municipality may install a meter in the pipe leading from such borehole or other source of supply to the point where it is so used, and the provisions of section 32 apply insofar as they may be applicable in respect of the meter.

CHAPTER 7: ENFORCEMENT

130. Responsibility for compliance with By-laws

- (1) The owner of premises is responsible for ensuring compliance with these By-laws in respect of all or any matters relating to any water and sanitation installation, and should an owner contravene a provision with which he or she must comply, he or she commits an offence.
- (2) The consumer is responsible for compliance with these By-laws in respect of matters relating to the use of any water and sanitation installation, and should a consumer contravene a provision with which he or she must comply, he or she commits an offence.

131. Notice of compliance and representations

- (1) The Municipality may, by a notice of compliance, which must be in writing, order an owner, consumer or any other person who fails, by act or omission, to comply with the provision of these By-laws or to any condition imposed thereunder, to remedy such breach within a period specified in the notice, and the notice must specify –
 - (a) the name and residential and postal address, if either or both of these be known, of the affected person;
 - (b) the provision of these By-laws which has not been complied with;
 - (c) in sufficient detail to enable compliance with the notice, the measures required to remedy the situation;
 - (d) that the person must within a specified period take the measures to comply with the notice, to diligently continue with the measures, and to complete the measures before a specified date;
 - (e) that failure to comply with the requirements of the notice within the period contemplated in paragraph (d) is an offence; and
 - (f) that written representations, as contemplated in subsection (3), may within the period stipulated under paragraph (d) above, be made to the Municipality at a specified place.
- (2) The Municipality, when considering any measure or period envisaged in subsection (1)(c) and (d), must have regard to –
 - (a) the principles and objectives contained in section 2;
 - (b) the nature of the non-compliance; and
 - (c) any other relevant factors.
- (3) A person may, within the period contemplated in subsection (1)(f), make representations, in the form of a sworn statement or affirmation to the Municipality at the place specified in the notice.
- (4) Representations not lodged within the period will not be considered, except where the person has shown good cause and the Municipality condones the late lodging of the representations.

- (5) The Municipality must consider the representations and any response thereto by an authorized official or any other person, if there be such a response.
- (6) The Municipality may, on its own volition, conduct any further investigations to verify the facts if necessary, and the results of the investigation must be made available to the person, who must be given an opportunity of making a further response if he or she so wishes, and the Municipality must also consider the further response.
- (7) The Municipality must, after consideration of the representations and response, if there be such a response, make an order in writing and serve a copy of it on the person.
- (8) The order must –
 - (a) set out the findings of the Municipality;
 - (b) confirm, alter or set aside in whole or in part, the notice of compliance; and
 - (c) specify a period within which the person must comply with the notice.
- (9) If the notice of compliance is confirmed, in whole or in part, or is altered but not set aside, the Municipality must inform the person that he or she –
 - (a) must discharge the obligations set out in the notice; or
 - (b) may elect to be tried in court.
- (10) If the person elects to be tried in court he or she must, within seven calendar days, notify the Municipality in writing of his or her intention to be so tried.
- (11) If the person does not elect to be tried in court, he or she must, within the manner and time set out in the notice discharge his or her obligations.
- (12) Where there has been no compliance with the requirements of a notice, the person commits an offence, and the Municipality may take such steps as it deems necessary to remedy the situation and the costs thereof must be paid to the Municipality in accordance with section 132.

132. Costs

- (1) Should an owner or consumer fail to take the measures required of him or her by notice, the Municipality may, subject to subsection (3) recover all costs incurred as a result of it acting in terms of section 131(12) from that person.
- (2) The costs claimed must be reasonable and may include, without being limited to, costs relating to labour, electricity, water, equipment, administrative and overhead costs.
- (3) If more than one person is liable for the costs incurred, the liability must be apportioned by agreement among the persons concerned according to the degree to which each was responsible for the situation existing.
- (4) Costs that are incurred by the Municipality when it does alterations or other works may be recovered from the person on whom the notice was served, or if a deposit has been paid, the costs may be deducted from the deposit.

CHAPTER 8: MISCELLANEOUS PROVISIONS

133. Provision of information

An owner, occupier, consumer or person within the area of supply of the Municipality must on written request provide the Municipality with accurate information in writing that is reasonably required by the Municipality for the implementation or enforcement of these By-laws.

134. Appeal

- (1) A person whose rights are affected by a decision of an authorized officer may appeal against that decision in terms of section 62 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), which applies with the necessary changes, by giving written notice of the appeal and reasons to the Municipality within 21 days of the date of the notification of the decision.

- (2) If it is alleged in an appeal that a measuring device is inaccurate, the device must be subjected to a standard industry test to establish its accuracy. The consumer must be informed of the possible cost implications including the estimated amount of such test prior to such test being undertaken.
- (3) The relevant charge set out in the prescribed tariff, if applicable, must be –
 - (a) retained by the Municipality if the measuring device is found not to be defective; or
 - (b) refunded to the applicant if the measuring device is found to be defective.
- (4) A measuring device is regarded to be defective if, when tested in accordance with a standard industry test and found defective, or if the measuring device is a meter, it does not meet generally accepted specifications as set out in the regulations published under section 9 of the Act.
- (5) In addition to subsection (4), the Municipality must, if the measuring device is found defective –
 - (a) repair the measuring device or install another device which is in good working order, without charge to the consumer, unless the costs thereof are recoverable from the consumer due to a contravention of these By-laws; and
 - (b) determine the quantity of water service for which the consumer will be charged in lieu of the quantity measured by the defective measuring device by applying the provisions of section 56.
- (6) The Municipality must provide to the Water Services Authority a report on a quarterly basis with regard to any queries and complaints in respect of accounts or appeals against the findings of an authorized officer in respect of queries or complaints.

135. Authentication and serving of notices and other documents

- (1) A notice or other document requiring authentication by the Municipality must be signed by the municipal manager or by an authorized officer and when the notice or document is issued by the Municipality in terms of these By-laws it is regarded to be duly issued if it is signed by an authorized officer.
- (2) Any notice or other document that is served on a person in terms of these By-laws is regarded as having been served –
 - (a) when it has been delivered to that person personally;
 - (b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of 16 years;
 - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic, and an acknowledgment of the posting thereof from the postal service is obtained;
 - (d) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided by paragraphs (a), (b) or (c);
 - (e) if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the property or premises, if any, to which it relates;
 - (f) in the event of a body corporate, when it has been delivered at the registered office of the business premises of such body corporate; or
 - (g) when it has been delivered, at the request of that person, to his or her e-mail address.
- (3) Service of a copy is deemed to be service of the original.
- (4) When any notice or other document must be authorized or served on the owner, occupier, or holder of any property, or right in any property, it is sufficient if that person

is described in the notice or other document as the owner, occupier, or holder of the property or right in question, and it is not necessary to name that person.

- (5) Any legal process is effectively and sufficiently served on the Municipality when it is delivered to the municipal manager, or a person in attendance at the municipal manager's office.

136. Offences

- (1) A person commits an offence if he or she –
- (a) obstructs or hinders the Municipality in the exercising of the powers or performance of functions or duties under these By-laws;
 - (b) uses, tampers or interferes with the Municipality's equipment, the water supply system, sanitation system and reticulation network or consumption of services rendered;
 - (c) contravenes or fails to comply with these By-laws other than a provision relating to payment for municipal services; or
 - (d) fails to comply with the written request served upon him or her in terms of section 134;
- (2) A person contemplated in subsection (1) is liable upon conviction to a fine or to a period of imprisonment or community service not exceeding four months, or in the event of a continued offence to a further fine of R2000,00 for every day the offence is continued.

137. Prima facie evidence

In legal proceedings by or on behalf of the Municipality, a certificate reflecting the amount due and payable to the Municipality, under the hand of the municipal manager must upon mere production of it be accepted by any court of law as prima facie evidence of the indebtedness.

138. Power of entry and inspection

- (1) An authorized officer may on the authority of a warrant, for any purpose connected with the implementation or enforcement of these By-laws, at all reasonable times or in an emergency at any time –
- (a) enter premises;
 - (b) request information;
 - (c) take samples;
 - (d) make such inspection, examination and enquiry and carry out work as he or she may deem necessary, and for these purposes operate any component of the drainage installation.
- (2) If the authorized officer considers it necessary that work be performed to enable him or her properly and effectively to implement a function referred to in subsection (1) he or she may subject to subsection (3) –
- (a) by written notice require the owner or occupier of the premises at his or her own cost to do specified work within a specified period; or
 - (b) if the situation is a matter of urgency, without prior notice, do such work or cause it to be done, at the costs of the owner.
- (3) If the work referred to in subsection (2) is carried out for the sole purpose of establishing whether a contravention of these By-laws has been committed and no such contravention is established, the Municipality must bear the expense connected therewith together with that of restoring the premises to its former condition.
- (4) Any entry and inspection must be conducted in conformity with the requirements of the Constitution of South Africa Act, 1996 (Act 108 of 1996), and any other law and, in particular, with strict regard to decency, order and respect for a person's dignity, freedom and security, and personal privacy.

- (5) An authorized officer may be accompanied by an interpreter and any other person reasonably required to assist the authorized officer in conducting the inspection.
- (6) A person representing the Municipality must, on request, provide his or her identification and authority.

139. Indemnification from liability

Neither employees of the Municipality nor any person, body, organisation or corporation acting on behalf of the Municipality is liable for any damage arising from any omission or act done in good faith without any fault in the course of his or her duties.

140. Exemption

- (1) The Municipality may, in writing, exempt an owner, consumer, any other person or category of owners, consumers or other persons from complying with a provision of these By-laws, subject to any conditions it may impose if the application or operation of that provision would be unreasonable, but the Municipality may not grant exemption from any section of these By-laws that may result in –
 - (a) the wastage or excessive consumption of water;
 - (b) the evasion or avoidance of water restrictions;
 - (c) significant negative effects on public health, safety or the environment;
 - (d) the non-payment for services;
 - (e) the installation of pipes and fittings which are not approved; and
 - (f) the Act, or any regulations made in terms thereof, not being complied with.
- (2) The Municipality may at any time after giving written notice of at least 30 days, withdraw any exemption given.
- (3) The Municipality must review all exemptions quarterly.
- (4) The Municipality must consider a submission for exemption at the next ensuing Municipality meeting immediately following receipt of a submission, and should the Municipality fail to do so or the meeting fail to address the issue and take a resolution, the applicant for exemption may appeal to the Member of the Executive Committee of the Provincial Government charged with the administration of local government affairs ("the MEC") to intervene in the matter.

141. Availability of By-laws

- (1) A copy of these By-laws must be included in the Municipality's Municipal Code as required in terms of section 15 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000).
- (2) A copy of these By-laws must be available for inspection at the offices of the Municipality at all reasonable times.
- (3) A copy of these By-laws may be obtained from the Municipality against payment of the relevant fee set out in the prescribed tariff.

142. Conflict of law

If there is any conflict between these By-laws and any other by-laws of the Municipality, these By-laws prevail, subject to section 33(2) of the Customer Care and Revenue Management By-laws.

143. Co-operation between municipalities and application

- (1) In an effort to achieve optimal service delivery, the Municipality may enter into agreements with the District Municipality in respect of the following:
 - (a) Practical arrangements with regard to the execution of the provisions of these By-laws;

- (b) recovery of costs and expenses;
 - (c) mechanisms for the settlement of disputes with regard to the execution of powers or a matter on which there has been an agreement;
 - (d) any other matter regarded as being necessary by the District Municipality and the Municipality to achieve optimal service delivery.
- (2) The provisions of these By-laws apply to the jurisdictional area of the Municipality including the District Management Area.

144. Liaison forums in community

- (1) The Municipality may establish one or more liaison forums in a community for the purposes of –
- (a) creating conditions for a local community to participate in the affairs of the Municipality;
 - (b) encouraging a local community to participate in the affairs of the Municipality; and
 - (c) promoting the achievement of efficient water supply and sanitation services.
- (2) A liaison forum may consist of –
- (a) a member or members of an interest group;
 - (b) a member or members of a community in whose immediate area an efficient water supply and sanitation services are lacking;
 - (c) a designated official or officials of the Municipality; and
 - (d) the councillor responsible for water supply and sanitation services..
- (3) (a) The Municipality may, when considering an application for consent, permit or exemption certificate in terms of these By-laws, where applicable, request the input of a liaison forum.
- (b) A liaison forum or any person or persons contemplated in subsection (2) may, on own initiative submit an input to the Municipality for consideration.

145. Transitional arrangements

- (1) Installation work authorized by the Municipality prior to the commencement date of these By-laws or authorized installation work in progress on such date is regarded to have been authorized in terms of these By-laws, and the Municipality may for a period of 90 days after the commencement of these By-laws authorise installation work in accordance with the by-laws that regulated such work immediately prior to the promulgation of these By-laws.
- (2) Any reference in these By-laws to a charge determined by the Municipality is regarded to be a reference to a charge determined by the Municipality under the laws repealed by section 146, until the effective date of any applicable charges that may be determined by the Municipality in terms of these By-laws or by-laws relating to credit control and debt collection, and any reference to a provision in the laws repealed by section 146 is regarded to be a reference to the corresponding provision in these By-laws.
- (3) Any approval, consent or exemption granted under the laws repealed by section 146, save for the provisions of subsection (2), remain valid.
- (4) A consumer is not required to comply with these By-laws by altering a water installation or part thereof which was installed in conformity with any laws applicable immediately prior to the commencement of these by-laws. If, however, the installation or part thereof is so defective or in such a condition or position as to cause waste or undue consumption

of water, pollution of the water supply or a health hazard, the Municipality may by notice require the consumer to comply with the provisions of these By-laws.

- (5) Despite sub-section (4), no flushing urinal that is not user-activated may be installed or continue to operate in any water installation, and all flushing urinals that are not user-activated installed before these By-laws commence, must be converted to user-activated urinals within two years of the commencement of these By-laws.

146. Repeal of existing water services by-laws

- (1) The By-Laws enacted by Colesberg Transitional Local Council, Noupoot Transitional Local Council and Masizakhe Representative Council with regard to water and sanitation are hereby repealed.
- (2) Any permission obtained, right granted, condition imposed, activity permitted or anything done under a repealed law, shall be 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.

147. Short title and commencement

- (1) These By-laws are called the Water Supply and Sanitation Services By-laws, 2009 of the Umsobomvu Municipality, and commence on the date of publication thereof in the Provincial Gazette.
- (2) The Municipality may, by notice in the Provincial Gazette, determine that the provisions of these By-laws, listed in the notice, do not apply in certain areas within its area of jurisdiction listed in the notice from a date specified in the notice.

SCHEDULE 1
QUALITY STANDARDS
 (Section 103(1))
PART A

Quality standards for disposal of industrial effluent

Acceptance of industrial effluent for discharge into the sewage disposal system

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

The industrial effluent shall not contain concentrations of substances in excess of those stated below :-

Large works general quality limits are applicable when an industry's effluent discharges in a catchment leading to a sewage works of greater than 25 Ml/d capacity. Small Works quality limits apply for catchments leading to sewage works with less than 25 Ml/d capacity.

GENERAL QUALITY LIMITS	LARGE WORKS □ 25 Ml/d	SMALL WORKS □ 25 Ml/d	UNITS
1. Temperature °C	□ 44 C	□ 44 C	Degrees Celsius
2. pH	6 □ pH □ 10	6,5 □ pH □ 10	pH units
3. Oils, greases, waxes of mineral origin	50	50	mg/
4. Vegetables oils, greases, waxes	250	250	mg/
5. Total sugar and starch (as glucose)	1 000	500	mg/
6. Sulphate in solution (as SO ₄ ⁼)	250	250	mg/
7. Sulphide, hydrosulphides (as S ⁼) and polysulphides	1	1	mg/
8. Chlorides (as C ⁻)	1 000	500	mg/
9. Fluoride (as F ⁻)	5	5	mg/
10. Phenols (as phenol)	10	5	mg/
11. Cyanides (as CN ⁻)	20	10	mg/
12. Settleable solids	Charge	Charge	m/
13. Suspended solids	2 000	1 000	mg/
14. Total dissolved solids	1 000	5000	mg/
15. Electrical conductivity	-	400	Ms/m
16. Anionic surfactants	-	500	mg/
17. C.O.D.	Charge	Charge	mg/

GENERAL QUALITY LIMITS	LARGE WORKS >25 M/d	SMALL WORKS <25 M/d	UNITS
<u>Heavy Metal Limits</u>			
18. Copper (as Cu)	50	5	mg/
19. Nickel (Ni)	50	5	mg/
Zinc (Zn)	50	5	mg/
21. Iron (Fe)	50	5	mg/
22. Boron (B)	50	5	mg/
23. Selenium (Se)	50	5	mg/
24. Manganese (Mn)	50	5	mg/
25. Lead (Pb)	20	5	mg/
26. Cadmium (Cd)	20	5	mg/
27. Mercury (Hg)	1	1	mg/
28. Total Chrome (Cr)	20	5	mg/
29. Arsenic (As)	20	5	mg/
30. Titanium (Ti)	20	5	mg/
31. Cobalt (Co)	20	5	mg/
TOTAL METALS	100	20	mg/

Special limitations

- 1 No calcium carbide, radio active waste or isotopes
- 2 No yeast and yeast wastes, molasses spent or unspent
- 3 No cyanides or related compounds capable of liberating HCN gas or cyanogen
4. No degreasing solvents, petroleum spirit, volatile flammable solvents or any substance which yields a flammable vapour at 21 C

PART B
Acceptance of industrial effluent for discharge into sea outfalls

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

	SEA OUTFALL QUALITY LIMIT		UNIT
1.	Temperature	44	C
2.	Ph	5,5 < pH < 9,5	
3.	Settleable solids	2	m/
4.	Oils, greases and waxes of mineral origin	50	mg/
5.	Arsenic (expressed as As)	5	mg/
6.	Cadmium (expressed as Cd)	1,5	mg/
7.	Total chromium (expressed as Cr)	3	mg/
8.	Copper (expressed as Cu)	3	mg/
9.	Lead (expressed as Pb)	5	mg/
10.	Mercury (expressed as Hg)	0,05	mg/
11.	Cyanides (expressed as CN)	10	mg/
12.	Nickel (expressed as Ni)	10	mg/
13.	Zinc (expressed as Zn)	20	mg/
14.	Sulphide (expressed as S ⁻)	1	mg/
15.	Sulphates in solution (expressed as SO ₄ ⁼)	250	mg/

SCHEDULE 2
(Section 126(4)(d)(ix))
VALUES

Parameter	Allowed Specification
PV-not exceed	1400 ml/l
Ph within range	6,0 – 10,0
Electrical conductivity - not greater than	500 m
	S / m at 20 °C
Caustic alkalinity (expressed as CaCO ₃)	2 000 mg / l
Substance not in solution (including fat, oil, grease waxes and like substances)	2 000 mg / l
Substances soluble in petroleum ether	500 mg / l
Sulphides, hydro-sulphides and polysulphides (expressed as S)	50 mg / l
Substances from which hydrogen cyanide can be liberated in the sewage drainage installation, sewer or sewage treatment works (expressed as HCN)	20 mg / l
Formaldehyde (expressed as HCHO)	50 mg / l
Non - organic solids in suspension	100 mg / l
Chemical oxygen demand (CO)	5 000 mg / l
All sugars and / or starch (expressed as glucose)	1 500 mg / l
Available chlorine (expressed as Cl)	100 mg / l
Sulphates (expressed as SO ₄)	1 800 mg / l
Fluorine – containing compounds (expressed as F)	5 mg / l
Anionic surface active agents	500 mg / l

METALS:

Group 1:

Metal	Expressed as
Manganese	Mn
Chromium	Cr
Copper	Cu
Nickel	Ni
Zinc	Zn
Iron	Fe
Silver	Ag
Cobalt	Co
Tungsten	W
Titanium	Ti
Cadmium	Cd

The total collective concentration of all metals in Group 1 (expressed as indicated above) in any sample of the effluent, shall not exceed 50 mg/l, nor shall the concentration of any individual metal in a sample exceed 20 mg/l.

Group 2:

Metal	Expressed as
Lead	Pb
Selenium	Se
Mercury	Hg

The total collective concentration of all metals in Group 2 (expressed as indicated above) in any sample of the effluent shall not exceed 10 mg/l, nor shall the concentration of any individual metal in any sample exceed 5 mg/l.

OTHER ELEMENTS

Element	Expressed as
Arsenic	As
Boron	B

The total collective concentration of all elements (expressed as indicated above) in any sample of the effluent shall not exceed 20 mg / l.

RADIO-ACTIVE WASTES

Radio-active wastes or isotopes: Such concentration as may be laid down by the Atomic Energy Board or any national or Department:

Provided that, notwithstanding the requirements set out in this Part, the Municipality reserves the right to limit the total mass of any substance or impurity discharged per 24 hours into the sanitation system from any premises.

METHOD OF TESTING:

The method of testing in order to ascertain the concentration of any substance in this Schedule, shall be the test normally used by the Municipality for these purposes. Any person discharging any substance referred to in this Schedule shall ascertain the details of the appropriate test from the Municipality.

**SCHEDULE 3
 (Section 99(5))**

APPLICATION FORM FOR THE DISCHARGE OF INDUSTRIAL EFFLUENT TO THE MUNICIPALITY'S SANITATION SYSTEM

(Please complete application in block capitals)

I (name):

the undersigned, duly authorised to set on behalf of

and hereinafter referred to as the applicant, hereby apply in terms of the Water Services Bylaws of the Municipality for approval to discharge industrial effluent into the Municipality's sanitation system in accordance with the information provided herein.

PART I

1. NATURE OF THE BUSINESS OR INDUSTRY CONCERNED:

2. NAME OR STYLE UNDER WHICH THE BUSINESS OR INDUSTRY IS CONDUCTED:

3. POSTAL ADDRESS OF THE BUSINESS OR INDUSTRY:

8. INFORMATION RELATING TO EMPLOYEES:

4. PHYSICAL STREET ADDRESS:

ERF NO OR FARM PTN:
 _____TOWNSHIP OR
 FARM: _____

5. If the business or industry is conducted by a company or closed corporation, state the name of the secretary, and if it is a partnership state the names of the partners:

6. IS THIS A NEW OR ESTABLISHED BUSINESS:

7. DESCRIPTION OF INDUSTRIAL OR TRADE PROCESS BY WHICH THE EFFLUENT WILL BE PRODUCED:

	Office	Factory
Total number of daily employees (not included in (4)):		
(2) Number of shifts worked per day:		
(3) Number of days worked per week :		
(4) Number of persons resident on the premises:		
(5) Is a canteen provided? :		

PART II

INFORMATION RELATING TO THE CONSUMPTION OF WATER

1. TOTAL NUMBER OF LITRES OF WATER CONSUMED IN SIX MONTHS:

	Meter No	Meter No	Meter No	Total
Water purchased from the Municipality				
Water from borehole or other source				
Water entering with raw materials				
Section of plant served by meter				
Total A				

2. WATER CONSUMPTION

- (1) Industrial kl/Month
- (i) Quantity of water in product
 - (ii) Quantity of water lost by evaporation
 - (iii) Quantity of water used as boiler make-up
 - (iv) Quantity of water for other uses (e.g. cooling, gardens, etc)

TOTAL B _____

- (2) Domestic use kl/Month
- (i) Total number of employees (Allow 1 kilolitre/person/month)
 - (ii) Total number of employees permanently resident on the premises eg. hostels (Allow 1 kilolitre/person/month)

TOTAL C _____

3. EFFLUENT DISCHARGE INTO SANITATION SYSTEM

- (1) Metered volume (if known)kl/ Month
- (2) Estimated un-metered volume (see below*)kl/ Month
- (3) Estimated rate of discharge

(4) Period of maximum discharge (eg. 07:00 to 08:00)

* In the event that no effluent meter is installed on the premises, the estimated volume of un-metered effluent discharge to sewer is calculated as follows:

A - (B + C) =Kilolitre /Month

PART III

INFORMATION REGARDING THE COMPOSITION OF INDUSTRIAL EFFLUENT

Information relating to the chemical and physical characteristics of the effluent to be discharged:

- (1) Maximum temperature of effluent °C _____
- (2) pH value Ph _____
- (3) Nature and amount of settleable solids _____
- (4) Organic Content (Expressed as Chemical Oxygen Demand) _____
- (5) Maximum total daily discharge (kilolitres) _____
- (6) Maximum rate of discharge (kilolitres / hr) _____
- (7) Periods of maximum discharge, (e.g. 7:00 am to 8:00 am) _____
- (8) If any of the substances or their salts, specified in the table, are formed on the premises, a cross must be placed in the space in which the substance appears, and, if possible, the average concentration of this substance likely to be present in any effluent must also be stated.

TABLE

ELEMENTS		COMPOUNDS	OTHER SUBSTANCES
Arsenic	mg/l	Ammonium mg/l	Grease and / or oil mg/l
Boron	mg/l	Nitrate mg/l	Starch and / or sugars mg/l
Cadmium	mg/l	Sulphide mg/l	Synthetic detergents mg/l
Chromium	mg/l	Sulphate mg/l	Tar and / or tar oils mg/l
Cobalt	mg/l	Others (Specify) mg/l	Volatile Solvents mg/l
Copper	mg/l		Others (Specify) mg/l
Cyanide	mg/l		
Iron	mg/l		
Lead	mg/l		
Manganese	mg/l		
Mercury	mg/l		
Nickel	mg/l		
Selenium	mg/l		
Tungsten	mg/l		
Titanium	mg/l		
Zinc	mg/l		
Other (Specify)	mg/l		

- (9) Any further information as to kind or character, chemical compositions, concentrations or other properties peculiar to the industrial effluent to be furnished on a separate sheet and attached hereto.

PART IV

CONDITIONS RELATING TO THE ACCEPTANCE OF INDUSTRIAL EFFLUENT

1. The applicant shall attach descriptions and a statement of the dimensions of grease and oil traps, screens, dilution and neutralising tanks and any other provision made for the treatment of the effluent prior to discharge to the sanitation system.
2. The applicant shall submit to the Municipality, if requested, plans showing the reticulation systems on his premises for water and industrial effluent.
3. The applicant shall, in addition to complying with the provisions of the Municipality's Water Services Bylaws aimed at the protection of its employees, sewers and treatment plant from damage, comply with any direction concerned with such protection given by the Engineer verbally or in writing for the purpose of ensuring the applicant's compliance with the said bylaws.
4. The applicant shall notify the Municipality, as soon as possible after he becomes aware thereof, or at least 14 days before anything is done to cause material alteration in the nature or quantity of the industrial effluent specified in this application or in any of the facts stated by him therein.
5. The applicant shall, within 30 days from the date of signature of this application, procure an accurately representative sample of not less than 5 litre of the industrial effluent to be discharged into the sewer, which sample shall be free of domestic sewage, and shall submit one half thereof to the Municipality for analysis and also submit to the Engineer a report on the sample made by an analyst appointed by him: Provided that in the case of a newly established industry the period specified may be extended by the Municipality for a period not exceeding six months or such further extended periods as the Municipality in its discretion may approve.
6. The applicant hereby declares and warrants that the information given by him in this form, or otherwise, in connection with this application is, to the best of his knowledge and belief, in all respects correct.
7. The applicant agrees that the said information, being in all respects correct, shall form the basis on which this application is granted by the Municipality.

Thus done at by the applicant this day of

..... 20

.....
Signature and capacity of the applicant

SCHEDULE 4
FORMULA FOR THE CALCULATION OF EFFLUENT DISCHARGE
CHARGES
 (Section 77(7))

The additional charge for industrial effluent for the disposal of high strength sewage to a waste water treatment plant shall be determined in accordance with the following formula:

$$T_c = Q_c t \left[a \left(\frac{COD_c - COD_d}{COD_d} \right) + b \left(\frac{P_c - P_d}{P_d} \right) + c \left(\frac{N_c - N_d}{N_d} \right) \right]$$

- Where T_c = Extraordinary Treatment Cost to Consumer
 Q_c = Waste water Volume discharged by consumer in kl
 t = Unit Treatment cost of waste water in R/kl
 COD_c = Total COD of waste water discharged by consumer in milligrams/litre and is inclusive of both the biodegradable and non-biodegradable portion of the COD
 COD_d = Total COD of domestic waste water in milligrams per litre
 P_c = Ortho-phosphate concentration of waste water discharged by consumer in milligrams phosphorus per litre
 P_d = Ortho-phosphate concentration of domestic waste water in milligrams phosphorus per litre
 N_c = Ammonia concentration of waste water discharged by consumer in milligrams of nitrogen per litre
 N_d = Ammonia concentration of domestic waste water in milligrams of nitrogen per litre
 a = Portion of the costs directly related to COD
 b = Portion of the costs directly related to the removal of phosphates
 c = Portion of the costs directly related to the removal of nitrates

Different terms	Value
T	R0.82/kl
COD_d	600 mg/l
	10 mg/l
N_d	25 mg/l
a	0.6
b	0.25
c	0.15

By-law No. 20, 2009

WORK IN A ROAD RESERVE BY-LAW, 2009

BY-LAW

To provide for the management of work in a road reserve in the Umsobomvu Municipality; and for matters connected therewith.

BE IT ENACTED by the Umsobomvu Municipality, as follows:-

TABLE OF CONTENTS

1. Definitions
2. Principles and objectives
3. Application

CHAPTER 1: WORK IN ROAD RESERVE

4. Work in road reserve
5. Application to do work in road reserve
6. Permission to do work in road reserve
7. Protected and unprotected road
8. Lane rental
9. Existing service in road reserve
10. Traffic signs and barricading
11. Road closure
12. Excavations
13. Trenchless methods
14. Emergency work
15. General specifications for backfilling and reinstatements
16. Backfilling of road
17. Re-using excavated material
18. Importing material
19. Foamed concrete
20. Backfilling of footway
21. Permanent reinstatement of road
22. Permanent reinstatement of footway
23. Temporary reinstatements by contractor
24. Remedial work
25. Completion of work
26. Completion notice and certificate of completion
27. Performance specifications

CHAPTER 2: HOARDINGS

28. Permit to hoard
29. Prescribed width of hoarding
30. Close hoardings
31. Corner hoardings
32. Hoarding entrances
33. Obstructing fire hydrants
34. Temporary footways
35. Lights on hoardings

36. Gutter to be kept clear
37. Removal of hoardings
38. Damage to kerbing and paving
39. Municipality may remove hoardings
40. Hoardings: Special construction
41. Deposits for footway damage
42. Removal of hoardings fixed without permit
43. Planked shed, roof or gantry over sidewalks

CHAPTER 3: MISCELLANEOUS PROVISIONS

44. Notice of compliance and representations
45. Costs
46. Authentication and service of notices and other documents
47. Appeal
48. Penalties
49. Revocation of by-laws
50. Short title and commencement

1. Definitions

In these By-laws, unless the context indicates otherwise –

"backfilling" means the replacement of the structural layers in a trench or excavation and includes the base, sub-base, selected sub-grade and sub-grade, but exclude the surfacing;

"Council" means the Umsobomvu Municipal Council;

"emergency work" means any work that is required to prevent or end a dangerous situation, to prevent or end an unplanned interruption in the supply of a service, or to avoid any substantial losses, such as, but not limited to burst pipes;

"lane rental" means the rental that are paid to the municipality by a service agency whose work in a road reserve results in time delay costs being incurred by the users of the road reserve;

"protected road" means a road which is of particular strategic importance or which poses special engineering difficulties and which has been designated a protected road by the municipality;

"public road" means any road, public street, cycle path, thoroughfare or any other place, and includes –

- (a) the verge of any such public road;
- (b) any footpath, sidewalk or similar pedestrian portion of a road reserve;
- (c) any bridge, ferry or drift traversed by any such public road;
- (d) any other object belonging to such public road, which has at any time been -
 - (i) dedicated to the public;
 - (ii) used without interruption by the public for a period of at least thirty years;
 - (iii) declared or rendered such by the Municipality or other competent authority; or
 - (iv) constructed by a local authority;
- (e) any land, with or without buildings or structures thereon, which is shown as a public road on -
 - (aa) any plan of subdivision or diagram approved by the Municipality or other competent authority and acted upon; or
 - (bb) any general plan as defined in the Land Survey Act, 1997 (Act 8 of 1997), registered or filed in a deeds registry or Surveyor General's office, unless such land is on such plan or diagram described as a private public road;

"reinstatement" means, in the instance of a road, to the replacement of the bituminous surfacing or paving blocks, and in the instance of a footway or verge, to the replacement of the paving blocks, paving slabs, bituminous surfacing or grass;

"road reserve" means the full width of a public road, and includes the verge and the roadway;

“service” means any system for supplying a public need that a service agency has on a road reserve;

“service agency” means a municipal department, public agency or utility that has a service in a road reserve;

“work in the road reserve” means any activity, including but not limited to the activities provided for in section 4 of these By-laws, carried out within a road reserve.

2. Principles and objectives

- (1) It is the duty of the Council, who is the custodian of all municipal road reserves, to control and co-ordinate all work in the road reserves, and for these purposes the Council takes cognisance of the following:
 - (a) The value of other services in a road reserve is often more than that of the road itself and therefore require as much or more maintenance, rehabilitation and replacement;
 - (b) the activities contemplated in paragraph (a) may, together with the work that has to be carried out on the road itself, result in considerable delays, inconvenience, danger and additional costs to the road users; and
 - (c) any work that is done in a road reserve may have serious cost implications as a result of damage to roads and other services, damage to vehicles, injury to vehicle occupants or pedestrians, reduction of the effective life of the road, footway or other services, and time and social costs caused by delays.
- (2) The Council, in order to fulfil its duty contemplated in subsection (1) adopts these By-laws, thereby attempting to ensure maximum co-ordination and co-operation between all the various departments and agencies that have to share the road reserve to provide services to their customers, and to minimise the effect of all work in the road reserve to the benefit of all concerned, and in particular the ratepayers, road users (motorists and pedestrians), service agencies and the municipality, and for these purposes prescribe –
 - (a) the application procedure;
 - (b) the permission to be obtained;
 - (c) procedures to follow while doing the work and on completion of the work; and
 - (d) the specifications according to which the work must be done.

3. Application

- (1) These By-laws apply to a person who carries out work in a municipal road reserve in the municipal area of the municipality, such as a municipal department, an external organisation, a service agency and a contractor.
- (2) These By-laws do not apply to work in a motorway reserve or in a national or provincial road reserve within the municipal area of the municipality.

CHAPTER 1 **WORK IN ROAD RESERVE**

4. Work in road reserve

Work in the road reserve comprises work relating to:

- (a) The installation or maintenance of underground or overhead services by a municipal service agency and a non-municipal service agency, such as Telkom and Eskom, or any other person;
- (b) the erection of a structure that requires approved building plans in terms of the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977);
- (c) the erection of an advertising sign, structure or hoarding that requires approval in terms of the relevant by-laws;

- (d) road works, such as construction of a new road, a road widening or access to a development, undertaken by a developer;
- (e) a connection to municipal services, such as water, sewers, electricity and stormwater drainage from a development;
- (f) the installation of services by a private concern, such as but not limited to the laying of cables to connect different buildings;
- (g) the installation or construction of kerbing, paving, a bollard, a wall, and a garden on a sidewalk by a property owner or occupier;
- (h) the closure of a road;
- (i) the putting in place of a traffic calming device; and such work includes, but is not limited to, the following activities:
 - (aa) The digging of a trench;
 - (bb) tunnelling;
 - (cc) shaping and landscaping; and
 - (dd) other work that may affect a motorist, cyclist, pedestrian, the road, a footway, kerbing, a traffic sign, a traffic signal, street lighting, an underground or overhead service or a structure or service that is contained within a road reserve.

5. Application to do work in road reserve

- (1) A person who intends to carry out work in a road reserve ("the applicant"), must first obtain the approval of the municipality for carrying out the intended type of work, and for these purposes must complete and submit to the municipality a form similar to the form contained in Schedule 1, which schedule refers.
- (2) The municipality may approve or refuse to approve the intended work, and must notify the applicant of its decision within 21 days after the form contemplated in subsection (1) had been submitted.
- (3) A person who carries out work in a road reserve without having obtained the approval of the municipality as contemplated in subsection (1) commits an offence.

6. Permission to do work in road reserve

- (1) Once approval as contemplated in section 5(2) has been obtained to carry out the intended type of work, the applicant (hereafter referred to as "the contractor") must obtain the permission of the municipality to commence with the work in a road reserve, and for these purposes must pay the processing fee contemplated in section 45(1) and complete and submit to the municipality a form similar to the form contained in Schedule 2, which schedule refers, and –
 - (a) the form must be submitted timeously to ensure that permission is obtained before the work is programmed to start; and
 - (b) no work may be done in the road reserve without the permission of the municipality first having been obtained.
- (2) The following must be attached to the form contemplated in subsection (1):
 - (a) The form contemplated in section 5 on which the approval of the municipality appears; and
 - (b) three copies of an approved drawing which show the following details of the proposed work:
 - (i) A clear depiction of the proposed work;
 - (ii) where a service is to be installed;
 - (iii) the depth of the service below the level of the surface of the road;
 - (iv) the distance of the service from the road reserve boundary, such as the property boundary;

- (v) the position and extent of all structures, including underground structures such as manholes, chambers, and junction boxes; and
 - (vi) the location of all other services in the road reserve.
- (3) The municipality may refuse to grant permission for the intended work to commence, or may, if the intended work is not at variance with the principles and objectives or in contravention of these By-laws, grant permission on a form similar to the form in Schedule 3, which schedule refers, to commence with the work in a road reserve.
 - (4) The contractor must ensure that a copy of the form contemplated in subsection (3) is always on site when work is being done in the road reserve.
 - (5) The contractor accepts full responsibility for all costs associated with the work, including any damages to another service, the costs of relocation of another service, backfilling and reinstatements, tests and any claims that may result from the work.
 - (6) Only work described in the form contemplated in subsection (3) may be done and only at the locations stipulated in the form.
 - (7) The work described in the form contemplated in subsection (3) must commence within 90 days of date of issue of the form, otherwise re-application is required.
 - (8) The contractor must inform the municipality 48 hours before he or she commences with the work.
 - (9) The work must be carried out according to the procedures and specifications in these By-laws, the conditions under which the work was approved, and any other requirements of affected service agencies.
 - (10) The municipality must inform a relevant service agency in writing before work in the road reserve is commenced, that may affect the services of the service agency in the road reserve.
 - (11) The municipality may stop work being carried out in the road reserve if the municipality's permission had not first been obtained.
 - (12) A person who contravenes a provision of subsection (1)(b), (4), (6), (8) or (9) commits an offence.

7. Protected and unprotected road

- (1) No digging of a trench is allowed on a protected road.
- (2) A protected road may only be crossed using a trenchless method, however, if a trenchless method cannot be used for some reason in a protected road, special permission to excavate must be obtained from the municipality.
- (3) For the purpose of planning work done by a service provider, a private road and a cul de sac, except the first 20 m from an intersection with any other class road considered to be protected, is regarded as an unprotected road, unless it has been newly constructed, overlaid or resurfaced within seven years before the date of the proposed work, in which case it is regarded as a protected road.
- (4) If a road is protected it is indicated as such on the form contemplated in section 6(3).
- (5) A person who digs a trench in contravention of subsection (1) or who contravenes a provision of subsection (2) commits an offence.

8. Lane rental

- (1) Lane rental is based on a cost per lane, or part of a lane, occupied per day, or part of a day.
- (2) An occupied lane is considered as being not longer than one street block.¹
- (3) A prescribed fee must be paid by a service agency to the municipality and the municipality may charge the prescribed fee that differentiates between different road categories.

¹ For example: If a lane is closed for two street blocks, then the cost will be for two lanes.

- (4) The municipality and the service agency must, before the commencement of the work, agree on the days that will be allowed during which the work is to be completed.
- (5) The service agency must pay, during the agreed days, lane rental that is equal to 50 % of the time delay costs, however, after the agreed completion date, the lane rental will be 100% of time delay costs.
- (6) All costs will be based on average time delay costs that have been calculated for each road category.
- (7) A service agency is entitled to a reduced rate when work on the road reserve is undertaken after normal working hours, however, the service agency must take precautions to avoid disturbances in a residential area.
- (8) For every day that work is done after hours and the lane is fully opened for all the normal hours of the following day, lane rental is 10% of time delay costs.
- (9) For the purpose of calculating lane rental, normal hours are considered as being between 06:00 and 19:00 on Monday to Fridays and between 06:00 to 14:00 on Saturdays, however, these times are not fixed and may change depending on local conditions and special events in the vicinity where work is to be undertaken.
- (9) The municipality or any organisation working on behalf the municipality is exempt from payment of lane rental when any construction, resurfacing, maintenance, improvement or rehabilitation work is being done on the road itself.
- (10) During the days that have been agreed to in terms of subsection (4), no lane rental is payable if all lanes are kept open at all times.
- (11)
 - (a) If work continues after the agreed completion date, lane rental of 25% of time delay costs may be charged if all lanes are kept open.
 - (b) If a lane is closed for any part of a day, the normal lane rental of 50% of time delay costs for a full day may be charged before the official completion, date and 100 % thereafter.
- (12)
 - (a) Lane rental may also be charged if a footway is affected by work.
 - (b) If the footway is totally closed so that pedestrians are required to use a traffic lane, and since the lane will not be available for vehicular traffic, lane rental is payable in the normal way for the occupation of a traffic lane.
 - (c) If a footway is partially obstructed in such a way that it causes a delay for pedestrians, 50% of the lane rental that is applicable for that road, shall be charged.
 - (d) For the purpose of determining lane rental for a footway, a footway is considered that part of the verge that is normally used by pedestrians, and in the instance of a constructed footway, the whole constructed width is considered as a footway.

9. Existing service in road reserve

- (1) The applicant must obtain information from all service agencies supplying services within the municipal area of the municipality on the location of their services, which services must be indicated on the drawing contemplated in section 6(2)(b) to be submitted with the form contemplated in section 6(1)(b).
- (2) A service agency may lay down additional conditions relating to work in the vicinity of its service.
- (3) The applicant has to confirm, on the form contemplated in subsection (1) that the necessary information has been obtained from the service agencies and must undertake to adhere to the additional conditions laid down by a service agency.
- (4) A person who contravenes a provision of subsection (1) or makes a false entry on the form contemplated in subsection (3) or who does not adhere to additional conditions as contemplated in subsection (3) commits an offence.

10. Traffic signs and barricading

- (1) In order to ensure the maximum safety for motorists, pedestrians and workers and the minimum disruption of vehicles and pedestrians, the contractor must comply with all laws regarding traffic, safety, traffic signs and barricading.
- (2) The contractor must take all necessary measures and provide all necessary facilities to ensure an adequately safe and easy passage for traffic and pedestrians through areas in which work is in progress, or is uncompleted.
- (3) The erection and display of a traffic sign or barricading must be done according to the South African Roads and Traffic Signs Manual, Volume 2, Chapter 13.
- (4) The contractor must contact the relevant traffic authority to ensure that all requirements have been met for the particular location where the work is being done.
- (5) The contractor must ensure that a work site is properly barricaded and signed irrespective of how long the work will last.
- (6) A contractor who contravenes a provision of this section, commits an offence.

11. Road closure

- (1) The granting of permission does not give the contractor the authority to close the road completely to traffic, and the contractor must determine methods of construction and a programme of work on the basis that no road, or portion of road, may be completely closed to traffic for any appreciable period.
- (2)
 - (a) In exceptional circumstances the municipality may grant permission for the closure of a road or portion of road to traffic.
 - (b) The contractor must apply to the municipality separately for approval of such closure two weeks prior to the road being closed.
 - (c) Such a road closure may be approved for a specific period and is only valid for this specific period.
 - (d) If the work is not carried out in this specific period, the contractor must again apply for permission for the closure of the road.
- (3) Work carried out on an arterial, major collector and a road in the central business district are, to ensure free flow of traffic during peak hours, restricted to outside the following periods: from 6:30 to 09:00 and 15:30 to 18:00.
- (4) A contractor who fails to comply with the provisions of subsection (2)(b) or (d) or (3) commits an offence.

12. Excavations

- (1) The area that is excavated must always be kept to a minimum.
- (2) The width of a trench must be uniform in length and in depth so that the sides are parallel and vertical.
- (3) The top of a trench must be cut with a saw to ensure smooth, uniform edges.
- (4) The minimum depth that a service may be placed under a road is 800 mm measured from the level of the surfacing of the road to the top of the service, and the minimum depth at any other place in the road reserve, such as on a verge, is 800 mm measured from the level of the surfacing of the road and not from natural ground level.
- (5) A service not subject to being laid at a specific grade, such as water pipes and cables, may not be placed at depths in excess of the 800 mm as this could interfere with future Services that have to be laid at a specific grade, such as sewers and stormwater pipes.
- (6) All excavated material and equipment must be placed and demarcated in such a way as to cause the minimum disruption to vehicles and pedestrians.
- (7) A safe passage must be kept open for pedestrians at all times.
- (8) The contractor is responsible for any damage to an existing service.

- (9) A service indicated on the drawings or on site by representatives from the relevant service agency, must be opened by careful hand digging, however, if the services cannot be found, the relevant organisation must be contacted again for further instructions.
- (10) Under no circumstances may a contractor dig with mechanical equipment before a known service has been found and marked, and when found, the service must be marked and protected or supported as required by the owner.
- (11) Should a service need to be moved, instructions from the owner must be followed carefully, and the contractor is responsible for all movement costs.
- (12) If a service is damaged during excavations, the relevant service agency must be contacted immediately.
- (13)
 - (a) The contractor must take adequate preventative measures to ensure that no water whatsoever flows into the open trenches so as result in the weakening of the structural layers of the road.
 - (b) Any water that is present in the trenches must be pumped out before backfilling.
 - (c) Water must be pumped into the stormwater system and may not be pumped into sewer manholes.
 - (d) Any material that has become wet must be removed from the bottom of the trench before backfilling.
- (14)
 - (a) The contractor must prevent foreign materials from entering a drain and ensure that silting does not occur either from pumping operations or as a result of rain.
 - (b) If any silting or other contamination does occur, the contractor must clean the drain or request the municipality to do it at the cost of the contractor.
- (15) All re-usable materials, such as concrete blocks, slabs, kerbs, gutters, channels and stormwater inlets, must be removed with care and re-used if possible.
- (16) If any street furniture, such as a street name, a traffic sign, or a bus shelter, has to be removed, arrangements must be made with the municipality for the removal, storage and re-erection, at the contractor's cost.
- (17) Where an excavation is made through an entrance to a property, access must be maintained by using steel plates, planks or other temporary bridges of sufficient strength and properly secured against movement, and the occupant of the property must be kept informed at all times of how his or her access will be affected.
- (18) An underground service must have not less than 800 mm cover, and a manhole valve cover must be finished flush with the surface of the road or verge.
- (19) A contractor who does not comply with a provision of this section commits an offence.

13. Trenchless methods

- (1) If a trenchless method is used, disruption of traffic flow and pedestrian movement must be reduced as far as possible by using the necessary equipment and expertise to complete the work successfully.
- (2) A trenchless method must be used for a road classified as a protected road.
- (3) The position of an existing service must be located accurately, and if a service is damaged, the contractor is responsible for all costs.
- (4) The depth to the top of a tunnel that is drilled for the installation of a new service, must be at least 800 mm measured from the level of the surfacing of the road.
- (5) A contractor who does not comply with a provision of subsection (1), (2) or (4), commits an offence.

14. Emergency work

- (1) The contractor must inform the municipality in writing within 24 hours from commencing with work on an emergency.

- (2) If the municipality is not informed within 24 hours from the first working day, the work will be reinstated by the municipality and the cost thereof will be invoiced against the service agency.
- 15. General specifications for backfilling and reinstatements**
- (1) Backfilling and reinstatement as a trenching activity that disturbs the structural integrity of a road or footway, must be done in such a way as to ensure that the reinstated trench and its immediate surroundings do not fail structurally, thus resulting in road user discomfort and increased costs.
- (2) The contractor must in all cases do backfilling in accordance with the specifications in subsection (7) and section 16, as applicable.
- (3) Permanent reinstatement (100 mm asphalt layer), as specified in section 21 and 22, can either be done by the municipality or by the contractor, provided that the contractor has the necessary expertise and experience required.
- (4) Permanent backfilling and reinstatement (100 mm asphalt layer) done by the contractor is subject to a guarantee period of one year based on the performance specifications described in section 27.
- (5) (a) Where the permanent reinstatement must be done by the municipality, the contractor must do a temporary reinstatement as specified in section 23.
(b) The contractor shall be charged for the permanent reinstatement at the applicable rates appearing on the form contemplated in section 6(1)(b).
(c) A Reinstatement Order must be submitted together with the Completion Notice.
(d) The temporary reinstatement shall be removed by the municipality and the backfilling shall be tested, and should the backfilling not comply with the applicable specifications, it shall be replaced at the costs of the contractor, which costs are over and above the normal reinstatement costs.
- (6) Temporary reinstatement must be done where the contractor abandons the site for a period not exceeding two months with the view of returning to complete the work, and the contractor must maintain this temporary reinstatement.
- (7) The trench bottom must be prepared and compacted according to the service agency's own requirements to ensure that the service is not damaged, and the same applies to the backfilling around the service.
- (8) Where a service with a diameter of more than 300 mm is installed, the subgrade material used for the reinstatement must be soilcrete (in-situ material mixed with 8% cement), placed with poker vibrators, up to a level of 300 mm above the top of the service.
- (9) A contractor who does not comply with a provision of subsection (1), (2) (5)(a), 5(c), (6), (7) or (8) commits an offence.
- 16. Backfilling of road**
- (1) The minimum requirements of the municipality are that the structural layers of the backfilled trench, which structural layers are the base, sub-base, selected sub-grade and sub-grade down to a depth of 800 mm below the level of the surfacing of the road, must have at least the same shear strengths as those of the adjacent undisturbed structural layers.
- (2) The contractor must use one of the following types of materials to ensure adequate shear strengths in trench backfills:
(a) Re-using excavated material (section 17);
(b) importing material (section 18); or
(c) foamed concrete (section 19).
- (3) A contractor who does not comply with a provision of this section commits an offence.

17. Re-using excavated material

- (1) During excavation of the trench, the material from the top 400 mm of the excavation (or in the case of arterials, collectors and industrial streets, the top 550 mm) must be stockpiled separately from the rest of the material being excavated.
- (2) The material contemplated in subsection (1) must then be improved through chemical stabilisation with cement and used for the base and sub-base layers during backfilling, and in the case of arterials, collectors and industrial streets also for the selected sub-grade layers.
- (3) The requirements for this method are given in Figure 1 in Schedule 4 which refers.
- (4) If the material is not stockpiled separately during excavation, the municipality may require that material with the required properties be imported.
- (5) Material that was originally stabilised may not be re-used and must be discarded.
- (6)
 - (a) The contractor must ensure that the top 400 mm (550 mm for an industrial street) must be stockpiled separately and stabilised with 4 % Ordinary Portland Cement approximately 80 kg/m³ of cement.
 - (b) The material must be compacted in thin (75 to 100 mm) layers with a vibratory compactor at optimum moisture content to the required densities (base: 98 %, sub-base: 95 %, selected sub-grade: 93 % and sub-grade: 90 % Mod. American Automobile of State Highways and Transportation Officials) to within 100 mm of the existing road surface.
- (7) A contractor who does not comply with a provision of this section commits an offence.

18. Importing material

- (1) A G5 gravel material must be imported and stabilised with 60 kg of cement per m³ of material.
- (2) Water must be uniformly mixed into the material, and the material must then be placed in the trench in 75 mm to 100 mm layers and compacted to the required Mod. American Automobile of State Highways and Transportation Officials densities as specified in Figure 1, Schedule 4.
- (3) The final layer must be finished to a level of 100 mm below the level of the surrounding sound surface of the road.
- (4) A contractor who does not comply with a provision of this section commits an offence.

19. Foamed concrete

- (1) Foamed concrete of minimum 4 Mega-Pascal crushing strength and manufactured to an approved manufacturer's specifications must be used.
- (2) The foamed concrete must be placed to a level 100 mm below the level of the surrounding sound surface of the road, and as soon as the foamed concrete has set sufficiently, a 70 mm layer of asphalt base-course material must be placed on top followed by a 30 mm layer of continuously graded asphalt wearing course material.
- (3) A contractor who does not comply with a provision of this section commits an offence.

20. Backfilling of footway

- (1) Where there is no possibility of a vehicle crossing a footway, the footway must be backfilled using the excavated material, placed in the trench in 150 mm layers and compacted to 90 % Mod. American Automobile of State Highways and Transportation Officials density (maximum Dutch Cone Peretrometer Penetration of 19 mm/blow) for all layers below the base and 93 % Mod. American Automobile of State Highways and Transportation Officials density (maximum Dutch Cone Peretrometer Penetration of 14 mm/blow) for the base.

- (2) Where there is a possibility of a light vehicle such as a car or light delivery van crossing the footway, where there is typically mountable kerbing, the footway must be backfilled as specified in section 18 or as specified in section 19 according to the standards for local streets on Figure 1.
- (3) Where heavy vehicles make use of a footway, such as loading zones in industrial areas, the footway must be backfilled as specified in section 18 or as specified in section 19 according to the standards for local streets on Figure 1.
- (4) An excavation in an unconstructed verge must be backfilled in such a way that the verge is in the same condition after backfilling as it was before excavation, and –
 - (a) all excess material must be removed and may not be spread over the verge; and
 - (b) topsoil must be removed and stored separately and replaced as the final layer.
- (5) A contractor who does not comply with a provision of this section commits an offence.

21. Permanent reinstatement of road

- (1) The same method of reinstatement must be used in all instances, irrespective of the method of backfilling of the structural layers.
- (2)
 - (a) The permanent reinstatement of the surfacing must consist of 100 mm hot-mix asphalt.
 - (b) The lower 70 mm must be "blackbase" (26,5 mm nominal stone size, continuously graded) and the top 30 mm fine (4,75 mm nominal stone size, continuously graded).
 - (c) Cold mix may only be used for temporary reinstatements, and both these surfacing layers must be compacted to 95% Marshall density.
- (3) The reinstated surfacing must be at least 100 mm wider than the trench on both sides to accommodate any edge breaks where saw cutting was not possible.
- (4) The top 100 mm of the trench must be backfilled by the contractor, compacted and maintained in a serviceable condition for a period of fourteen days after the Completion Notice has been submitted. IN ANOTHER PLACE THE CODE SAYS: The reinstatement (100 mm asphalt layer) of the surface will be done by the Road Authority unless specific permission is granted to the applicant to do the work.
- (5) The material used for the reinstatement of the surfacing must comply with the relevant requirements of Section 4200: Asphalt Base and Surfacing of the Committee of Land and Transport Officials or its successor in title, Standard Specification for Road and Bridge Works.
- (6) In the case of a road surfaced with interlocking paving blocks, the material removed during the excavation of the trench must be re-used, however, where new material has to be used, these must be of the same type and size as the existing material and must comply with the requirements of SABS 1058-1985 as amended.
- (7) A contractor who does not comply with a provision of this section commits an offence.

22. Permanent reinstatement of footway

- (1) All the material removed during the excavation of the trench must be re-used, however, where new material has to be used, these must comply with the following requirements:
 - (a) Precast concrete kerbs and channels must comply with the requirements of Section 2300: Concrete Kerbing, Concrete Channelling, Open Concrete Chutes and Concrete Linings for Open Drains of the Committee of Land and Transport Officials Standard Specification for Road and Bridge Works, and all Cast in-situ concrete must be Class 25/19.
 - (b) Concrete paving blocks must comply with the requirements of SABS 1058-1985 as amended.

- (c) Cast in-situ concrete must comply with the relevant requirements of Section 6400: Concrete for Structures of the Committee of Land and Transport Officials Standard Specification for Roads and Bridge Works, and all cast in-situ concrete must be Class 25/19.
 - (d) Precast concrete paving slabs must comply with the requirements of SABS 541-1971 as amended.
- (2) A constructed footway must be reinstated with the same surfacing materials that existed originally, such as concrete blocks or slabs, if undamaged, or else replaced with similar materials, and the supporting layers must be compacted to obtain shear strengths at least equal to those of the adjacent undisturbed footway.
 - (3) Where a private driveway or footway with non-standard materials are to be excavated, the contractor must inform the owner in advance and in writing of the intended work, and the owner must supply the contractor holder with the materials that are to be used for the reinstatement.
 - (4) Where an unconstructed verge has an established lawn, this must be removed, stored and replaced in sods in such a way that the lawn is in the same condition after reinstatement as it was before excavation, however, should the sods be allowed to dry out or become damaged in any way, they must be replaced with similar sods.
 - (5) If an unconstructed verge has been planted with garden vegetation other than lawn, the owner of the adjacent property must be consulted before excavation, to obtain instructions on what to do with the plants that are affected, and every effort must be made to preserve all plants.
 - (6) A contractor who does not comply with a provision of this section commits an offence.

23. Temporary reinstatements by contractor

- (1) If the permanent reinstatement is to be done by the municipality, the contractor must do temporary reinstatement with a suitable material (preferably cold mix asphalt) that is compacted to an adequate density to ensure that it will carry the traffic for a period of at least two weeks without deforming or potholing.
- (2) The temporary reinstatement must be maintained by the contractor in a serviceable condition for a period of two weeks from the date that the Completion Certificate has been issued by the municipality, and after the two-week period the maintenance will be taken over by the municipality.
- (3) A contractor who does not comply with a provision of this section commits an offence.

24. Remedial work

- (1) Remedial work is required if any of the following exists:
 - (a) A depression;
 - (b) a hump (crowning);
 - (c) an edge depression (trip, vertical discontinuity) at the interface; or
 - (d) cracking.
- (2) A depression or hump is measured with a straight edge across the reinstatement and requires remedial work if the limits as specified in Schedule 8, which schedule refers, are exceeded over 100 mm or more of the length of the trench.
- (3) Remedial work is required if a depression results in standing water wider than 500 mm or exceeding one square metre, 2 hours after rain has stopped.
- (4) An edge depression exceeding 10 mm over 100 mm or more of the length of the trench requires remedial work.
- (5) An open crack wider than 3 mm and longer than 100 mm is requires remedial work.
- (6) A contractor who does not comply with a provision of subsection (1), (3), (4) or (5) commits an offence.

25. Completion of work

- (1) On completion of the work the contractor must ensure that all trenches and excavations in the road reserve are backfilled and reinstated according to the specifications contained in these By-laws.
- (2) Permanent reinstatements may be done by the municipality at the cost of the contractor, or by the contractor.
- (3) The decision on who does the permanent reinstatement lies with the municipality.
- (4) A contractor who does not comply with a provision of subsection (1), or who fails to do permanent reinstatements if required to do so in terms of subsection (3) commits an offence.

26. Completion notice and certificate of completion

- (1) On completion of the work and temporary or permanent reinstatement, as applicable, the contractor must complete and submit, within 24 hours, a notice similar to the notice contained in Schedule 5, which schedule refers, to the municipality, and should the municipality have to do the reinstatement, a Reinstatement Order as contained in Schedule 6, which schedule refers, must accompany abovementioned notice.
- (2) On receipt of the notice contemplated in subsection (1), the municipality shall set up a site meeting together with the contractor to do an inspection and to issue the Certificate of Completion, if all requirements have been met, at which time the 12-month guarantee period for permanent reinstatements or the 2-week maintenance period for temporary reinstatements by the contractor, commences.
- (3) Completion of the work means that –
 - (a) all work has been completed;
 - (b) all materials, equipment and rubble have been removed;
 - (c) the site is completely cleared and cleaned; and
 - (d) the contractor has done either the permanent or temporary reinstatement, as applicable.
- (4) If work involves more than one street link (street block), then a completion notice must be submitted after completion of each link.
- (5) The municipality shall issue a Certificate of Completion as contained in Schedule 7, which schedule refers, once all requirements have been met.
- (4) A contractor who does not comply with a provision of subsection (1) or (4) commits an offence.

27. Performance specifications

- (1) The municipality shall for a period of 12 months monitor the performance of any backfilling done or any trench permanently reinstated by the contractor, during which period the contractor holder is responsible for any remedial work that may be required.
- (2) The following tests used for quality control (density or shear strength) shall be used to determine whether or not the work was done according to specifications, however, the municipality may do additional tests if the quality control tests are not considered to be adequate:
 - (2) (a) Quality control of the backfilled structural layers shall be done by measuring the shear strengths of the adjacent structural layers as well as that of the backfilled layers.
 - (b) The shear strength shall be measured with a Dutch Cone Peretrometer or a Rapid Compaction Control Device
 - (c) Although the shear strengths of the backfilled layers shall be measured against the undisturbed structural layers, an indication of probable acceptance on most roads can be obtained from the typical Dutch Cone Peretrometer and Rapid Compaction Control Device Penetration diagram shown on Figure 2 in Schedule 4.

CHAPTER 2 HOARDINGS

28. Permit to hoard

- (1) Every person who erects, removes, alters, repairs or paints any building or carries out any excavation on any part of which is within 2 m of a street must, before he or she commences any such work, enclose or cause to be enclosed a space in front of such part of such building.
- (2) If the enclosure occupies or projects over a portion of a street, such person must apply for a permit contemplated in subsection (3), however, if the person doing the application is not the owner of the building or land on which the work is done or is to be done, the owner must, to acknowledge that he or she is aware of it, countersign the application.
- (3) No person may erect in any street any hoarding, fence or scaffolding or any planked shed for any purpose whatsoever or make any enclosure for the purpose of depositing building or other materials or plant outfit for any other purpose without a written permit first having been obtained from the municipality.
- (4) No demolition work may be commenced without a written permit first having been obtained from the municipality.
- (5) The municipality must determine what portion of the street is necessary for the purpose of carrying out any building operations, and must in all cases in which it deems necessary that any street is to be used for such purposes, grant a permit in writing setting forth the portion which may be occupied for such purpose and the conditions whereunder such permit is granted.
- (6) Every permit granted by the municipality in terms of subsection (3), must specify the area and precise position of that part of a street where the enclosure, overhanging or covering of which is permitted and the period for which the permit is granted.
- (7) On the granting of a permit contemplated in subsection (3), a fee is payable for every week or part of a week of the currency of the permit by the person to whom the permit is granted, which fee shall be calculated in the case of a hoarding, fence, or scaffolding at the rate of 6c for every m² of a street enclosed, overhung, covered or in any way obstructed thereby, and in the case of a planked shed which does not obstruct a street, at the rate of 3c for every m² of the street overhung or covered thereby.
- (8) The person to whom a permit is granted in terms of this section, if he is a different person, and the owner of the land on which the building operations to which the permit relates are carried on, are jointly and severally liable for the fees prescribed by this section.
- (9) The person to whom the permit is granted must pay in advance in respect of every parking meter, the removal whereof has been so necessitated, the charges assessed by the chief traffic officer or any other person duly authorized thereto by the municipality, regard being had to charges prescribed by the municipality for parking regulated by meter.
- (10) The municipality reserves the right to withhold the issue of the permits required in terms of this section until all fees and charges have been paid and the acceptance of any such permit by the applicant without demur shall be taken to indicate that all kerbs, gutters and other works were in good order and condition on the date of such permit.
- (11) A person who does not comply with a provision of subsection (1), (3) or (4) or who fails to comply with a condition contemplated in subsection (5) commits an offence.

29. Prescribed width of hoarding

- (1) The extent of ground forming portion of the street which is allowed to be occupied as aforesaid may not in any case exceed 3,5 m in width, measured from and at right angles to the frontage of the ground adjoining the public sidewalk, and in length must extend along so much of the frontage as is necessary, and no other portion of the street may be used for

the purpose of depositing bricks, lime, rubbish or any other materials or plant in connection with such building, removals, alterations or repairs.

- (2) The municipality may, in its discretion, permit a greater width of hoarding than is provided in subsection (1).
- (3) A person who does not comply with a provision of subsection (1) commits an offence.

30. Close hoardings

- (1) Any portion of the street for use whereof a permit is given as aforesaid must be forthwith enclosed, by the person obtaining such permit, with a hoarding or close fence of such construction and appearance as is necessary.
- (2) Any such hoarding or fence may not be less than 2m nor more than 3m high, excepting in the cases for which special provision is made hereinafter, and such hoarding or fence must be adequately stayed and secured to resist the pressure of wind or of a crowd of people and must be maintained standing and in good condition to the satisfaction of the municipality to protect the public and traffic.
- (3) A person who does not comply with a provision of this section commits an offence.

31. Corner hoardings

- (1) In the case of corner stands, the hoarding or fen must be splayed off at the angle from the frontage line in each street, and the height of the portion of the hoarding so splayed and along the other frontages for a distance of 1,5 m from each angle must be 1,25 m in height neither more nor less, except in the cases for which special provision is made as contemplated in section 40, and all angles of hoardings must be splayed off at an angle of 45 degrees at distance of not less than 1,5 m from the point at which such hoarding would intersect were it not splayed off.
- (2) A person who does not comply with a provision of subsection (1) commits an offence.

32. Hoarding entrances

- (1) Not more than one opening in any hoarding is allowed for each 15 m of frontage; and such opening may not exceed 4 m in width and must be securely closed each day at sunset and remain closed until sunrise the following morning.
- (2) A person who does not comply with a provision of subsection (1) commits an offence.

33. Obstructing fire hydrants

- (1) If any fire hydrant is enclosed by any hoarding, a small door must be made in such hoarding as close to the hydrant as possible, for the access of the fire department and such hydrant may not be covered or obstructed by a building or other material.
- (2) A person who does not comply with a provision of subsection (1) commits an offence.

34. Temporary footways

- (1) In all cases in which the footway or sidewalk will be obstructed or rendered useless by the granting of the said permit, the person obtaining such permit must cause to be put up outside the hoarding or fence above-mentioned and must maintain in good condition during the time for which permit runs, a convenient platform and hand rail with posts and supports to serve as a way for pedestrians.
- (2) Such pedestrian way must be made and maintained, and –
 - (a) must be at least 1,5 m in width;
 - (b) the posts and handrails may not be less than 75 mm by 75 mm;
 - (c) the posts may not be more than 2 m apart; and
 - (d) the handrail must be wrought smooth with edges rounded or bevelled.
- (3) The whole of the footway between the rail and the hoarding must be strongly boarded so as to form a safe and rigid path for pedestrians.

- (4) A person who does not comply with a provision of this section commits an offence.
- 35. Lights on hoardings**
- (1) Any person obtaining such permit as aforesaid must at sunset place suitable and sufficient lights upon such hoardings and temporary footways, and must keep them well lighted during the night until sunrise.
- (2) A person who does not comply with a provision of subsection (1) commits an offence.
- 36. Gutter to be kept clear**
- (1) The channel or bridge adjoining the footway may not be obstructed but must be kept clear of rubbish and building material by the person obtaining such permit as aforesaid, and in case there is no properly formed street gutter, the person obtaining such permit must construct and keep clear a channel adequate to allow all surface water to flow freely.
- (2) A person who does not comply with a provision of subsection (1) commits an offence.
- 37. Removal of hoardings**
- (1) At the end of the time for which the permit has been granted, the hoarding, platform, handrail, posts, temporary footway, and all materials, as well as all building and other materials and rubbish on the ground for the enclosure whereof such permit has been granted, must be removed by the person to whom such permit has been granted, at such convenient time or times as the municipality may approve.
- (2) In no case may any material or rubbish be left on the public street or footway for more than eight hours after the removal of the hoarding, and the footway and the street must be left perfectly clear, and must, together with the kerbing and guttering, be restored to the condition in which it was before such permit was granted.
- (3) In the event of any default to remove any of the aforesaid, or to restore the roadway, footpath kerbing and guttering, or any of them, to their former condition, the person commits an offence and the municipality shall effect such removal and restoration at the cost of the person to whom such permit has been granted.
- 38. Damage to kerbing and paving**
- (1) Any person who, whether as owner, builder, contractor or subcontractor, carries on or is engaged in any demolition, excavation, building, renovation or other operation on any site
- (a) must afford sufficient and effective protection to kerbing adjacent to the site upon which such operations are in progress during the course of such operations by means of timber beams at least 114 mm by 75 mm set on edge and secured so as to project at least 50 mm above the top of the kerbing and clear of the waterway of the street gutter or channel;
- (b) must refrain from removing any kerbing or paving for any purpose whatsoever without the municipality's consent;
- (c) notwithstanding the provisions of section 41 is liable jointly and severally in respect of any damage caused by such operations including the delivery or removal of materials, to the street paving, kerbing or guttering adjacent to the site upon which such operations are in progress;
- (d) must, where vehicles cross a footway to the site where such operations are in progress, if so directed by the municipality, provide a drive-way which is paved in accordance with the provisions of section 22.
- (2) A person who does not comply with a provision of subsection (1) commits an offence.

39. Municipality may remove hoardings

- (1) The municipality has the right to remove or to be removed, any hoarding or obstruction upon a street if public safety or convenience so require, notwithstanding that a permit may have been granted for such hoarding or obstruction.
- (2) The municipality may remove hoardings for which permits have been given if they are constructed or used otherwise than in accordance with these by-laws and otherwise than for the purpose and under the conditions set forth in the permit granted in pursuance of these by-laws.
- (3) The expense of removal is recoverable from the person who obtained the permit.

40. Hoardings: Special construction

- (1) The municipality has the right in special cases to require the erection of hoardings or other erections of special height, form and construction, where such is necessary for the public safety or in order to minimize obstruction to traffic.
- (2) A person who does not comply with a requirements contemplated in subsection (1) commits an offence.

41. Deposits for footway damage

- (1) Where any demolition, excavation, building, renovation or other operation is to be carried on any site, the owner of the building or the person responsible for any such operation must deposit with the municipality a sum of money estimated by the municipality's engineer to be equal to the cost of constructing the street paving, kerbing and guttering adjacent to the site on which such operations are to be carried on.
- (2) On failure of the owner of the building or the person responsible for the operations referred to in subsection (1) to repair any damage caused by such operations to paving, kerbing or guttering, such damage may be repaired by the municipality and the cost thereof recovered from the deposit made in terms of that subsection.

42. Removal of hoardings fixed without permit

In the event of any person without previously obtaining a permit in writing from the municipality as aforementioned, erecting or placing or causing to be erected or placed in any public road, square, footway or other public place within the area of jurisdiction of the municipality, any fence, scaffolding, hoarding or other obstruction, the municipality has the right to have the same immediately removed at the expense of such person who is at the same time liable to the penalties hereinafter provided for breach of these by-laws.

43. Planked shed, roof or gantry over sidewalks

- (1) Whenever a building, excluding one storey in height, is erected, raised or demolished within 2 m of any street or public place, or in such city areas in such streets as may be necessary, the builder, contractor or demolisher, erecting, raising or demolishing such building must erect and maintain during such erection, raising or demolition a planked shed, roof or gantry, formed of at least 38 mm planking on posts at least 150 mm by 114 mm and beams at least 150 mm by 75mm in sectional area, over the footway in front of the premises or over the platform as prescribed in these by-laws, having a clear internal width of not less than 1,5 m and a clear internal height of not less than 2,5 m for pedestrians.
- (2) No portion of such planked shed, roof or gantry may be less than 230 mm from the outside edge of the kerb.
- (3) A drawing showing the requirements of the municipality can be seen in the offices of the municipality's engineer, and any permit or licence to erect hoarding in any street is subject to the observance of such requirements and to the pedestrian footway being kept unobstructed and accessible for use by pedestrians at all times.

- (4) A person who does not comply with a provision of subsection (1) or (2) commits an offence.

CHAPTER 3 MISCELLANEOUS PROVISIONS

44. Notice of compliance and representations

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

- (10) If the person elects to be tried in court he or she must, within seven calendar days, notify municipality of his or her intention to be so tried.
- (11) If the person does not elect to be tried in court, he or she must, within the prescribed manner and time, discharge his or her obligations under the order.
- (12) Where there has been no compliance with the requirements of a notice, the municipality may take such steps as it deems necessary to remove the remedy the situation and the cost thereof must be paid to the municipality in accordance with section 45.

45. Costs

- (1) The processing fee is a fixed amount that is determined by the municipality from time to time and which is payable by the applicant when submitting the the form contemplated in section 6(1)(b).
- (2)
 - (a) When the municipality does the permanent reinstatement, the cost involved is payable by the contractor, and the cost is determined by using the relevant reinstatement rates, which are determined by the municipality from time to time, appearing on the form contemplated in section 6(1)(b).
 - (b) The form contemplated in section 6(1)(b) must be accompanied by official order for an amount based on the expected area to be reinstated, and the final invoiced amount payable is determined using the measured area of the final reinstatement as agreed between the municipality and the service agency.
- (2) Should a person fail to take the measures required of him or her by notice, the municipality may, subject to subsection (4) recover all costs incurred as a result of it acting in terms of paragraph 44(12) from that person.
- (3) The costs claimed must be reasonable and may include, without being limited to, costs relating to labour, water, equipment, administrative and overhead costs.
- (4) If more than one person is liable for costs incurred, the liability must be apportioned among the persons concerned according to the degree to which each was responsible for the situation resulting from their respective failures to take the required measures.

46. Authentication and service of notices and other documents

- (1) A notice or other document requiring authentication by the municipality must be signed by the municipal manager or by a duly authorised officer of the municipality, such authority being conferred by resolution of the municipality or by a By-law or regulation, and when issued by the municipality in terms of these By-laws is deemed to be duly issued if it is signed by an officer authorised by the municipality.
- (2) Any notice or other document that is served on a person in terms of these By-laws is regarded as having been served –
 - (a) when it has been delivered to that person personally;
 - (b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of 16 years;
 - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic, and an acknowledgment of the posting thereof from the postal service is obtained;
 - (d) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided by paragraphs (a), (b) or (c);
 - (e) if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the property or premises, if any, to which it relates;

- (f) in the event of a body corporate, when it has been delivered at the registered office of the business premises of such body corporate; or
 - (g) when it has been delivered, at the request of that person, to his or her e-mail address.
- (3) Service of a copy is deemed to be service of the original.
 - (4) When any notice or other document must be authorised or served on the owner, occupier, or holder of any property, or right in any property, it is sufficient if that person is described in the notice or other document as the owner, occupier, or holder of the property or right in question, and it is not necessary to name that person.
 - (5) Any legal process is effectively and sufficiently served on the municipality when it is delivered to the municipal manager, or a person in attendance at the municipal manager's office.

47. Appeal

- (1) A person whose rights are affected by a decision of an official may appeal against that decision by giving written notice of the appeal and reasons to the municipal manager within 21 days of the date of the notification of the decision.
- (2) The municipal manager must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.
- (3) When the appeal is against a decision taken by –
 - (a) a staff member other than the Municipal Manager, the Municipal Manager is the appeal authority;
 - (b) the Municipal Manager, the Speaker is the appeal authority; or
 - (c) a political structure or political officer bearer, or a Councillor, the Council is the appeal authority.
- (4) The appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable time

48. Penalties

- (1) A person who has committed an offence in terms of these by-laws is, on conviction, and subject to penalties prescribed in any other law, liable to a fine, or in default of payment, to imprisonment, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment, and in the case of a successive or continuing offence, to a fine for every day such offence continues, or in default of payment thereof, to imprisonment.

49. Revocation of by-laws

- (1) The By-Laws enacted by Colesberg Transitional Local Council, Noupoort Transitional Local Council and Masizakhe Representative Council with regard to work in a road reserve are hereby repealed.
- (2) Any permission obtained, right granted, condition imposed, activity permitted or anything done under a repealed law, shall be 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.

50. Short title and commencement

These By-laws may be cited as the Umsobomvu Municipality Work in Road Reserves By-laws, and commences on the date of publication thereof in the Provincial Gazette.

SCHEDULES

- Schedule 1: Application For Intended Work In Road Reserve Form
- Schedule 2: Application For Permission To Commence Work Form
- Schedule 3: Permission To Perform Work Form
- Schedule 4: Figures 1 and 2
- Schedule 5: Completion Notice
- Schedule 6: Reinstatement Order
- Schedule 7: Certificate of Completion
- Schedule 8: Limits

SCHEDULE 1
APPLICATION FOR INTENDED WORK IN ROAD RESERVE FORM

Application is hereby made by the undersigned to do work in the Road Reserve as detailed below. The applicant undertakes to do the work according to the latest edition of the CODE OF PRACTICE FOR WORK IN THE ROAD RESERVE.

No work may commence before the Wayleave is issued. All permanent reinstatements (100 mm asphalt layer) will be done by the Road Authority unless specific permission is granted to the applicant to do it for this wayleave. All applicable fees are to accompany this application.

APPLICANT

AGENCY/DEPARTMENT / PRIVATE:

CONTACT PERSON: _____
CONTACT TEL: _____
CONTRACT FAX: _____ E-mail: _____
CONTRACTOR: _____
PROJECT NO: _____
REINSTATEMENT ORDER NO: _____

PROVISIONAL DATES

STARTING DATE: _____
COMPLETION DATE: _____
DRAWING NUMBER: _____
LOCATION OF WORK (give full details)
SUBURB : STREET NAME:
STREET (FROM) : STREET (TO):
ERF NO'S :
HOUSE NO'S:

EXCAVATION DETAILS:

LENGTH OF EXCAVATION:
RIDING SURFACE _____ m² :
KERBS ----- m²
ASPH FOOTWAY: _____ m²
INTERNAL BLOCK _____ m²
UNPAVED FOOTWAYS _____ m²

SPECIAL NOTE

For the purpose of planning work done by Service Providers local streets may be regarded as unprotected unless it has been newly surfaced and provided that the first 20 m from an intersection with any other class road considered to be protected.

THE FOLLOWING AGENCIES ARE AWARE THAT THE APPLICANT WILL BE WORKING WITHIN THE VICINITY OF THEIR SERVICES, HAVE GIVEN THE APPLICANT THEIR CONDITIONS FOR WORKING WITHIN THE VICINITY OF THEIR SERVICES AND THEREFORE HAVE NO OBJECTION TO THEM APPLYING FOR A WAYLEAVE.

AGENCY	REMARKS/ SIGNATURE /DATE
CITY POWER	
XXX GAS	
XXX WATER	
PARKS	

AGENCY	REMARKS / SIGNATURE/ DATE
TELKOM	
ESKOM	
Water	

Road Authority OFFICE USE: _____

DATE RECEIVED
SIGNATURE

NAME OF OFFICIAL

SCHEDULE 2
APPLICATION FOR PERMISSION TO COMMENCE WORK FORM

**SCHEDULE 3
 PERMISSION TO PERFORM WORK FORM**

APPROVED:

YES	NO	WAYLEAVE NO:	
-----	----	--------------	--

UNDERTAKING / INDEMNITY:

I, the undersigned hereby –

Acknowledge the receipt of a brochure containing the procedures and conditions pertaining to wayleave applications and understand that it will be my responsibility to contact the relevant Service agencies within and outside the area of jurisdiction of the Umsobomvu municipality, undertake to adhere to the conditions not applicable to this Department, e.g. TELKOM, ESKOM;

Undertake to furnish the relevant Service Agencies with all necessary application form(s) and information obtained as a result of this application, in order to obtain final wayleave approval and permission to work within the Road Reserve;

Acknowledge that Service information is given in good faith and that the accuracy of this information is not guaranteed;

Guarantee all backfilling and permanent reinstatement work done by Contractor, for a period of 12 months that will start 14 days after the work is signed off as completed by theROADS AGENCY Inspector;

Accepts responsibility for all costs associated with the work, including any damages to other Services, backfilling and reinstatements of trenches, the cost of any tests that may be required and any claims that may result from the work done by the Contractor until the work is taken over by the Road Authority the permanent reinstatement is completed:

Accept the terms and conditions of the Code of Practice for Work in the Road Reserve;

Indemnifies the ROADS AGENCY (Road Authority) against any claim(s), cost or damage or loss of whatsoever nature that may be incurred or sustained by the applicant or any third party and also against all actions, legal proceedings and claims of whatsoever nature that may be instituted or made against the Road Authority arising out of, by reason of, or in any way whatsoever caused by or connected with the exercising by the applicant of the rights granted by the issuing of the wayleave as well as in respect of cost which may be incurred by the Road Authority in examining or resisting any such demands, actions, legal proceedings and claims, instituted by any person or party for injury to person(s) loss of life or damage to or loss of property, arising directly or indirectly from exercising the permission granted with approval of this application until the work is taken over by the Road Authority.

 Signature (Applicant)

 Signature (Road Authority Officer)

 Date

SCHEDULE 4
 FIGURES 1 AND 2

<i>Layer</i>	<i>Treatment</i>		<i>Layer thickness (mm)</i>	<i>Depth (mm)</i>
Surfacing	<u>Temporary Surfacing</u> Material from top 400 (550)mm 4 % OPC 98 % Mod AASHTO	<u>Permanent Surfacing:</u> 30mm Bitumen hot-mix fine 70mm Bitumen hot-mix:BTB	100	100
	Material from top 400 (550)mm stockpile Stabilize with 4 % OPC Compact to 98 % Mod AASHTO			
Base	Material from top 400 (550)mm stockpile Stabilize with 4 % OPC Compact to 98 % Mod AASHTO		150	250
Subbase	Material from top 400 (550)mm stockpile Stabilize with 4 % OPC Compact to 95 % Mod AASHTO		150	400
Selected Subgrade	<u>Local streets:</u> Compact to 93 % Mod AASHTO	<u>Arterials, collectors and Industrial streets:</u> Material from top 550mm stockpile Stabilize with 4 % OPC Compact to 93 % Mod AASHTO	150	550
	Compact to 90 % Mod AASHTO			
Subgrade	Compact to 90 % Mod AASHTO		250	800

Figure 1
Recommended method for permanent backfilling

Maximum Penetration

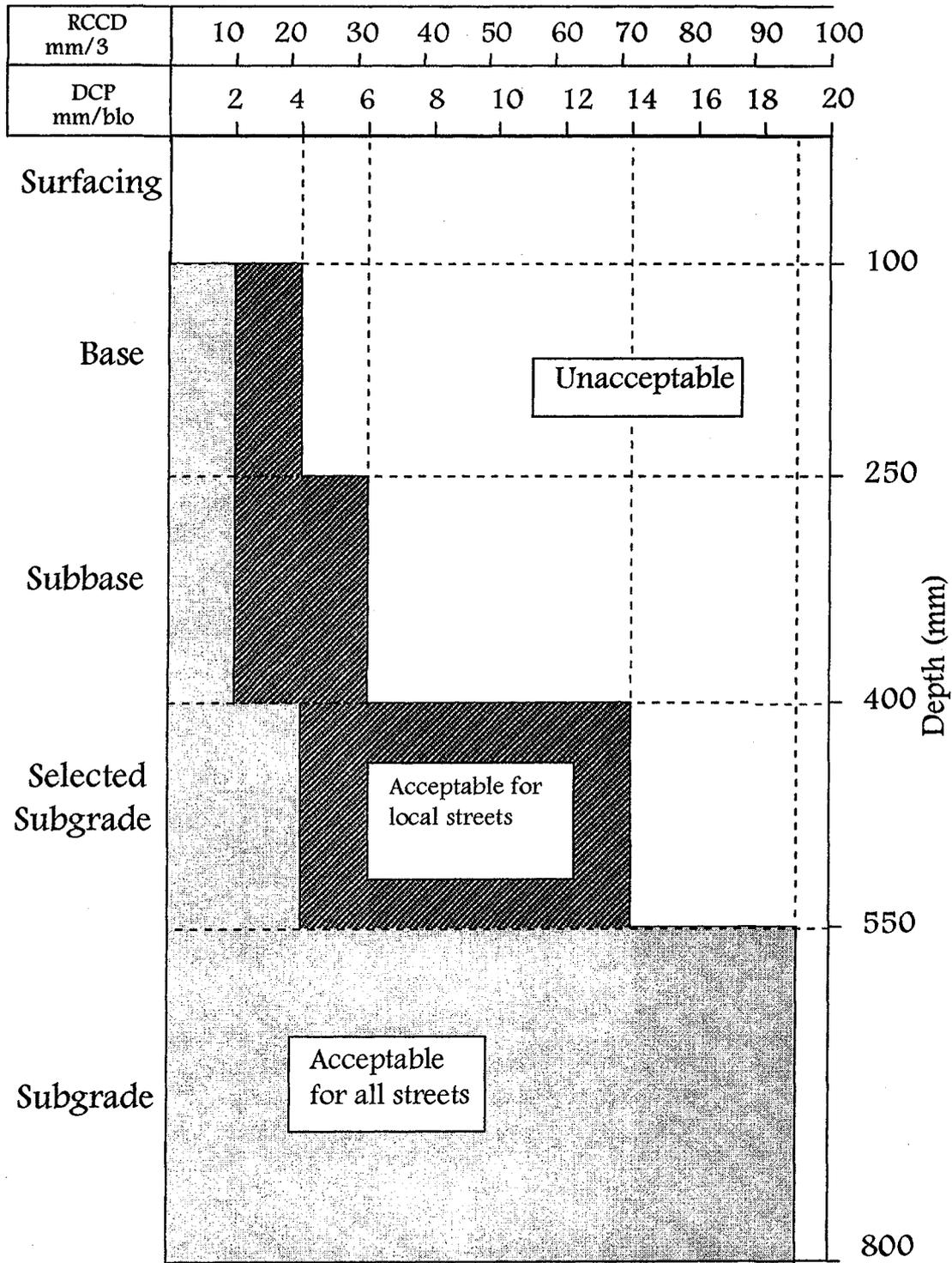


Figure 2
 Typical DUTCH CONE PERETROMETER and Rapid Compaction Control Device
 Penetration Diagram

**SCHEDULE 5
COMPLETION NOTICE**

CERTIFICATE OF INSPECTION AND / OR COMPLETION

Wayleave No.: _____

The Road Authority Inspector must sign this form. The signature is just for administrative control and by no means implies that the work has been done according to the specifications and conditions of the wayleave. The onus and responsibility of ensuring that the Service has been correctly installed, is that of the applicant.

Description of wayleave: -----

Date: _____

Street on _____ Street from _____ Street to _____

Suburb -----

Responsible person (for the erection / installation of the Service)

Name: _____ Company: -----

Telephone No.: (____) _____

COMPLETION NOTICE

The Central wayleave office is hereby informed that:

The work done in terms of the above Wayleave has been completed according to the conditions as prescribed in the Wayleave;

AND

The permanent reinstatement has been done in accordance with the specifications in the Code of Practice for work in the Road Reserve;

OR

A temporary reinstatement has been done and a Reinstatement Order to the amount of R_____ is attached for the Road Authority to do the permanent reinstatement.

Name: _____ Signed: _____

Wayleave Holder: ----- Date: -----

**SCHEDULE 6:
REINSTATEMENT ORDER**

**SCHEDULE 7:
CERTIFICATE OF COMPLETION**

COMPLETION CERTIFICATE

It is hereby certified that the site of the work carried out in terms of the above Wayleave was inspected on the above date and that:

The work has been completed; and

The site has been cleared and cleaned; and

The wayleave holder did the permanent reinstatement and the 12 months guarantee period commences from date;

OR

The wayleave holder did a temporary reinstatement and the two-week maintenance period commences from above date. A Reinstatement Order was received from the wayleave holder.

SITE INSPECTIONS:

REMARKS:

REINSTATEMENT ORDER NO: _____

The Road Authority wayleave inspector was present when the DUTCH CONE PERETROMETER tests were done (see site inspection remarks).

NAME: _____ Signed: _____
ROAD AUTHORITY INSPECTOR DATE: _____

**SCHEDULE 8
LIMITS**

Reinstatement Width (mm)	Height of Deformation or Hump as measured with straight edge (mm)
Up to 400	10
400 to 500	12
500 to 600	14
600 to 700	17
700 to 800	19
800 to 900	22
Over 900	25

Printed by and obtainable from the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001. Tel: (012) 334-4507, 334-4511, 334-4509, 334-4515
Also available at the Northern Cape Provincial Legislature, Private Bag X5066, Nobengula Extension, Kimberley, 8301.

Tel. (direct line): (053) 839-8073. Fax: (053) 839-8094

Gedruk deur en verkrygbaar by die Staatsdrukker, Bosmanstraat, Privaat Sak X85, Pretoria, 0001. Tel: (012) 334-4507, 334-4511, 334-4509, 334-4515
Ook verkrygbaar by die Noord-Kaap Provinsiale Wetgewer, Privaatsak X5066, Nobengule-uitbreiding, Kimberley, 8301.

Tel. (direkte lyn): (053) 839-8073. Faks: (053) 839-8094