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<p>COOPERATIVE GOVERNANCE, TRADITIONAL AFFAIRS AND HUMAN SETTLEMENTS NOTICE</p> <p>Matjhabeng ..... 2</p>			

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**COOPERATIVE GOVERNANCE, TRADITIONAL AFFAIRS AND HUMAN SETTLEMENTS NOTICE****MATJHABENG LOCAL MUNICIPAL COUNCIL****CREDIT CONTROL AND DEBT COLLECTION BY-LAW****PREAMBLE**

The Municipal Manager of the Matjhabeng Local Municipal Council in terms of subsection 156 (2) of the Constitution of the Republic of South Africa, 1996, read with section 13 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), publishes the by-law as set forth hereafter as by-law made by the Council.

**LONG TITLE:**

**To provide a regulatory framework for Credit Control and Debt Collection and the managing thereof, to provide for the strengthening of measures to control Credit Control and Debt Collection law, to provide sanctions for contraventions with the provisions, to provide for certain delegated powers and to provide for matters connected therewith.**

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**Definitions:**

1. For the purpose of this by-law, any word or expressions to which a meaning has been assigned in the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000) shall bear the same meaning in these by-laws and unless the context indicates otherwise and a word in any one gender shall be read as referring also, to the other two genders.

**“account”** means any account or accounts rendered for municipal services that have been provided;

**“Act”** means the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000), Structure Act, 1998 (Act No 117 of 1998) as amended from time to time;

**“Actual consumption”** means the measured consumption by a customer of a municipal service;

**“agreement”** means a contractual relationship between the municipality and a customer that arises, either as a result of the municipality’s approval of a written application for municipal services made in terms of section 4, including any subsequent variation that may be made to that agreement in conformity with these by-laws, or that is deemed to be an agreement by subsection (3) of that section;

**“applicable charges”** means the rate (including assessment rates), charges and tariffs.

**“area of supply”** means any area within or partly within the area of jurisdiction of the municipality to which a municipal service is provided;

**“arrears”** means any amount that is due, owing and payable by a customer in respect of a municipal service, rates and taxes as determined by Section 117(3) of the Local Government Ordinance, 1963(Ordinance No. 8 of 1962), that has not been paid on or before the due date;

**“authorised agent”** means:

- a) any person authorised by the municipal council to perform any act, function or duty in terms of, or to exercise any power under, these by-laws;
- (a) any person to whom the municipal council has delegated responsibilities, duty or obligation in respect of providing revenue services; or
- (c) any person appointed by the municipal council, in a written contract, as a service provider for the provision of revenue services or a municipal service to customers on its behalf, to the extent authorised by that contract;

**“average consumption”** means the average consumption by a customer of a municipal service during a specific period, which consumption is calculated by dividing by three the total measured consumption of that service by that customer over the preceding three months;

**“commercial customer”** means a customer other than a domestic customer and an indigent customer, including, but not limited to, a business or and industrial, governmental of an institutional customer;

**“connection”** means the point at which a customer gains access to municipal services;

**“Council”** means the Matjhabeng Local Municipality Council and includes a committee of the Council to which it has delegated any power or function under these by-laws in relation to that power or function;

**“customer”** means a rate payers, property owners and person with whom the municipality has concluded, or is deemed to have concluded, an agreement for the provision of a municipal service;

**“defaulter”** means a customer who owes arrears to the municipality;

**“domestic customer”** means a customer who, primarily for residential purposes, occupies a dwelling, structure or premises;

“**due date**” means the date on which an amount payable in respect of an account becomes due, owing and payable by the customer, which date shall be not less than 21 days after the date on which the account has been sent to the customer by any of the ways contemplated in Section 58;

“**emergency situation**” means a situation that would if allowed to continue, pose a substantial risk, threat, impediment or danger to the present or future financial viability or sustainability of the municipality, or to a specific municipal service;

“**estimated consumption**” means the consumption that a customer, whose consumption is not measured during a specific period, is deemed to have consumed, that is estimated by taking into account factors that are considered relevant by the municipality and which may include the consumption of municipal services by the totality of the users of a service within the area where the service is rendered by the municipality, at the appropriate level of service, for a specific time;

“**household**” means a family unit, that is determined by the municipality to be traditional by taking into account the number of persons in the unit, the relationship between the members of a household, their ages and any other factor that the municipality considers to be relevant;

“**illegal connection**” means a connection to any system through which a municipal service is provided that is not authorised or approved by the municipality;

“**indigent customer**” means a domestic customer who is qualified to be, and who is registered with the municipality as, an indigent in accordance with these by-laws;

“**infrastructure**” means the facilities, installations or devices required for the rendering of a municipal service, or for the functioning of a community including, but not limited to, facilities, installation or devices relating to water, power, electricity, transport, sewerage, gas and waste disposal;

“**interest**” means interests as may be prescribed by the Minister of Justice in terms of section 1 of the Prescribed Rate of Interest Act, 1975 (Act No 55 of 1975);

“**municipality**” means the Matjhabeng Local Municipality and its legal successors, and when referred to as-

- (a) a legal entity, means Matjhabeng Local Municipality as described in section 2 of the Local Government: Municipal Systems Act, (Act No. 32 of 2000); and
- (b) a geographic area, means the municipal area of the Matjhabeng Local Municipality as determined from time to time in terms of the Local Government: Municipal Demarcation Act, 1998(Act No. 27 of 1998);

“**municipal council**” means the Matjhabeng Local Municipality and includes committee of the Council to which it has delegated any power or function under these by-laws in relation to that power or function;

“**municipal manager**” means the person appointed by the municipal council as the municipal manager of the municipality in terms of Section 82 of the Local Government Municipal Structures Act, 1998 (Act No 117 of 1998) and includes any person to whom the municipal manager has delegated a power, function or duty but only in respect of that delegated power, function or duty;

“**municipal services**” means, for purposes of these by-laws, services provided by a municipality, including refuse removal, water supply, sanitation, electricity services and rates or any one of the above;

“**occupier**” includes any person who occupies any, or any part of any, land, building, structure or premises without regard to the title under which he or she occupies it or them, and includes any person who, for someone else’s remuneration or reward, allows a lodger or tenant, or any other similar person, to use or occupy any, or any part of any land, building, structure or premises situated in the area of jurisdiction of the municipality;

“**owner**” means:

- (a) the person in whose name the ownership of the premises is registered from time to time or his agent;

- (b) where the registered owner of the premises is insolvent or dead, or for any reason lacks legal capacity, or is under any form of legal disability, that has the effect of preventing him from being able to perform a legal act on his own behalf, the person in whom the administration and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;
- (c) where the municipality is unable to determine the identity of the owner, a person who has a legal right in, or the benefit of the use of, any premises, building, or any part of a building, situated on them;
- (d) where a lease has been entered into for a period of 30 (thirty) years or longer, or for the natural life of the lessee or any other person mentioned in the lease, or is renewable from time to time at the will of the lessee indefinitely or for a period or periods which, together with the first period of the lease, amounts to 30 years, the lessee or any other person to whom he has ceded his right title and interest under the lease, or any gratuitous successor to the lessee;
- (e) In relation to:
  - (i) a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act No 95 of 1986), the developer or the body corporate in respect of the common property, or
  - (ii) a section as defined in the Sectional Titles Act, 1986 (Act No 95 of 1986), the person in whose name such section is registered under a sectional title deed and includes the lawfully appointed agent of such a person; or
  - (iii) a person occupying land under a register held by a tribal authority or in accordance with a sworn affidavit made by a tribal authority;

**“person”** means any person, whether natural or juristic and includes, but is not limited to, any local government body or like authority, a company or close corporation incorporated under any law, a body of person whether incorporated or not, a statutory body, public utility body, voluntary association or trust;

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

- (a) a general plan or diagram registered in terms of the Land Survey Act, 1927 (Act No 9 of 1927), or in terms of the Deeds Registries Act, 1937 (Act No 47 of 1937);
- (b) a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act No 95 of 1986); or
- (c) a register held by a tribal authority or in accordance with a sworn affidavit made by a tribal authority;

**“public notice”** means publication in the media including one or more of the following:

- (i) publication of a notice, in the official languages determined by the municipal council-
- (ii) in any local newspaper or newspapers circulating in the area of supply of the municipality;
- (iii) in the newspaper or newspapers circulating in the area of supply of the municipality determined by the municipal council as a newspaper of record; or
- (iv) on the official website of the municipality;
- (v) by means of radio broadcasts covering the area of supply of the municipality;
- (a) displaying a notice in or at any premises, office, library or pay-point of either the municipality, or of its authorised agent, to which the public has reasonable access; and
- (b) communication with customers through public meetings and ward committee meetings;

“**shared consumption**” means the consumption by a customer of a municipal service during a specific period, that is calculated by dividing the total metered consumption of that municipal service in the supply zone where the customer’s premises are situated for the same period by the number of customers within the supply zone, during that period;

“**subsidised service**” means:

- (a) a municipal service which is provided to a customer at an applicable rate which is less than the cost of actually providing the service and includes services provided to customers at no cost;
- (b) an area, determined by the municipality, within which all customers are provided with service from the same bulk supply connection; and
- (c) the receipt, use or consumption of any municipal service which is not in terms of an agreement, or authorised or approved by the municipality; and

“**unauthorised service**” means the receipt, use or consumption of any municipal service which is not in terms of an agreement with, or approved by, the municipality.

## CHAPTER 2: MUNICIPAL SERVICES TO CUSTOMERS OTHER THAN INDIGENT CUSTOMERS:

### Application of by-law:

2. (1) This by-law applies to every customer which falls under the jurisdiction of Municipality, which is registered as such.
- (2) This by-law is binding on the state as an organ of state.

### Purpose of by-law:

3. The purpose of this by-law is to provide, in conjunction with other applicable legislation, an effective legal and administrative framework:
  - (a) to ensure that the way in which the municipal council controls, manages and develops Credit Control and Debt Collection is financially sustainable, and is in the long-term interests of the whole community of Matjhabeng including future generations;
  - (b) to clearly define the rights and obligations of the public in relation to Credit Control and Debt Collection.
  - (c) to repeal certain by-laws; and
  - (d) to provide for sanction in contravention of the by-law.

## PART 1: APPLICATION FOR MUNICIPAL SERVICES

### Application for Services

4. (1) A customer wishing to qualify as an indigent customer must apply for services in the manner set out in Chapter 4 below.
- (2) No person shall, subject to the provisions of subsection (3), receive or be provided with access to a municipal service unless the municipality has given its approval to an application that has been made to the municipality on the prescribed form attached as Annexure A to these by-laws.
- (3) If, at the commencement of these by-laws or at any other time, municipal services are provided and received and no written agreement exist in respect of such services, it shall, until the customer enters into an agreement in terms of subsection (2), be deemed that:



- (i) an agreement as envisaged by subsection (7) exists; and
  - (ii) The level of services rendered to that customer is at a level of services elected by him-her.
- (4) The municipality, when an application for the provision of municipal services has been made to it, must inform the applicant of the levels of services that are available and the applicable tariffs or charges than current, and, if it be known, the future tariffs or charges, associated with each level of service.
- (5) The municipality is obliged only to provide a level of service specifically requested by the applicant if the service is currently being provided and if the municipality has the resources and capacity to provide that level of service.
- (6) A customer may at any time apply for an alteration to the level of services that was elected in terms of an agreement, and, if she does so, the municipality may approve of the application if it has the capacity and resources to provide the requested level of service altering the level of services subject to the condition that the customer shall be liable, for the cost of effecting the alteration and, if it be feasible to calculate the cost, to pay it before the alteration commences.
- (7) An application for services that has been submitted by a customer and approved by the municipality shall constitute a written agreement between the municipality and the customer, and such agreement shall take effect on the date referred to or stipulated in the agreement.
- (8) The municipality must take reasonable steps to attempt to ensure that an illiterate person who wishes to complete an application form understand the document as well as the consequences of entering into the agreement, and must also advise him of the possibility of registering as an indigent customer.
- (9) The municipality, must, in addition to satisfying the requirements of subsection (8), assist an illiterate person in completing the application form.
- (10) Municipal services rendered to a customer are subject to the provisions of these by-laws, any other applicable by-laws and the conditions contained in the agreement.
- (11) The municipality may, subject to the provisions of any right to privacy and secrecy recognised by any law, undertake an investigation into the creditworthiness of customers, and may impose specific additional conditions, which are neither contained in these by-laws nor in the prescribed form, on that customer.
- (12) If the municipality:
- (i) refuses an application for the provision of municipal services or a specific service or level of service;
  - (ii) is unable to render municipal services, or a specific service or level of service, by when the customer wants it; or
  - (iii) is unable to tender municipal services, a specific service, or a specific level of service;
- it must, within 7 (seven) days of refusing the application or of becoming aware of its inability, inform the customer about the refusal or its inability, and must furnish the reasons for its refusal or inability and, if it is able to do so, inform the customer of when the municipal services, or a specific service, will be resumed: Provided that no charges may be levied by the municipality for services not rendered to a customer.

#### **Special Agreements for Municipal Services:**

5. The municipality may enter into a special agreement for the provision of municipal services with an applicant:
- (a) within the area of supply, if the services applied for requires the imposition of conditions not contained in the prescribed form or this by-law;
  - (b) receiving subsidised services; and
  - (c) if the premises to receive such services are situated outside the area of supply, and if the municipality having jurisdiction over the premises has no objection to such a special agreement, and it shall be incumbent on the customer to advise the municipality having jurisdiction of such a special agreement.

**Change in Purpose for which Municipal Services are used:**

6. Where the purpose for, or extent to which, any municipal service is changed, the customer must promptly advise the municipality of the change and enter into a new agreement with the municipality.

**Termination of Agreements for Municipal Services:**

7. (1) A customer may terminate an agreement for municipal services by giving at least 21 (twenty-one) days written notice to the municipality.
- (2) The municipality may terminate an agreement for municipal services by giving at least 21 (twenty-one) days written notice to a customer where:
- (i) municipal services were not utilised for a consecutive period of 2 (two) months and without an arrangement, to the satisfaction of the municipality, having been made for the continuation of the agreement; or
  - (ii) premises by a customer have been vacated by the customer, who owns or has occupied them, and no arrangement for the continuation of the agreement has been made with the municipality.
- (3) A customer shall remain liable for all arrears and applicable charges that are payable for municipal services rendered prior to the termination of an agreement.

**Property Developments:**

8. (1) A property developer must, as soon as an infrastructure is able to render a municipal service or service to an area which is the subject of development, adequately and promptly inform the municipality, within a reasonable time, of the nature and extent of the service or service to be provided and of the measuring devices that will be used.
- (2) A property developer who fails to comply with the provisions of subsection (1) shall be liable for the payment of all the applicable charges that would have been payable by customers in respect of municipal services that have been used or consumed.

**PART 2: APPLICABLE CHARGES****Applicable Charges for Municipal Services**

9. (1) All applicable charges payable in respect of municipal services, (including but not limited to the payment of connection charges, fixed charges or any additional charges) must set by the municipal council in accordance with:
- (i) its Tariff policy;
  - (ii) the by-laws; and
  - (iii) any regulations made in terms of national or provincial legislation.
- (2) Applicable charges may vary for different categories of customers, users of services, types and levels of services, quantities of services, infrastructural requirements and geographic areas.

**Availability Charges for Municipal Services**

10. The municipal council may, in addition to the tariffs or charges prescribed for municipal services actually provided, levy a monthly fixed charge, an annual fixed charge or a single and final fixed charge where municipal services are available, irrespective of whether or not the service are, or are not, used.

**Subsidised Services**

11. (1) A municipal council may implement subsidies, by public notice, to the extent to which it can afford to do so without detriment to the sustainability of municipal services that are being rendered by it within its area of jurisdiction, for what, in its opinion, is a basic level of service for a particular municipal service.
- (2) The municipal council may in implementing subsidies differentiate between types of domestic customers, types and levels of services, quantities of services, geographical areas and socio-economic areas.
- (3) A public notice in terms of subsection (1) must contain at least the following details applicable to a specific subsidy;
- (i) the domestic customers who will benefit from the subsidy;
  - (ii) the type, level and quantity of a municipal service that will be subsidised;
  - (iii) the area within which the subsidy will apply;
  - (iv) the rate (indicating the level of subsidy);
  - (v) the method of implementing the subsidy; and
  - (vi) any special terms and conditions that will apply to the subsidy.
- (4) If a domestic customer's consumption or use of a municipal service is:
- (a) less than the portion of a service that has been subsidised, the unused portion will not accrue to the customer and will not entitle the customer to a payment or a rebate in respect of the unused portion;
  - (b) in excess of the subsidised portion of the service, the customer will be obliged to pay for excess consumption at the applicable rate.
- (5) A subsidy implemented in terms of subsection (1) may at any time, after reasonable public notice, be withdrawn or altered in the sole discretion of the municipal council.
- (6) Commercial customers shall not qualify for subsidised services.
- (7) Subsidised services shall be funded from the portion of revenue that is raised nationally and allocated to the municipality and if such funding is insufficient the services may be funded from revenue raised by means of rates, fees and charges for municipal services.

<b>NOTE:</b> THIS SECTION FACILITATES IMPLEMENTATION OF THE MUNICIPALITY'S FREE BASIC SERVICES POLICY.
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**Recovery of Additional Costs**

12. The municipality by-laws may in addition to any charge, tariff, levy or payment of any kind referred to in these by-laws, recover from the customer any costs incurred by it in implementing these by-laws, including but not limited to all legal costs, including attorney and client costs incurred in the recovery of arrears which shall be debit against the customer as arrears in his account; and the costs incurred in demanding payment from the customer and for reminding the customer, by means of telephone, fax, e-mail, letter or otherwise that payment is due.

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**PART 3: PAYMENT****Payment of Deposit**

13. (1) A municipal council may require a customer to pay a deposit that has been determined by it and may determine that different deposits be paid by different categories of customers, users of service and debtors as well as for different services and standards of service.
- (2) A deposit may not exceed 3 (three) times the monetary value (including rates and taxes derived from rendering the service) of any service for which a client has applied.
- (3) A service referred to in subsection (2) means a service that has been rendered to a customer's premises; and the monthly monetary value of a service is calculated by taking the total monetary value of the 3 (three) most recent months of service that have been rendered to him/her and dividing it by 3 (three).
- (4) The municipal council may specify acceptable forms of deposits, which may include:
- (i) cash;
  - (ii) bank guaranteed cheques; and
  - (iii) bank guarantees.
- (5) A deposit determined by the municipal council must be paid by a customer when he applies for a municipal service and no service will be rendered until it has been paid.
- (6) The municipality may annually review a deposit paid in terms of subsection (5) and depending on the outcome of the review-
- (i) Require that an additional amount of money be deposited by the customer if the deposit is less than the most recent deposit determined by the municipal council; or
  - (ii) refund to the customer whatever amount of money that may be held by the municipality as a deposit which is in excess of the most recent deposit determined by the municipal council.
- (7) If a customer is in arrears, the municipality may require the customer to:
- (i). pay a deposit if that customer has not previously been required to pay a deposit, if the municipal council has determined a deposit; and
  - (ii). pay an additional deposit where the deposit paid by that customer is less than the most recent deposit determined by the municipal council.
- (8) A deposit, or any part of a deposit, is neither a payment, nor a part payment, of account but if an account is in arrears, the deposit will be used in payment, of the arrears.
- (9) No interest shall be payable by the municipality on any deposit, or part of a deposit, held by it.
- (10) A deposit, is refundable to the customer on settlement of all arrears on the termination of the agreement but if any arrears are still due, they will be deducted from it.
- (11) A deposit shall be forfeited to the municipality if it has not been claimed by the customer within 12 (twelve) months of the termination of the agreement.

**Methods for determining Amounts Due and Payable**

14. (1) A municipality must endeavour to meter all municipal services that are capable of being metered, if it has the financial and human resources, to do so and, also, to read all metered services on a regular basis, but if a service is not measured, a municipality may determine what is due and payable by a customer for municipal services by calculating the shared consumption; or, if that is not possible, by means of an estimated consumption.

- (2) If a metered service is metered, it cannot be read because of financial and human resource constraints, or circumstances beyond the control of the municipality, and the customer is charged for an average consumption, the account following a reading of the metered consumption must state the difference between the actual consumption and the average consumption, and reflect the resultant credit of debit adjustment.
- (3) Where in the opinion of the municipality it is not reasonably possible or cost effective to meter all customer connections, or to read all metered customer connections, within a determined area, the municipal council may determine the amount due and payable by a customer for municipal services in the manner set out in subsection (1).
- (4) Where water supply services are provided by communal water services work, the amount that customers must pay for gaining access to and utilizing, water from the communal water services work, will be based on the shared or estimated consumption of water supplied to that water services work.
- (5) The municipality must inform customers about the method used in determining what is due and payable in respect of municipal services in their consumption or supply zones.

#### **Payment for Municipal Services Provided**

15. (1) A customer shall be responsible for the payment of all municipal services rendered to his or her from the commencement date of the agreement until his or her account has been paid in full and the municipality shall be entitled to recover all payments due to it.
- (2) If customer uses a municipal service for a use other than that for which it is rendered by the municipality in terms of an agreement, and if it is charged at a lower than the usual applicable charge, the municipality may alter the amount to be charged and recover from the customer the difference between the altered charge and the amount that has been paid by the customer.
- (3) If amendments to the applicable charge become operative on a date between when measurements are made for rendering an account for the applicable charges:
  - (i) It shall be deemed that the same quantity of municipal services was provided for each period of twenty-four hours during the interval between the measurements; and
  - (ii) any fixed charge shall be calculated on a pro rata basis in accordance with the charge that applied immediately before such amendment and such amended applicable charge.

#### **Full and Final Settlement of an Amount**

16. Where an account is not settled in full, any lesser amount tendered to, and accepted by, the municipality shall not be a full and final settlement of such an account despite the fact that the payment was tendered, in full and final settlement, unless the municipal manager or the manager of the municipality's authorised agent, expressly accepts it in writing as being in full and final settlement of the account in question.

#### **Responsibility for Amounts Due and Payable**

17. (1) Subject to subsection (2) and notwithstanding any other provision in these by-laws, an owner of premises shall be liable for the payment of any amount that is due and payable to the municipality by a customer for the preceding two years, if the municipality, after having taking reasonable steps to recover from a customer any amount due and payable by the customer could not do so; provided that the municipality may only recover it if the owner has signed the application form that was submitted by a consumer in accordance with section 4 and if he or she was informed by the municipality that the consumer was in arrears.
- (2) If, at the commencement of these by-laws or at any other time, municipal services are rendered and received by any person at the premises, and if no written agreement exist in respect of those services, the owner of the premises shall be deemed to have agreed to the provisions of subsection (1) until the customer enters into an agreement with the municipality in terms of section 4 and the application form for the services is signed by the owner.

### Dishonoured Payments

18. Where any payment made to the municipality by negotiable instrument is later dishonoured by the bank, the municipality:
- (i). may debit the customers account with the bank charges incurred in respect of dishonoured negotiable instruments;
  - (ii). shall regard such an event as default on payment.

### Incentive Schemes

19. The municipal council may institute incentive schemes to encourage prompt payment and to reward customers who pay their accounts regularly and on time.

### Pay-points and Approved Agents

20. (1) A customer must pay his account at pay-points specified by the municipality or at an approved agent of the municipality.
- (2) The municipality must inform a customer of the location of specified pay-points and about who is an approved agent for receiving the payments of accounts.

## PART 4: ACCOUNTS

### Accounts

21. (1) Accounts must be rendered monthly to customers at the customer's last recorded address.
- (2) Where in the opinion of the municipality it is not reasonably possible or cost effective to render accounts to consumers who consume only subsidised services, the municipal council may, notwithstanding subsection (1), decide not to render accounts to those consumers.
- (3) Failure by the customer to receive or accept an account does not relieve a customer of the obligation to pay any amount that may be due and payable.
- (4) The municipality must, if it is reasonably possible to do so, issue a duplicate account to a customer on request.
- (5) Accounts must be paid not later than the last date for payment specified in it.
- (6) Accounts for municipal services must:
- (a). reflect at least the-
    1. services rendered;
    2. consumption of metered services, or the average shared or estimated consumption in the case where a meter could not reasonably have been taken;
    3. period addressed in account;
    4. applicable charges;
    5. subsidies;
    6. amount due (excluding the value added tax payable)
    7. value added tax;

8. adjustment, if any, to metered consumption which has been previously estimated;
  9. arrears;
  10. interest payable on any arrears;
  11. final date for payment; and
  12. methods, places and approved agents where payment may be made; and
- (b). state that-
1. the customer and the municipality may enter into an agreement at the municipal offices in terms of which the customer will be permitted to pay arrears in instalments;
  2. if no such agreement is entered into, the municipality will limit or disconnect the services, after sending a final demand notice in terms of sections 26 and 28 to the customer;
  3. legal action may be instituted against any customer for the recovery of any amount more than 40 (forty) days in arrears;
  4. a claim for arrears may be ceded to a debt collector for collection; and
  5. proof of registration, as an indigent customer, in terms of the municipality's indigent policy, which may form part of the municipality's credit control and debt collection policy, must be handed in at the offices of the municipality before the final date for payment.

#### **Consolidated Debt**

22. (1) If an account is rendered for more than one municipal service provided, the amount due and payable by a customer constitutes a consolidated debt, and any payment made by a customer of an amount less than the total amount due, will be allocated in reduction of the consolidated debt in the following order towards payment:
- (i). of the current account;
  - (ii). of arrears; and
  - (iii). of interest.
- (2) A customer may not elect how an account is to be settled if it is either not paid in full or if there are arrears.

### **PART 5: QUERIES, COMPLAINTS AND APPEALS**

#### **Queries or Complaints in Respect of Account**

23. (1) A customer may lodge a query, complaint or objection relating to the accuracy of any amount stated to be due and payable by him for a specific municipal service in an account that has been rendered to him.
- (2) A query, complaint or objection must be lodged with the municipal manager in writing before the due date of payment of the account.
- (3) The municipality must assist an illiterate or similarly disadvantaged customer in lodging a query, complaint or objection and must take reasonable steps to ensure that it is reflected correctly in writing.

- (4) A query, complaint or objection must be accompanied by a payment calculated by taking the average consumption by the customer of the service and subtracting the amount that has been questioned, complained about or objected to.
- (5) The municipality must record the query, complaint or objection and provide the customer with a reference number to identify where it has been recorded.
- (6) The municipality:
  - (i) shall investigate or cause the query, complaint or objection to be investigated within 14 (fourteen) days after the query or complaint was registered; and
  - (ii) must inform the customer, in writing, of its finding within 16 (sixteen) days after the query, complaint or objection was registered.

#### **Appeals against Findings of Municipality in Respect of Queries or Complaints**

24. (1) A customer may appeal in writing against a finding of the municipality in terms of this section.
- (2) An appeal in terms of subsection (1) must be made in writing and lodged with the municipality manager within 21 (Twenty-one) days after the customer became aware of the finding referred to in section 21 and must:-
  - (i) set out the reason for the appeal; and
  - (ii) be accompanied by a deposit, as determined by the municipal council, if the municipality requires a deposit to be made.
- (3) The municipality may, on appeal by a customer instruct him or her, to pay the full amount appealed against.
- (4) The customer is liable for all other amounts, other than that appealed against, falling due and payable during the adjudication of the appeal.
- (5) An appeal must be decided by the municipality within 21 (twenty-one) days after an appeal was lodged and the customer must be informed of the outcome in writing, as soon as is reasonably possible, afterwards.
- (6) If the municipality decides to reject the query, or complaint or objection, the customer must pay any amounts found to be due and payable in terms of the decision within 14 (fourteen) days of being informed of the outcome of the appeal.
- (7) The municipality may condone the late lodging of appeals or other procedural irregularities.
- (8) If it is alleged in an appeal that a measuring device is inaccurate, the device must be subjected to a standard industry test as determined by the municipality, to establish its accuracy and the customer must be informed of the estimated cost of such a test prior to such test being undertaken.
- (9) If the outcome of any test shows that a measuring device is:
  - (a) within a prescribed range of accuracy, the customer will be liable for the costs of the test and any other amounts outstanding, and those costs will be debited in the customer's account;
  - (b) is outside a prescribed range of accuracy, the municipality will be liable for the costs of such test and the customer must be informed of the amount of any credit to which he is entitled as a consequence of any inaccuracy.
- (10) A deposit referred to in subsection (2) (b), shall be:
  - (a) retained by the municipality if the measuring device is found not to be defective; or
  - (b) refunded to the applicant to the extent that it exceeds the amount payable in respect of quantity determined in accordance with subsection 11(b), if the measuring device is found in terms of that subsection to be defective.



- (11) In addition to subsections (9) and (10) the municipality must if the measuring device is found defective:-
- (a) repair the measuring device or install another device in good working order, without charge to the customer, unless the cost of doing so is recoverable from the customer in terms of these or any other by-laws of the municipality; and
  - (b) determine the quantity of municipal services for which the customer will be charged in lieu of the quantity measured by the defective measuring device by taking as a basis for such determination, and as the municipality may decide:-
    - (i) the quantity representing the average monthly consumption of the customer during the three months preceding the month in respect of which the measurement is disputed and adjusting that quantity in accordance with the degree of error found in the reading of the defective meter or measuring device;
    - (ii) the average consumption of the customer during the succeeding three metered periods after the defective meter of measuring device has been repaired or replaced; or
    - (iii) the consumption of services on the premises recorded for the corresponding period in the previous year.

## **PART 6: ARREARS**

### **Consolidated Arrears**

25. If one account is rendered for more than one municipal service provided, all areas due and payable by a customer constitute a consolidated debt, and any payment made by a customer of an amount less than the total amount due, will be allocated in reduction of the consolidated debt in the following order:
- (i.) towards payment of the current account;
  - (ii.) towards payment of arrears;
  - (iii.) towards payment of interest; and
  - (iv.) towards costs incurred in taking relevant action to collect amounts due and payable

### **Arrears**

26. (a). If a customer fails to pay the account on or before the due date, a final demand notice may be hand delivered or sent by registered post to the most recent recorded address of the customer within 2 (two) working days of the arrears having accrued.
- (b). Failure to deliver or to send a final demand notice within 2 (two) working days does not relieve a customer from paying arrears.

### **Interest**

27. (1) Interest may be levied on arrears.
- (2) The municipal council may differentiate between types of domestic customers, types and levels of services, quantities of services, geographical areas and socio-economic areas in levying interest on areas.

### **Final Demand Notice**

28. (1) The final demand notice must contain the following statements:
- (a) the amount in arrears and interest payable;
  - (b) that the customer may conclude an agreement with the municipality for payment of the arrears in instalments within 7 (seven) working days of the date of the final demand notice;

- (e) that the account might be handed over to a debt collector for collection; and
  - (f) that proof of registration, as an indigent customer, in terms of these by-laws must be handed in at the office of the municipality before the final date of the final demand notice.
- (2) The municipality must, subject to section 28, in deciding whether a municipal service is to be specified for limitation or disconnection in terms of subsection (1)(c) consider:
- (a) what potential socio-economic and health implications the limitation or disconnection may have on the customer; and
  - (b) a domestic customer's right of access to basic municipal services as identified in the municipal council's credit control and debt collection policy.

#### Limitation or Disconnection of Municipality Services

29. (1) The municipality may, immediately on the expiry of the 7 (seven) working day period allowed for payment in terms of the final demand notice limit or disconnect the municipal services specified in subsection 28(1)(c) provided that a domestic customer's access to basic water supply services and sanitation services may not be disconnected.
- (2) The municipality may only limit a domestic customer's access to basic water supply services by-
- (a). reducing water pressure; or
  - (b). limiting the availability of water to a specified period or periods during a day; or
  - (c). disconnecting in-house and yard connections and making an alternative water supply services available to the domestic consumer, which alternative service may consist of a basic water supply services as prescribed by the Minister of Water Affairs and Forestry in terms of the Water Services Act, 1997(Act No 108 of 1997).
- (3) The costs associated with the limitation or disconnection of municipal services shall be at the cost of the customer and shall be included in the arrears amount due and payable by the customer.

NOTE: THE SFWS STATES THAT IN THE FIRST INSTANCE, AND AFTER FOLLOWING DUE PROCESS (INCLUDING A WARNING), DOMESTIC WATER SUPPLY CONNECTIONS MUST BE RESTRICTED AND NOT DISCONNECTED, SO AS TO ENSURE THAT AT LEAST A BASIC SUPPLY OF WATER IS AVAILABLE. (ONLY WHERE THE COSTS ASSOCIATED WITH RESTRICTED WATER SERVICES IN THIS MANNER WOULD HAVE A SUBSTANTIAL AND SIGNIFICANT IMPACT ON THE SUSTAINABLE PROVISION OF WATER SERVICES TO THE BROADER COMMUNITY, MAY WATER SERVICES BE DISCONNECTED AFTER PROPER PROCEDURES HAVE BEEN FOLLOWED.)

SECTION 29 OF THESE BY-LAWS HAS BEEN DRAFTED IN A WAY THAT DOES NOT ALLOW FOR DISCONNECTION. IN THE EVENT OF THE CIRCUMSTANCES AS DESCRIBED ABOVE BEING RELEVANT THE MUNICIPALITY WILL HAVE TO AMEND THIS SECTION AND SHOW, IF CHALLENGED, THAT DISCONNECTION WAS JUSTIFIED BECAUSE A FAILURE TO DO SO WOULD HAVE A SUBSTANTIAL AND SIGNIFICANT IMPACT ON THE SUSTAINABLE PROVISION OF WATER SERVICES TO THE BROADER COMMUNITY; AND WOULD HAVE TO BE QUANTIFIED.

#### General

31. (1) No action taken in terms of this section because of non-payment will be suspended or withdrawn, unless the arrears, any interest recoverable administration fees, additional charges, costs incurred in taking relevant action and any penalties, including the payment of a higher deposit, payable have been paid in full.
- (2) The municipality will not be liable for any loss or damage suffered by a customer owing to municipal services having been limited or disconnected.

**PART 7: AGREEMENT FOR THE PAYMENT OF ARREARS INSTALMENTS****Agreements**

32. (1) The following agreements for the payment of arrears in instalments may be entered into:
- (a) an acknowledgement of debt;
  - (b) a consent to judgment; or
  - (c) an emolument attachment order.
- (2) Only a consumer with positive proof of identity or a person authorised, in writing, by that consumer, or, if a consumer is illiterate, a person authorised by a consumer personally in the presence of an officer appointed by the authority for that purpose, will be allowed to enter into an agreement for the payment of arrears in instalments.
- (3) No customer will be allowed to enter into an agreement for the payment of arrears in instalments where that customer failed to honour a previous agreement for the payment of arrears in instalments, unless the municipality, in its sole discretion, permits the customer to do so.
- (4) copy of the agreement must be made available to the customer.
- (5) An agreement for the payment of arrears in instalments must not be entered into unless and until a customer has paid his current account.

**Additional Costs, Partial Settlement and Instalments**

33. (1) The costs associated with entering into agreements for the payment of arrears in instalments and the limitation or disconnection of municipal services in accordance with section 29 shall be included in the arrears amount due and payable by the customer.
- (2) The municipality must, in determining the amount payable by the customer on entering into an agreement for the payment of arrears in instalments and the instalments payable in respect of any arrear amounts take the following factors into account:
- (a) the credit record of the customer;
  - (b) the amount in arrear;
  - (c) the level of consumption of municipal services;
  - (d) the level of service provided to the customer;
  - (e) previous breaches of agreements (if there be any) for the payments of arrears in instalments; and
  - (f) any other relevant factors.
- (3) If a customer on entering into an agreement for the payment of arrears in instalments, proves to the municipality that he is unable to pay the amount referred to in section 32(5) the municipality may, after taking into account the factors referred to in subsection (2):
- a. extend its payment to the end of the month in which the customer enters into the agreement; or
  - b. include it in the amount payable in terms of the agreement.

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- (4) The municipality may, after taking into account the factors referred to in subsection (2), require a customer to pay an additional amount on entering into an agreement for the payment of arrears, in addition to the current account, representing a percentage of the arrears amount in arrear.
- (5) The municipality may, when a customer enters into an agreement or any time afterwards-
- (i). Install a pre-payment meter; or
  - (ii). limit the municipal services to basic municipal services.

#### **Duration of Agreements**

34. (1) No agreement for the payment of arrears shall provide for the payment of arrears over a period in excess of 24 (twenty-four) months.
- (2) The municipality may, in deciding on the duration of the agreement for the payment of arrears have regard to-
- (a) the credit record of the customer;
  - (b) the amount in arrear;
  - (c) the gross and net income of the customer;
  - (d) the level of consumption of municipal services;
  - (e) the level of service provided to the customer;
  - (f) previous breaches of agreements for the payment of arrears in instalments; and
  - (g) any other relevant factor.

#### **Failure to Honour Agreements**

35. (1) If a customer fails to comply with an agreement for the payment of arrears in instalments, the total of all outstanding amounts, including arrears, any interest, administration fees, costs incurred in taking relevant action, and penalties, including payment of a higher deposit, will be immediately due and payable without further notice or correspondence and the municipality may:
- (a) limit or disconnect the municipal services specified in the final demand notice sent to the customer in accordance with section 26;
  - (b) institute legal action for the recovery of the arrears; and
  - (c) hand the customer's account over to a debt collector or an attorney for collection.

#### **Re-connection of Services**

36. (1) An agreement for payment of the arrears amount in instalments, entered into after municipal services were limited or disconnected, will not result in the services being restored until-
- (a) the current account, the first instalment payable in terms of the agreement for payment of the arrears in instalments and all recoverable administration fees, costs incurred in taking relevant action and any penalties, including payment of a higher deposit, are paid in full; or
  - (b) a written appeal by the customer, on the ground of having made timeous and full payment of instalments and current amounts due and payable for a period of at least 6 (six) months has been approved by the municipality.

- 2) In addition to any payments referred to in subsection (1), the customer must pay the standard re-connection fee, as determined by the municipality from time to time, prior to the re-connection of municipal services by the municipality.
- (3) Municipal services shall be restored within 7 (seven) working days after a customer has complied with the provisions of subsections (1) and (2).

### CHAPTER 3: ASSESSMENT RATES

#### Amount Due for Assessment Rates

37. (1) The provisions of Chapter 3 apply to the recovery of assessment rates and assessment rates form part of a consolidated account and consolidated debt.
- (2) All assessment rates due by owners are payable by a fixed date as determined by the municipality.
- (3) Joint owners of property shall be jointly and severally liable for the payment of assessment rates.
- (4) Assessment rates may be levied as an annual single amount, or in equal monthly instalments; and when levied in equal monthly instalments, the amount payable may be included in the municipal account.
- (5) A property owner remains liable for the payment of assessment rates included in municipal accounts, notwithstanding the fact that-
  - (a) the property is not occupied by the owner thereof; or
  - (b) the municipal account is in the name of a person other than the owner of the property.
- (6) Payment of assessment rates may not be deferred beyond the fixed date because of an objection to the valuation reflected in the valuation roll.

#### Claim on Rental for Assessment Rates in Arrears

38. The municipality may apply to court for the attachment of any rent, due in respect of rateable property, to cover, in part or in full, any amount outstanding in respect of assessment rates for a period longer than three months after a date that has been fixed in terms of section 37(2).

#### Disposal of Municipality's Property and Payment of Assessment Rates

39. (1) The purchaser of municipal property is pro rata liable for the payment of assessment rates on the property for the financial year in which he becomes the new owner, from the date of registration of the property in the name of the purchaser with the registrar of Deeds.
- (2) In the event of the municipality repossessing the property, any amount outstanding and due in respect of assessment rates shall be recoverable from the purchaser.

#### Assessment Rates Payable on Municipal Property

40. (1) For the purpose of liability for assessment rates, the lessee of municipal property will be deemed to be the owner of the property for the duration of the lease.
- (2) The assessment rates payable by a lessee, despite being a payment in addition to rent, may be deemed to be rent and may be included in a claim for rent as if were rent.

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**CHAPTER 4: PROVISION OF MUNICIPAL SERVICES TO INDIGENT CUSTOMERS****Qualification for Registration**

41. (1) A domestic customer, with a household where the gross monthly income of all its members of 18 years old or over, is less than an amount determined by the municipal council from time to time, who:
- (a) does not own more than one property, and who
  - (b) does not have any income from letting a property or part of a property, qualifies as an indigent person and, if he applies for registration, may, subject to the provisions of section 43, 45 and 46 of these by-laws, be registered as being indigent.

**Application for registration**

42. (1) A domestic customer wishing to qualify as an indigent customer must complete the application form entitled "Application for Registration as Indigent Customer" attached as Annexure B to these by-laws.
- (2) Any application in terms of subsection (1) must be-
- (a) accompanied by:
    - (i) documentary evidence of his income, such as a letter from an employer, a salary advice slip, a pension card, unemployment insurance fund card or
    - (ii) an affidavit declaring that he is unemployed and stating any income that he may have despite being unemployed; and the customer's latest municipal account, if there be one, and if it is in his possession; and
    - (iii) a certified copy of the customer's identity document; and the names and identity numbers of all occupants over the age of 18 years who are resident at the property.
  - (3) A customer applying for registration as an indigent customer shall be required to declare that all information provided in the application form and other documentation and information provided in connection with the application is true and correct.
  - (4) The Commissioner of Oaths shall counter-sign the application form and certify on the application form that its content and the consequences for the customer of its being approved were explained to him and that he indicated that he understood the explanation.

**Approval of Application**

43. (1) The municipality may send representatives to premises or to persons applying for registration as indigent customers to investigate whether the information provided prior to approval of an application is correct; and the provisions of section 61 apply to such an investigation.
- (2) An application received in accordance with section 42 shall be considered by the municipality and the applicant must be advised in writing within 30 (thirty) working days of receipt of the application by the municipality, whether or not the approval has been given and, if it is not approved, the applicant must be given reasons for the refusal.
- (3) The provisions of Part 5 of Chapter 2 shall, with the necessary alterations, apply in respect of a customer who feels aggrieved by a decision of the municipality in terms of subsection (2).
- (4) An application shall be approved only for the period of the municipality's financial year and application that has been approved during the municipality's financial year shall be valid only for the remaining period of the municipality's financial year.

**Conditions**

44. (1) The municipality may on approval of an application or at any time afterwards:
- (a) Install a pre-payment electricity meter for the indigent customer where electricity is provided by the municipality; and
  - (b) limit the water supply services of an indigent customer to basic water supply services.

**Annual Application**

45. (1) An indigent customer must annually, before the end of the municipality's financial year, re-apply for registration as an indigent customer for the forthcoming financial year, failing which the assistance will cease automatically.
- (2) The provisions of section 42 and 43 shall apply to any application in terms of subsection (1).
- (3) An indigent customer shall have no expectation of being regarded as an indigent customer in any year that ensures or follows a year in which he or she was so registered and the municipality gives no guarantee on grounds for the expectation of a renewal.
- (4) The municipality shall inform the applicant in writing, within 14 (fourteen) working days of the receipt of the application by the municipality, whether or not the application has or has not been approved, and if it has not been approved, the applicant must be given the reasons why it has not been approved.
- (5) The provisions of Part 5 of Chapter 2 shall, with the necessary alterations, apply in respect of a customer who feels aggrieved by a decision of the municipality in terms of subsection (4).

**Subsidised Services for Indigent Customers**

46. (1) The Council may annually as part of its budgetary process, determine the municipal services and levels of municipal services that will be subsidised in respect of indigent customers subject to principles of sustainability and affordability.
- (2) The municipality must on a determination in terms of subsection (1) give public notice of the determination.
- (3) Public notice in terms of subsection (2) must contain at least the following:
- (a) the level or quantity of municipal service that will be subsidised; the level of subsidy;
  - (b) the method of calculating the subsidy; and
  - (c) any special terms and conditions that will apply to the subsidy, not provided for in these by-laws.
- (4) An indigent consumer shall be liable for the payment of any municipal services rendered by the municipality or municipal services used or consumed in excess of the levels or quantities determined in subsection (1).
- (5) The provisions of Chapter 2 shall, with all necessary changes, apply to the amounts due and payable in terms of subsection (4).

**Funding for Subsidised Services**

47. The subsidised services referred to in section 46 shall be funded from the portion of revenue raised nationally that is allocated to the municipality and if that funding is insufficient the services may be funded from revenue raised through rates, fees and charges in respect of municipal services.

**Existing Arrears of Indigent Customers on Approval of Application**

48. (1) Arrears accumulated in respect of the municipal accounts of customers prior to registration as indigent customers will be suspended for the period that a customer remains registered as an indigent customer, and interest shall not accumulate in respect of arrears during such a suspension.

- (2) Arrears suspended in terms of subsection (1) shall become due and shall be paid by a customer in monthly instalments, to be determined by the municipality, on de-registration as an indigent customer in accordance with section 50 and interest will be payable on arrears.
- (3) Notwithstanding the provisions of subsection (2) arrears that have been suspended for a period of two (2) years or longer shall not, subject to the provisions of subsection (4), be recovered from a customer on de-registration.
- (4) Arrears not recovered due to the provisions of subsection (2) shall remain a charge against the property of the indigent customer for a period of 5 (five) years after the customer was first registered as an indigent customer and shall become due and payable when the property is sold, irrespective of the fact that the customer may no longer be registered as an indigent customer at the time that the property is sold. A clearance certificate in respect of the property shall only be issued by the municipality when such arrears have been settled in full.

#### Audits

49. The municipality may, subject to the provisions of any right to privacy and secrecy recognised by any law, undertake regular random audits to:
- (a) verify the information provided by indigent customers;
  - (b) record any changes in the circumstances of indigent customers; and
  - (c) make recommendations on the de-registration of the indigent customer.

#### De-Registration

50. (1) An indigent customer must immediately request de-registration by the municipality if his or her circumstances has changed to the extent that he or she no longer meet the qualifications set out in section 41.
- (2) An indigent customer shall automatically be de-registered if an application in accordance with section 42 is not made or if such application is not approved.
- (3) An indigent customer may at any time request de-registration.
- (4) A municipality may de-register an indigent customer if:
- (a) an audit or verification concludes that the financial circumstances of the indigent customer has changed to the extent that he or she no longer meet the qualifications set out in section 41 or
  - (b) the municipality reasonably suspects that a customer intentionally or negligently has provided false information in the application form or any other documentation and information in connection with the application.
  - (c) it must prior to deregistering the customer, deliver by hand or sent by registered post a deregistration notice to the most recent recorded address of the customer.
- (5) Prior to deregistering an indigent customer, a de-registration notice must be hand delivered or sent by registered post, to the most recent recorded address of the customer.
- (6) The deregistration notice must contain the following statements:
- (a) that the municipality is considering de-registering the indigent consumer and the reasons therefore;
  - (b) that the customer must within 7 (seven) working days of the date of the deregistration notice make representations to the municipality as to why he should not be de-registered;
  - (c) that if no such representations are made within the stated period that he will be deregistered as an indigent consumer; and
  - (d) that on deregistration payment for all services received by the customer as an indigent customer may be recovered if de-registration is considered on the grounds of providing false information of failure to comply with subsection (1).



- (7) The municipality may, immediately on the expiry of the 7 (seven) working day period allowed for making representations de-register the indigent customer.
- (8) Where an indigent customer is de-registered on the grounds of proving false information the municipality may recover payment for all services received by the customer as an indigent customer from the customer, in addition to any other legal actions the municipality may take against such a customer.
- (9) If the indigent customer makes representations to the municipality within the specified period the municipality must notify the customer in writing within 7 (seven) working days after the representations of its decision to deregister the customer or not.
- (10) The provisions of Part 5 of Chapter 2 shall mutatis mutandis apply in respect of a customer feeling aggrieved by de-registrations in terms of subsection (4).

## CHAPTER 5: EMERGENCY SITUATIONS

### Declaration of Emergency Situations

51. (1) The municipal council may at any time at the request of the municipality declare by public notice, that an emergency situation exists in a supply zone in respect of a municipal service, or more than one municipal service, if, in its opinion, a significant risk to the financial viability or sustainability of the municipality, or the sustainable rendering of a specific municipal service to the community exists and that no other reasonable measures may be taken to avoid or limit the risk, but may only do so if the municipality has submitted a report that contains at least-
- (a) details of all measures taken by it to avoid or limit the risk;
  - (b) an assessment of why any measure taken by it to avoid or limit the risk has been unsuccessful;
  - (c) details of the proposed measures to be taken by it to avoid or limit the risk;
  - (d) an assessment of the impact or potential impact of the proposed measures on individual customers within the relevant supply zone, including, but not limited to, health and access to basic services;
  - (e) details of the educational and communication measures to be, or that have been, taken prior to the implementation of the proposed measures;
  - (f) the duration of the proposed measures to be taken; and
  - (g) details of the reasonable measures to be taken to ensure equitable access by each household in the supply zone to that municipal service.
- (2) Public notice in terms of subsection (1) must contain at least the following details applicable to a specific emergency situation:
- (a) the reasons for the declaration;
  - (b) the customers who, and supply zone that, will be affected by the declaration;
  - (c) the type, level and quantity of municipal service that will be provided;
  - (d) the duration of the declaration;
  - (e) the method of implementing the declaration;
  - (f) specific measures or precautions to be taken by affected customers; and
  - (g) special relief that may be granted to individual consumers on application to the municipality.

- (3) In the event of the declaration of a supply zone as an emergency area in accordance with services for a household as determined by the municipality from time to time, provided that at no time may the municipal services provided by the municipality to that supply zone be less than the collective quantity and quality of basic municipal services as determined by the municipal council per households in that supply zone.
- (4) The municipality must submit a monthly status report to the municipal council that contains at least the following details:
  - (a) any improvement in the conditions that were reflected in the information on which the declaration was based;
  - (b) the impact of the proposed measures on individual customers within the relevant supply zone, including, but not limited to,
  - (c) health and access to basic services implications; and special relief granted to individual customers.
- (5) The municipal council must by public notice declare an area no longer to be an emergency area:-
  - (a) if any of the information on which the declaration was based, improves to such an extent that the avoidance or limitation of the risk referred to in subsection (1) no longer warranted its being declared an emergency area;
  - (b) if, in its opinion, undue hardship has been suffered by customers affected by the declaration; and
  - (c) on the expiry of the period specified in terms of subsections (1) and (2).
- (6) The municipality may request the municipal council to declare a supply zone an emergency area after the ending of a declaration in terms of subsection (3), if in the municipality's opinion a new declaration is required.
- (7) The provisions of subsections (1) to (4) apply to a request in terms of subsection (6).

## CHAPTER 6: UNAUTHORISED SERVICES

### Unauthorised Services

52. (1) No person may gain access to municipal services unless it is in terms of an agreement entered into with the municipality for the rendering of those services.
- (2) The municipality may, irrespective of any other action it may take against a person in terms of these by-laws, by written notice order a person who is using unauthorised services to-
  - (a) apply for such services in terms of sections 4 and 5; and
  - (b) undertake any work that may be necessary to ensure that the customer installation, by means of which access was gained, complies with the provisions of these or any other relevant by-laws if it is of the opinion that the situation is a matter of urgency, and may, without prior notice, prevent or rectify the non-compliance and recover the cost from him.
- (3) A person who gains access to municipal services in a manner other than in terms of an agreement entered into with the municipality for the rendering of those services shall be liable to pay for any services that he, may have utilised or consumed in breach of these by-laws, notwithstanding any other actions that may be taken against such a person.
- (4) Consumption and use will be estimated on the basis of the average consumption of services to the specific area within which the unauthorised connection was made.

### Interference with Infrastructure for the Provision of Municipal Services

53. (1) No person other than the municipality shall manage, operate or maintain infrastructure through which municipal services are provided.

- (2) No person other than the municipality shall effect a connection to infrastructure through which municipal services are provided.
- (3) No person shall intentionally or negligently damage, change or in any way interfere with infrastructure through which the municipality provides municipal services unless there is a lawful justification for intentionally doing so.
- (4) If a person contravenes subsection (1), the municipality may:
  - (a) by written notice require a person to cease or rectify the damage, change or interference at his own expense within a specified period; or
  - (b) if it is of the opinion that the situation is a matter of urgency without prior notice prevent or rectify the change, damage or interference and recover the cost of doing so from him.

#### **Obstruction of Access to Infrastructure for the Provision of Municipal Services**

- 54. (1) No person shall prevent or restrict physical access to infrastructure through which municipal services are provided.
- (2) If a person contravenes subsection (1), the municipality may:
  - (i) by written notice require such person to restore access at his own expense within a specified period; or
  - (ii) if it is of the opinion that the situation is a matter of urgency, without prior notice restore access and recover the cost of doing so from him.

#### **Illegal Re-Connection**

- 55. (1) A customer whose access to municipal services have been restricted or disconnected, who, except as provided for in these by-laws, restores or reconnects to those services or who intentionally or negligently interferes with infrastructure through which municipal services are provided, shall be disconnected.
- (2) A person who re-connects to municipal services in the circumstances referred to in subsection (1) shall be liable for to pay any services that he it may have utilised or consumed in breach of these by-laws, notwithstanding any other action that may be taken against him or her including the removal of the system through which a municipal service is provided.
- (3) Consumption will be estimated on the basis of the average consumption of services to the specific area within which the illegal re-connection was made.

### **CHAPTER 7: OFFENCES**

#### **Offences**

- 56. (1) Subject to subsection (2), any person, who:
  - (a) contravenes or fails to comply with any provisions of these by-laws other than a provision relating to payment for municipal services;
  - (b) fails to comply with any notice issued in terms of these by-laws;
  - (c) fails to comply with any lawful instruction given in terms of these by-laws, or
  - (d) who obstructs or hinders any authorised official or employee of the municipality in the execution of his duties under these by-laws, is guilty of an offence and liable on conviction to a fine or in default of payment to imprisonment for a period not exceeding 6 months and in the case of any continued offence, to a further fine not exceeding R50, or in default of payment, to imprisonment not exceeding one day for every day during the continuance of such offence, after a written notice has been issued by the municipality and served on the person concerned requiring the discontinuance of such an offence.
- (2) No person shall be liable to imprisonment if he is unable to afford to pay a fine, and shall instead be liable to a period of community service.
- (3) Any person committing a breach of the provisions of these by-laws shall be liable to recompense the municipality for any loss or damage suffered or sustained by it in consequence of the breach.

## CHAPTER 8: DOCUMENTATION

### Signing of Notices and Documents

57. A notice or document that is required to be issued by the municipality in terms of these by-laws and which purports to be signed by an employee of the municipality shall, subject to section 3 of the Law of Evidence Act, 1988 (Act No 45 of 1988), on its mere production, constitute *prima facie* evidence of its having been duly issued.

### Notices and Documents

58. (1) Any notice, order or other document that is served on any person in terms of these by-laws must, subject to the provisions of the Criminal Procedure Act, 1977 (Act No 51 of 1977), be served personally, failing which it may be served:-
- (a) when it has been left at that person's place of residence or business, or, where his household is situated in the Republic, when it has been left with a person who is apparently 16 years or older;
  - (b) 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 either personally or in the manner provided by paragraphs (a), (c) or (d); or
  - (c) if that person's address and the identity or the address of his 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
  - (d) if sent by registered post, whether service by registered post is, or is not required, if effected by sending it by properly addressing to the addressee's last known residence, place of business or postal address, prepaying and posting a registered letter containing the notice, order or other document, and unless the contrary be proved, shall be presumed to have been effected at the time at which the letter would be delivered in the ordinary course of post.
- (2) 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.
- (3) Any legal process is effectively and sufficiently served on the municipality when it is delivered to the municipal manager or a person in attendance at the municipal manager's office.
- (4) Where compliance with a notice is required within a specified number of working days, that period shall commence on the date of service as defined in subsection (1).

### Authentication of Documents

59. Every order, notice or other document requiring authentication by the municipality shall be sufficiently authenticated, if signed by the municipal manager, or by a person duly authorised to do so on behalf of the municipality; by resolution of the municipality, written agreement, or by a by-law.

### Prima Facie Evidence

60. In legal proceedings by, or on behalf of the municipality, a certificate reflecting an amount purporting to be due and payable to the municipality, which is signed by the municipal manager, or by a suitably qualified employee of the municipality authorised by the municipal manager to sign or the Manager of the municipality's authorised agent, shall, subject to section 3 of the Law of Evidence Amendment Act, 1988 (Act No 45 of 1988), upon its mere production constitute *prima facie* evidence of the indebtedness.

## CHAPTER 9: GENERAL PROVISIONS

### Provision of information

61. An owner, occupier, customer or person within the area of supply of the municipality must provide the municipality with accurate information requested by the municipality that is reasonably required by the municipality for the implementation or enforcement of these by-laws.

**Power of Entry and Inspection**

62. (1) The municipality may enter and inspect any premises for any purpose connected with the implementation or enforcement of these by-laws, at all reasonable times, after having given reasonable written notice to the occupier of the premises of the intention to do so, where appropriate.
- (2) Any entry and inspection must be conducted in conformity with the requirements of the Constitution of Republic of South Africa, 1996, and any other law and, in particular, with strict regard to decency and order, respect for a person's dignity, freedom and security, and personal privacy.
- (3) The municipality may be accompanied by an interpreter and any other person reasonably required to assist the authorised official in conducting the inspection.
- (4) A person representing the municipality must, on request, provide his or her identification.

**Exemption**

63. (1) The municipality may, in writing exempt an owner, customer, any other person or category of owners, customers, ratepayers, users of services from complying with a provision of these by-laws, subject to any conditions it may impose, if it is of the opinion that the application or operation of that provision would be unreasonable, provided that the municipality shall not grant exemption from any section of these by-laws that may result in:-
- (a) the wastage or excessive consumption of municipal services;
- (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 Act, or any regulations made in terms thereof, is not complied with.
- (2) The municipality at any time after giving written notice of at least thirty days withdraw any exemption given in terms of subsection (1).

**Indemnification from liability**

64. Neither an employee of the municipality nor any person, body organisation or corporation acting on behalf of the municipality are liable for any damage arising from any omission or act done in good faith in the course of his or its duties.

**Availability of by-laws**

65. (1) A copy of these by-laws shall be included in the municipality's Municipal Code as required by legislation.
- (2) The municipality shall take reasonable steps to inform customers of the contents of the by-laws.
- (3) A copy of these by-laws shall be available for inspection at the offices of the municipality at all reasonable times.
- (4) A copy of the by-laws or an extract thereof may be obtained from the municipality against payment of an amount as determined by the municipal council.

**Conflict of Interpretation**

66. If there is any conflict between these by-laws and any other by-laws of the Council, these by-laws will prevail.

**Provision for Delegation**

67. Subject to the provisions of any other legislation, the Council may delegate or assign in writing any power, duty or function imposed by or under this by-law, to any person in its employ subject further to such conditions as it may deem necessary.

**Repeals of By-Laws**

68. The Credit Control and Debt Collection by-laws by the former Municipal Councils of Allanridge, Odendaalsrus, Welkom, Virginia, Henneman and Ventersburg are hereby repealed.

**Short title and commencement**

69. This by-law is called the Matjhabeng Municipality Credit Control and Debt Collection By-Law No 1 of 2008 and shall come into operation upon date of publication in the *Provincial Gazette*.

**ANNEXURE A: APPLICATION FOR MUNICIPAL SERVICES**

**Type of Application**

<input type="checkbox"/>	Domestic Commercial/ Industrial	<input type="checkbox"/>	Institutional	<input type="checkbox"/>
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**Type of Customer**

<input type="checkbox"/>	Individual	<input type="checkbox"/>	Partner	<input type="checkbox"/>	Pty (Ltd)	<input type="checkbox"/>	Lessee	<input type="checkbox"/>	Owner
--------------------------	------------	--------------------------	---------	--------------------------	-----------	--------------------------	--------	--------------------------	-------

**Particulars of Applicant**

Name of corporate entity			
Registration number of Corporate entity			
Surname		Initials	
ID Number			
Marital Status			
If married – in/out of community of property			
Occupation			
Tel. No			
Cell No			
E-mail address			
Details of spouse where married in community of property			
Surname		Initials	
ID Number			
Occupation			
Tel. No			
Cell No			
E-mail address			

**Address of Applicant (for purposes of account delivery and physical address for the delivery of notice and documents)**

Physical Address		Postal Address	

**Next of Kin**

Name		Tel. no	
Address			
Name		Tel. no	
Address			

**Employer's Detail**

Name		Tel. No.	
Physical Address		Period in Service	
		Employee registration no.	

**Credit References**

Name of Company		Account no	
-----------------	--	------------	--

Address		Tel. No	
Name of Company		Account No	
Address		Tel. No	
<b>Particulars of Owner (if not Applicant)</b>			
Name of corporate entity			
Registration number of corporate entity			
Surname		Initials	
ID Number			
Occupation			
Tel. No			
Cell. No			
Physical Address		Postal Address	
<b>Property to which municipal services must be provided</b>			
Suburb			
Zone			
Stand no.			
Street name			
Street number			
Number of persons over the age of 18 years living on the property			
<b>Type of municipal services to be provided</b>			
Water Supply Services	Communal Standpipe		
	Yard Connection		
	In-house connection		
Sanitation Services	Night Soil Removal		
	Water borne sewerage		
Electricity Services	Pre-paid		
	Other		
Refuse removal Services			
<b>Date on which provision of services should Commence</b>			
<b>Payment Details</b>			
Cash(including cheque & credit card)			
Debit Order			
Stop Order			
Other method of electronic transfer			
Bank Details	Branch		
	Account No		
<b>A CERTIFIED COPY OF THE APPLICANT'S IDENTITY DOCUMENT / POWER OF ATTORNEY, A COPY OF A PREVIOUS MUNICIPAL ACCOUNT WITH THE MUNICIPALITY OF ANOTHER MUNICIPALITY AND A SURETY, IF THE APPLICANT IS A CORPORATE ENTITY, MUST BE ATTACHED TO THE APPLICATION</b>			
I / We hereby –			
(a) Apply for the provision of municipal services to be provided to the above property;			
(b) Accept the conditions applicable to the provision of municipal Services as set out the municipality's policy and by-laws of the Municipality;			



- (c) Declare the I / we was informed that the documents referred to in (b) are available for inspection at the offices of the municipality during office hours;
- (d) Declare that this application form and the implications thereof was explained me / us;
- (e) Declare that all payments due and payable by me in pursuance of this application shall promptly be paid by me on the due date; and
- (f) Declare that the information provided in this application form is true and correct.

**(Applicant)** \_\_\_\_\_ **(MUNICIPALITY)** \_\_\_\_\_

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

**Date** \_\_\_\_\_ **Date** \_\_\_\_\_

\_\_\_\_\_  
**Signature of Owner (if not Applicant)**

**CERTIFICATION BY MUNICIPALITY**

The consequences of the above declaration made by the applicant were explained to him/her/it and he/she/it indicated that the contents of the application were understood.

**Municipality** \_\_\_\_\_ **Date** \_\_\_\_\_

**FOR OFFICE USE ONLY**

Deposit paid	Date	
	Amount	
	Receipt Number	
Account Number		
Commencement date of Services		
Area Code		
Meter Reading on commencement of service	Electricity	
	Water	

NOTE: A SUMMARY OF THE PAYMENT OBLIGATIONS OF CONSUMER MAY BE INCLUDED ON THE BACK OF THE APPLICATION FORM.

**ANNEXURE B: APPLICATION FOR REGISTRATION AS INDIGENT CUSTOMER**

APPLICATION FOR REGISTRATION AS INDIGENT CUSTOMER

**Note :** An application for Municipal Services must be completed or updated on submission on this application.

Particulars of Applicant			
Surname		Initials	
ID Number			
Marital Status			
If married – in/out of community of property			
Occupation			
Tel. No			
Cell No			
Address of Applicant			
Physical Address		Postal Address	
Number of properties owned by applicant and all members of the household			
Details of properties, if applicable			
Property 1	Physical address		
	Name of owner		
	Name of Bondholder		
	Account number		
	Deed Registration Number		
Property 2	Physical address		
	Name of owner		
	Name of Bondholder		
	Account number		
	Deed Registration Number		
	Type of structure		
Is property / properties or a portion thereof leased to a third person (Yes / No)			
If leased, rent received			

Number of all members in household			
Combined gross income of all members of the household per month			
Details of all members of the household over the age of 18 years resident at the property			
1. Surname		2. Surname	
Full name		Full name	
ID Number		ID Number	
Employed? (Yes/No)		Employed? (Yes/No)	
Salary including Benefits, if relevant		Salary including Benefits, if relevant	

<b>3. Surname</b>		<b>4. Surname</b>	
Full name		Full name	
ID Number		ID Number	
Employed? (Yes/No)		Employed? (Yes/No)	
Salary including Benefits, if relevant		Salary including Benefits, if relevant	
<b>5. Surname</b>		<b>6. Surname</b>	
Full name		Full name	
ID Number		ID Number	
Employed? (Yes/No)		Employed? (Yes/No)	
Salary including Benefits, if relevant		Salary including Benefits, if relevant	
<b>Details of any other income received by household: (I.e. such as old age pension, disability pension, welfare, etc)</b>			
<b>1. Type of income</b>		<b>2. Type of income</b>	
Institution		Institution	
Amount		Amount	
Reference number		Reference number	
<b>3. Type of income</b>		<b>4. Type of income</b>	
Institution		Institution	
Amount		Amount	

<b>Reference number</b>		<b>Reference number</b>	
<b>5. Type of income</b>		<b>6. Type of income</b>	
Institution		Institution	
Amount		Amount	
Reference number		Reference number	
<b>Details of monthly expenses of household :</b>			
<b>1. Groceries</b>		<b>2. School fees</b>	
<b>2. Clothes</b>		<b>3.</b>	
<b>4.</b>		<b>5.</b>	
<b>6.</b>		<b>7.</b>	
<b>8.</b>		<b>9.</b>	
<b>Details of current debts of the household: (including insurance policies and credit purchases)</b>			
<b>1. Institution</b>		<b>2. Institution</b>	
Account number		Account number	
Amount owing		Amount owing	
<b>3. Institution</b>		<b>4. Institution</b>	
Account number		Account number	
Amount owing		Amount owing	
<b>5. Institution</b>		<b>6. Institution</b>	
Account number		Account number	
Amount owing		Amount owing	
<b>Details in respect of legal or other actions taken against me in respect of current expenses/debts of the household: (I.e. Administration order, sequestration, other courts orders, listed with a Credit Agency, etc.)</b>			

<b>1. Institution</b>		<b>2. Institution</b>	
<b>Account number</b>		<b>Account number</b>	
<b>Amount owing</b>		<b>Amount owing</b>	
<b>3. Institution</b>		<b>4. Institution</b>	
<b>Account number</b>		<b>Account number</b>	
<b>Amount owing</b>		<b>Amount owing</b>	
<b>5. Institution</b>		<b>6. Institution</b>	
<b>Account number</b>		<b>Account number</b>	
<b>Amount owing</b>		<b>Amount owing</b>	

**The following documents must be attached –**

1. Documentary proof of income (such as a letter from the customer's employer, a salary advice, a pension card, unemployment insurance fund card, etc.); or
2. An affidavit declaring unemployment or income; and
3. Latest municipal account in the possession of customer; and
4. A certified copy of the applicant's identity document.

**A.** I hereby :-

1. apply for registration as an indigent customer for a period of one year;
2. accept the conditions applicable to this application as set out the municipality's policy, by-laws and the Conditions of Supply of any service provider of the municipality;
3. declare that I was informed that the documents referred to (2) are available for inspection at the offices of the municipality during office hours:
4. declare that this application form and the implications thereof was explained me;
5. declare that all payments due and payable by me in pursuance of this application shall promptly be paid by me on the due date; and
6. declare that the information provided in this application form is true and correct.

**B.** I further declare and except that the following specific conditions shall apply to this application: -

1. The municipality may send authorised representatives to premises or households applying for registration as indigent customers to conduct an on-site audit of information provided prior to approval of an application or any time thereafter.
2. An application shall be approved for a period of 12 (twelve) months only.
3. The municipality may on approval of an application or any time thereafter:
  - 3.1 install a pre-payment electricity meter for the indigent customer where electricity is provided by the municipality agent; and
  - 3.2 limit the water supply services of an indigent customer to a basic supply of not less than 6 (sic) kiloliters per month.
4. An indigent customer must annually re-apply for registration as in indigent Customer, failing which the assistance will cease automatically.
5. The municipality gives no guarantee of renewal.

6. The municipal council may annually as part of its budgetary process determine The municipal services and levels thereof that will be subsidised in respect of indigent customers in accordance with national policy, but subject to principles of sustainability and affordability.
7. Any other municipal services rendered by the municipality or municipal services Consumed in excess of the quantities specified in 6 above shall be charged for and the indigent customer shall be liable for the payment of such charges levied on the excess consumption. Normal credit control procedures shall apply in respect of such excess consumption.
8. Arrears accumulated in respect of the municipal accounts of customers prior to Registration as indigent customers will be suspended, without interest accumulating in respect of such arrears, for the period that a customer remains registered as an indigent customer.
9. Suspended arrears shall become due and payable by the customer in monthly instalments as determined by the municipality, on de-registration.
10. Arrears suspended for a period of two (2) years or longer shall not be recovered from a customer on de-registration.
11. The municipality may undertake regular random audits to : -
  - 11.1 verify the information provided by indigent customers;
  - 11.2 record any changes in the circumstances of indigent customers; and
  - 11.3 make recommendations on the de-registration of the indigent customer.
12. Any customer who provides or provided false information in the application form and / or any other documentation and information in connection with the
 

Application: -

  - 12.1 shall automatically, without notice, be de-registered as an indigent customer from the date on which the municipality became aware that such information is false; and
  - 12.2 shall be held liable for the payment of all services received in addition to any other legal actions the municipality may take against such a customer.
13. An indigent customer must immediately request de-registration by the Municipality if his of her circumstances has changed to the extent that he or she no longer meets the qualifications set out in the by-laws.
14. An indigent customer shall automatically be de-registered if an annual application is not made or if such application is not approved.
15. An indigent customer shall automatically be de-registered if an audit or verification concludes that the financial circumstances of the indigent customer has changed to the extent that he or she no longer meets the qualifications set out in the by-laws.
16. An indigent customer may at any time request de-registration.

**Applicant** \_\_\_\_\_ **Municipality** \_\_\_\_\_

**Date** \_\_\_\_\_ **Date** \_\_\_\_\_

**CERTIFICATION BY MUNICIPALITY**

The consequences of the above declaration made by the applicant were explained to him/her and he/she indicated that the contents of the APPLICATION were understood.

Municipality \_\_\_\_\_ Date \_\_\_\_\_

FOR OFFICE USE ONLY	
Account Number	
Date of receipt of application	
First Verification	
Date	
Site Visit (Yes / No)	
Name of verifier	
Designation of verifier	
Indicate information not verified	
Recommendation	
APPLICATION APPROVED / NOT APPROVED	
Second Verification	
Date	
Site Visit (Yes / No)	
Name of verifier	
Designation of verifier	

**MATJHABENG LOCAL**

**MUNICIPAL COUNCIL**

**HEALTH – FOR-HOME-FOR-THE-AGED BY-LAW**

**PREAMBLE**

The Municipal Manager of the Matjhabeng Local Municipal Council in terms of subsection 156 (2) of the Constitution of the Republic of South Africa, 1996, read with section 13 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), publishes the by-law as set forth hereafter as by-law made by the Council.

**LONG TITLE**

**To provide a regulatory framework for Health By-Law for the Aged and managing thereof, to provide for the strengthening of measures to control Health for the Aged, to provide for sanctions in contravening the provisions, to provide for certain delegated powers, to repeal certain by-laws and to provide for matters therewith.**

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**Definitions**

- 1 For the purposes of these by-laws, unless the context indicates otherwise:

“**adequate**” means adequate in the opinion of the Municipality;

“**approved**” means approved by the relevant authority, regard being had to the reasonable environmental health requirements that may apply to each particular case;

“**authorised officer**” means any employee, official of South African Police who is duly authorised to exercise power or perform any function in terms of these by-laws;

“**category A resident**” means a resident who is about 55 years of age or older and who is generally healthy and able to care for himself or herself;

“**category B resident**” means a resident who is about 55 years of age or older and who is generally healthy but unable to care for himself or herself;

“**category C resident**” means a resident who is about 55 years of age or older, needs to be under constant medical supervision and is usually accommodated in the frail care centre of a home for the aged;

“**certificate of acceptability**” means a certificate of acceptability issued by the Municipality in terms of the regulations made under the Health Act, 1977 (Act 63 of 1977), and published by Government Notice R.918 of 30 July 1999;

“**Council**” means the Matjhabeng Local Municipality Council and includes a committee of the Council to which it has delegated any power or function under these by-laws in relation to that power of function;

“**Environmental Health Practitioner**” means the environmental health practitioner appointed as the Municipality’s representative or any official authorised to act on his or her behalf;

“**health certificate**” means a health certificate issued in terms of section 4;

“**health certificate holder**” means a person to whom a health certificate has been issued in terms of section 4, and includes a legal person or a partnership or association of persons to whom a health certificate has been issued or a person acting for such health certificate holder;

“**home for the aged**” means any undertaking or service involving the care of aged people, and includes a building or premises used for the purposes of operating such undertaking or service, which undertaking or service and which building or premises are subject to registration by the relevant department;

“**premises**” means any land or building or part of any land or building in or on which a home for the aged is operated;

“**registration certificate**” means a registration certificate issued by the relevant authority; and

“**resident**” means an aged person admitted to a home for the aged in terms of these by-laws.

#### **Application of by-law**

2. (1) This by-law applies to all health services for the aged used by customers or persons which fall under the jurisdiction of Council.
- (2) This by-law is binding on the municipality as an organ of state.

#### **Purpose of by-law**

3. The purpose of this by-law is to provide, in conjunction with other applicable legislation, an effective legal and administrative framework:
  - (i) to ensure that the way in which the Council controls, manages and develops health services for the aged is sustainable, and is in the long-term interests of the whole community of Matjhabeng including future generations; and
  - (ii) which clearly defines the rights and obligations of the public in relation to health services for the aged.

#### **Health certificates**

4. (1) No person may operate a home for the aged unless he or she is in possession of a health certificate to the effect that the premises and the general health facilities and services to which the health certificate relates comply with these by-laws.
- (2) Such health certificate must state the number of residents permitted to be accommodated on the premises.
- (3) A health certificate must be displayed:
  - (a) on the premises to which it relates; and
  - (b) in the office or offices or the premises and in such manner as to be clearly visible at all times.
- (4) The Environmental Health Practitioner may issue a health certificate if he or she is satisfied that the provisions of these by-laws are being complied with in respect of the home for the aged and the premises in question, provided that if the Environmental Health Practitioner is of the opinion that such compliance is not reasonably practicable owing to the physical features and facilities of the premises, he or she may issue a health certificate subject to compliance with such other reasonable requirements as he or she may deem necessary.



- (5) If a health certificate holder dies or ceases to operate the home for the aged to which his or her health certificate relates, the health certificate becomes invalid and is not transferable to any other person or to any heir of or successor in title to the health certificate holder.
- (6) If a health certificate holder proposes transferring a home for the aged operated on such other premises before the home of the aged may be operated on those premises.
- (7) No person may operate a home for the aged unless he or she is in possession of a certificate of acceptability in respect of the home for the aged.

## CHAPTER 2

### FACILITIES IN RESPECT OF CATEGORY A AND

### CATEGORY B RESIDENTS

#### Accommodation facilities

5. The accommodation provided for category A residents and category B residents in a home for the aged must meet the following requirements:
  - (a) Any room used as a single room must have a floor area of at least 9 m<sup>2</sup>.
  - (b) Any room used as a double room must have a floor area of at least 16 m<sup>2</sup>.
  - (c) If ward-type accommodation is provided in a home for the aged, each ward must have a floor area of at least 7,5m<sup>2</sup> for every resident accommodation in the ward. Except for the head of the bed, all beds in the ward must be placed 0,6m from walls, and an unobstructed space of at least 1,2 minimum width between beds is not included in the floor area contemplated in this section.

#### Kitchen

6. A home for the aged that accommodates category A residents and category B residents must have a kitchen that meets the following requirements:
  - (a) The kitchen must have a minimum floor area of 16, m<sup>2</sup>, provided that the number of residents accommodated in the home for the aged is more than 32, the floor area of the kitchen must be calculated at 0,5m<sup>2</sup> per resident, with a maximum floor area of 90 m<sup>2</sup>.
  - (b) The following must be provided in the kitchen:
    - (i) An area for washing up and rinsing crockery, cutlery, pots, pans and other kitchen utensils, which area must be separate from the food preparation area of the kitchen;
    - (ii) a washbasin;
    - (iii) an adequate and constant supply of hot and cold water to all washing-up and rinsing facilities;
    - (iv) An approved surface for all working areas, which surface must be easy to clean;
    - (v) a safe source of power for cooking purposes;
    - (vi) suitable means for the effective extraction of heat, fumes and gases;
    - (vii) smooth and even wall surfaces;
    - (viii) a facility to maintain perishable foods at a temperature below 10 C, and
    - (ix) sufficient and suitable storage space for crockery, cutlery and kitchen utensils.

**Dining areas**

- 7 (1) A home for the aged that accommodates category A residents and category B residents must have a dining area having a minimum floor area of 1,5m<sup>2</sup> per resident accommodated in the home for the aged.
- (2) Adequate provision must be made for passages and aisles in the dining area.

**Lounges and sun porches**

8. Any home for the aged that accommodates category A residents and category B residents must have one or more than one lounge or sun porch, which lounge or sun porch must have a floor area of 1,5m<sup>2</sup> per resident and be so designed and so situated that the lounge or sun porch can also be used for physiotherapy and occupational therapy.

**Administrative office**

9. Any home for the aged that accommodates category A residents and category B residents must have a suitable administrative office on the premises.

**Storage facilities**

10. Any home for the aged that accommodates category A residents and category B residents must, on the premises of the home for the aged, provide adequate approved storage facilities for linen, furniture, suitcases, household cleaning agents, tools, medicines, and corrosive and other harmful substances.

**Bathroom and toilet facilities for residents**

11. (1) On the premises of a home for the aged, bathroom facilities must be provided for category A residents and category B residents.
- (2) Such facilities must meet the following requirements:
- (a) The bathroom facilities must be provided in the ratio of one bath or shower to at least every eight residents.
  - (b) Separate bathroom facilities must be provided for male and female residents in the case of open-plan bathroom facilities that are designed to be used by more than one person.
  - (c) A constant supply of hot and cold water must be provided for all baths and showers.
  - (d) All baths must be positioned in such a way as to ensure that residents have adequate access and effective hand grips.
  - (e) At least one washbasin with a constant supply of hot and cold water be provided in each bathroom complex.
  - (f) The walls and ceiling of the bathroom complex must be painted with light-coloured durable paint.
- (3) A wash basing and a towel rail adjacent to the washbasin must be provided in every room or ward contemplated in section 5.
- (4) The rims of the washbasins must be 830mm above floor level.
- (5) A constant supply of hot and cold water must be provided to the washbasins.

- (6) (a) A home for the aged accommodating category A residents and category B residents must have on the premises one water closet for at least every eight residents of each sex.
- (b) Of the water closets referred to in paragraph (a), at least one water closet for at least every 24 residents must have:
- (i) a floor area of not less than 2,9m<sup>2</sup>;
  - (ii) a minimum width of 1,6m; and
  - (iii) a door of a width of not less than 800 mm.
- (c) The height of the toilet pans in the water closets referred to in paragraph (a) may not be less than 460 mm and more than 480mm from the floor, and effective support rails must be provided in the water closets.
- (5) In a home of the aged accommodating category A residents and category B residents, a urinal must be provided in each toilet complex for male residents.
- (6) In every home for the aged accommodating category A residents and category B residents, sluice rooms meeting the following requirements must be provided:
- (a) A sluice room must:
- (i) have a minimum floor area of 7,5m<sup>2</sup> and a minimum width of 2,5m;
  - (ii) be well ventilated;
  - (iii) be equipped with impervious shelves;
  - (iv) be provided with a constant supply of hot and cold water;
  - (v) be equipped with a combination slop hopper and a sink with a washer for bedpans and urine bottles; and
  - (vi) be equipped with an impervious receptacle of adequate capacity, which receptacle must have a close-fitting lid for soiled dressings.
- (b) A sluice room must be adjacent to every toilet complex and must be reasonably accessible from bedrooms and sickbays.

#### Toilet facilities for visitors

12. A home for the aged must provide, for visitors, separate toilet facilities for male and female visitors, which facilities must be equipped with a water closet suite and a washbasin supplied with cold water.

#### Laundry and ironing area

13. (1) If laundry and ironing are done on the premises of home for the aged accommodating category A residents and category B residents, an approved area that is well ventilated, adequate as to size and equipment and conveniently situated must be provided on the premises for laundry and ironing purposes. Adequate and approved arrangements must be made for disinfecting and receiving soiled linen and clothing in the laundry and ironing area. The internal walls and ceiling of the laundry and ironing area must be painted with durable, washable and light-coloured paint.
- (2) An adequate supply of hot and cold water must be provided for the laundry area referred to in subsection (1).
- (3) Laundry that is to be washed outside a home for the aged must be done in an approved laundry.

#### Corridors

14. In a home for the aged accommodating category A residents and category B residents:-
- (a) the corridors must be at least 1,8m wide and must be provided with a hand railing along the length of at least one wall; and

- (b) all corridors, staircases, flights of steps and ramps must be adequately lit and fitted, with effective handrails.

### **Sickbays**

15. (1) On the premises of every home for the aged accommodating category A residents and category B residents, sickbay facilities must be provided in the ratio of one sickbay to at least every 20 residents.
- (2) If ward-type sickbays are used, separate rooms for each gender must be provided and the beds must be provided in the ratio of one bed to every 20 residents.
- (3) Sickbays must comply with the minimum standards for single rooms or ward-type accommodation.

### **Heating**

16. An approved, suitable and safe artificial heating system must be provided in the sickbays referred to in section 15, the rooms and wards referred to in section 5 and the dining areas referred to in section 7.

### **Windows**

17. All windows in rooms used by category A residents and category B residents must be adequately protected or guarded to ensure the safety of the residents.

### **Floor surfaces**

18. In a home for the aged accommodating category A residents and category B residents, all floors must have a non-slip surface, and all carpets, mats and other loose coverings must be suitably and safely secured to the floors.

## **CHAPTER 3**

### **ADDITIONAL FACILITIES IN RESPECT OF CATEGORY C RESIDENTS**

#### **Additional facilities in respect of category c residents**

19. Where the provisions of these by-laws apply to homes for the aged that accommodate Category A residents and category B residents, such provisions also apply to homes for the aged that accommodate category C residents, provided that, in addition to the other provisions of these by-laws, the following provisions apply to homes for the aged that accommodate category C residents:
- (1) Ward or sickbay accommodation with a maximum of four beds per room must be provided for category C residents in a home for the aged, and the floor area per bed may not be less than 7,5m<sup>2</sup>.
- (2) The following additional ancillary facilities must be provided in a home for the aged if it accommodates category C residents:
- (a) A duty room with lock-up facilities for drugs;
- (b) an examination room with screened-off cubicles;
- (c) adequate approved storage facilities;
- (d) a small kitchen for preparing beverages only; and
- (e) a treatment room for attending to dressings, administering injections and applying medicaments.
- (3) Adequate accommodating for physical therapy treatment for category C residents must be provided in a home for the aged if the home for the aged accommodates category C residents.

**CHAPTER 4****ACCOMMODATION AND FACILITIES FOR RESIDENT AND  
NON-RESIDENT STAFF****Accommodation and facilities for resident staff**

20. On the premises of a home for the aged, the following accommodation and facilities must be provided for resident staff of the home for the aged:
- (a) Suitable approved living accommodation for resident staff considering of single rooms with a minimum floor area of 6m<sup>2</sup> or double rooms with a minimum floor area of 10 m<sup>2</sup>;
  - (b) a suitable dining or recreation room;
  - (c) a separate bathroom and toilet facility for resident male and female staff in a ratio of one facility to at least every seven resident staff members; and
  - (d) a washbasin with a constant supply of hot and cold water in every staff bedroom.

**Facilities for non-resident staff**

- 21 (1) The dining or recreation room and the bathroom and toilet facilities that are provided for the resident staff in accordance with section 19 may be used by non-resident staff, provided that the required ration is maintained and that all such rooms and facilities are conveniently situated.
- (2) If the facilities contemplated in subsection (1) cannot meet the requirements, separate or additional toilet facilities and washbasins must be provided for the non-resident staff in every seven staff members.
- (3) On the premises of a home for the aged, a suitable change room with Steel-locker facilities must be provided for the non-resident staff of the home for the aged.

**CHAPTER 15****GENERAL****General provisions in respect of all premises**

22. (1) All steps on the premises of a home for the aged must not be higher than 130 mm or narrower than 355 mm.
- (2) The premises of homes for the aged that have three storeys or more must be equipped with an approved number of lifts of an approved design.
- (3) In any home for the aged, rooms approved for a specific purpose must be used for that purpose only.
- (4) An approved number of suitable refuses bins with lids must be provided on the premises of every home for the aged.
- (5) In respect of the premises of every home for the aged, a proper plan of the building(s), drawn to scale, indicating the proposed use of every room, the size of rooms and the correct position of doors and windows must be submitted to the Municipality for recordkeeping purposes.
- (6) No residents may be accommodated in a building to which alterations or additions are being effected if such alterations or additions may cause a nuisance or inconvenience to the residents.
- (7) No premises may be occupied and used as a home for the aged unless all requirements have been met and approval to sue the premises as a home for the aged has been granted by the Environmental Health Practitioner.
- (8) The premises must be under the control and supervision of a responsible, designated adult person for 24 hours every day.

**Suspension or termination of operations**

23. A health certificate holder must notify the Municipality of the suspension or termination of the operation of a home for the aged to which his or her health certificate relates.

**Right of entry and inspection of premises and records**

24. A duly authorised officer of the Municipality may, for any purpose connected with the enforcement of the provisions of these by-laws, at reasonable times and without prior notice:
- (a) enter any premises on which a home for the aged is operated; or
  - (b) enter any premises if he or she has reasonable grounds for suspecting that a home for the aged is operated on the premises, in order to carry out such examination, inquiry or inspection on the premises as he or she may deem necessary.

**Offences**

25. (1) A person is guilty of an offence under these by-laws if he or she, in respect of an official of the Municipality duly authorised under these by-laws or by the Municipality to enter and respect any premises:
- (a) denies the official entry to the premises or causes or permits any other person to deny the official entry;
  - (b) obstructs or hinders the official in the performance of the official's duties or causes or permits any other person to so obstruct or hinder the official;
  - (c) fails or refuses to give the official information that he or she is lawfully required to give or causes or permits any other person to refuse to give the official such information; or
  - (d) knowingly gives the official false or misleading information or causes or permits any other person to give the official such information.
- (2) A person is guilty of an offence under these by-laws if he or she unlawfully prevents any other person from entering the premises on which a home for the aged is operated.
- (3) A person is guilty of an offence under these by-laws if he or she fails or refuses to comply with any provision of these by-laws or any requirements imposed by the Environmental Health Practitioner in terms of section 4.
- (4) A person who is guilty of an offence under these by-laws is liable on conviction to a fine not exceeding R20 000,00\*, to community service or to imprisonment for a period not exceeding one year, or to both such fine and such community service or to imprisonment. In the case of a continuing offence, such person is guilty of a separate offence and liable on conviction to a fine not exceeding R20 000, 00\*, to community service or to imprisonment for a period not exceeding one year, or to any combination of such fine, such community service and such imprisonment in respect of every day or part of a day during which the offence continues.

**Withdrawal of health certificates**

26. The Municipality may at its discretion withdraw a health certificate and/or certificate of acceptability issued in terms of these by-laws if the health certificate holder is convicted of a breach of any of the provisions of these by-laws.

**Presumptions**

27. If in any prosecution in terms of these by-laws it is alleged that the owner, lessee or occupier of premises operates a home for the aged on the premises, he or she will be deemed to have operated a home for the aged on such premises unless the contrary is proved.

28. (1) Notwithstanding the provisions of section 4, the Environmental Health Practitioner may grant an extension to a person who was operating a home for the aged before the date of commencement of these by-laws so that such person may comply with the provisions of these by-laws within 12 months or such shorter period as may be determined by the Environmental Health Practitioner.
- (2) The Municipality may, in any case where reasons to its satisfaction are given, extend the period stated in subsection (1) by not more than 12 months.

#### **Provision for delegation**

29. Subject to the provisions of any other legislation, the Council may delegate or assign in writing any power, duty or function imposed by or under this by-law, to any person in its employ subject further to such conditions as it may deem necessary.

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

30. The Health for Homes for the Aged By-Laws by the former Municipal Council of Allanridge, Odendaalsrus, Welkom, Virginia, Hennenman and Ventersburg are hereby repealed.

#### **Short title and commencement**

31. This by-law is called the Health for Homes for the Aged-Law No 18 of 2008 and shall come into effect upon date of publishing in the *Provincial Gazette*.

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## **MATJHABENG LOCAL MUNICIPAL COUNCIL**

### **MARKET BY-LAW**

#### **PREAMBLE**

The Municipal Manager of the Matjhabeng Local Municipal Council in terms of subsection 156 (2) of the Constitution of the Republic of South Africa, 1996, read with section 13 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), publishes the by-law as set forth hereafter as by-law made by the Council.

#### **LONG TITLE**

**To provide a regulatory framework for markets and managing thereof, to provide for the strengthening of measures to control markets, to provide for sanctions in contravening the provisions, to provide for certain delegated powers, to repeal certain by-laws and to provide for matters connected therewith.**

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### Definitions and Interpretation

1. (1) In these by-laws, unless inconsistent with the context:

“**Article**” means any produce, poultry, goods object or thing brought onto the market for sale;

“**Buyer**” means any person entering the precincts of the market for the purpose of buying any article on the market or any person with whom a market agent has concluded a direct sale on behalf of a vendor.

“**Buyer’s card**” means a card issued to a buyer whom the Director shall have permitted to defer payment in terms of section 36(3) of these by-laws;

“**Consignment**” means any quantity of produce consisting of distinct units of the same kind of produce entrusted to a market agent for sale;

“**Container**” means any box, carton, tray or pocket, package or other receptacle of a size and shape approved by the Director;

“**Council**” means the Matjhabeng Local Municipality Council and includes a committee of the Council to which it has delegated any power or function under these by-laws in relation to that power or function;

“**Direct Sale**” means any sale of produce concluded by a market agent between a vendor and a buyer, which has been authorised by the Director in advance and which is in accordance with these bylaws, but in respect of which delivery of such produce is made directly between the vendor and the buyer without the produce concerned arriving at or being placed on the market;)

“**Director**” means the Director of Markets of the Matjhabeng Local Municipality or his duly authorised representative;

“**Market**” means any building or place designated by the municipality upon or in which sales shall be conducted in accordance with the provisions of these bylaws or of any amendments thereto, and shall include any land upon which any such building is situated or which is used in connection with or for the purpose of carrying on such market, but excluding the land, building and structures comprising the Farmers’ Retail Market as defined in Part II hereof;

“**Market Agent**” means any person listed on a database of the municipality who sells any article or produce on behalf of any person or who conducts any business transactions in articles or produce on behalf of vendors as agent or factor on the market or who concludes any direct sale on a commission basis;

“**Market agent’s permit**” means any official document issued by the Director reflecting a sale on the market or matters relating or incidental thereto;

“**Medical Officer of Health**” means the duly appointed Medical Officer of Health in the Matjhabeng Local Area or his duly authorised representative;

“**municipality**” means the Matjhabeng Local Municipality and its legal successors, and when referred to as-

- (a) a legal entity, means Matjhabeng Local Municipality as described in section 2 of the Local Government: Municipal Systems Act, (Act No. 32 of 2000); and
- (b) a geographic area, means the municipal area of the Matjhabeng Local Municipality as determined from time to time in terms of the Local Government: Municipal Demarcation Act, 1998(Act No. 27 of 1998);

“**National Market**” shall have a corresponding meaning to “Market”;

“**Person**” means any person or company;

“**prescribed**” means determined by resolution of the Council from time to time and published by notice in the *Provincial Gazette*;

“**Private treaty sale**” means a negotiated sale between a market agent and a willing user recorded in the books of the market;

“**Produce**” means any kind of agricultural and horticultural produce, poultry and game;

“**Salesman**” means a person in the employ of a market agent, who acts on behalf of such market agent in any transaction on the market or who concludes any direct sale, and is duly authorised by the Director to be employed as a salesman on the market;

“**Selling price**” means the amount for which any article or produce has been sold to a buyer;

“**Standard container**” means a container made, woven or constructed in accordance with the specifications as prescribed in the manual of the South African Bureau of Standards, or any container approved by the Director;

“**Salesman’s permit**” means the document issued by the Director authorising a salesman, employed by a market agent, to operate on the market;

“**Tariff of Charges**” means the tariff of charges, fees, etc. payable to the council in respect of articles sold or services rendered at the market, as fixed by the municipality;

“**Unit**” means the quantity of any produce which forms the basis upon which the prices of such produce are calculated;

“**Vendor**” means the owner of produce consigned to or brought onto the market for sale, or any person bringing any article onto the market for sale, either for himself or for any other person or any person on whose behalf a market agent has concluded a direct sale, provided the owner or person is listed on a database of the municipality.

#### **Application of by-law**

2. (1) This by-law applies to all markets used by customers/persons which fall under the jurisdiction of Council.
- (2) This by-law is binding on the municipality as an organ of state.

#### **Purpose of by-law**

- 3 (1) The purpose of this by-law is to provide, in conjunction with other applicable legislation, an effective legal and administrative framework:
  - (a) to ensure that the way in which the Council controls, manages and develops market is environmentally sustainable, and is in the long-term interests of the whole community of Matjhabeng Local Municipality including future generations; and
  - (b) which clearly defines the rights and obligations of the public in relation to markets.

#### **Conduct Of Business On The Market**

4. The business of the market shall be conducted by the Director in accordance with the various laws relating to markets and the Council’s bylaws in force from time to time and subject to such conditions as the Council may by resolution from time to time impose.

#### **Market Hours**

5. (1) The Market shall be open on such days and such hours as the Council may from time to time, by resolution, determine.

- (2) No person shall enter or remain, or cause any vehicle, animal or other thing to enter or remain on the market on days or at times when the market is closed, save with the permission of the Director.

#### **Vehicles**

6. (1) The Director shall be empowered to control and regulate the volume and movement of traffic entering the market or within the precincts of the market.
- (2) No person shall neglect or refuse to place any vehicle under his control in the position assigned to such vehicle by the Director.
- (3) The Director in his discretion shall be empowered to set aside parking spaces from time to time which shall be defined by white lines painted upon the surface of the ground or by notices placed or erected in conspicuous places; provided, however, that if circumstances demand, the Director shall, in his discretion, be empowered to prohibit for the time being any person from parking a vehicle in spaces so set aside and defined.
- (4) No person in charge of any vehicle shall park such vehicle in any place within the market other than such spaces so otherwise directed.
- (5) The Director shall, notwithstanding the provisions of subsection (3) hereof, be empowered to designate temporary parking places, other than defined areas.
- (6) No handcraft or other vehicle, save and except those supplied by the Council or the South African Railways Administration and used for the purpose of transporting articles to or from the loading bays or for any other purpose, shall be allowed in the market hall; provided always that goods vehicles as defined in the National Road Traffic Act, 1996 (Act No. 93 of 1996) enter the market sales hall for the purpose of off-loading articles consigned to a market agent for sale at times to be determined by the Director.
- (7) Such goods vehicles shall be off-loaded without delay and shall remain there only during the period necessary for such off-loading as determined by the Director.
- (8) The tariff for the hire of each handcraft, supplied by the Director, shall be as prescribed in the tariff charges and shall be payable in advance.
- (9) Notwithstanding the provisions of subsections (6) and (7) hereof, the Director in his discretion shall be empowered from time to time, to permit the use of pallet trucks, pallets or any other means of conveyance as he may deem fit within the precincts of the market.
- (10) The Director, in his discretion, shall be empowered from time to time to allocate a parking space or parking spaces set aside in terms of subsection (3) hereof, and subject to the proviso of that subsection, to any person or persons for his/their exclusive use, on such conditions as the Director may approve subject to any direction by the Council.
- (11) The tariff for the exclusive use of parking spaces shall be prescribed in the tariff of charges.
- (12) No person shall drive, propel or ride any vehicle within the precincts of the market in such way as to endanger persons or property.
- (13) No person in control of any vehicle shall permit fuel spillage of any nature from such vehicle within the precincts of the market.
- (14) No person in control of any vehicle shall permit any unnecessary or excessive running of any internal combustion engine of such vehicle within the sales hall.

#### **Market Agents: Permits and Licences**

7. (1) No person shall carry on the trade or business of a market agent within the market unless he or she is in possession of a valid market agent's permit.

- (2) Every person desiring to carry on such trade or business shall submit to the Director an application on such a form as may from time to time be prescribed by the Council, and he shall be liable for the cost of any stamps which may by law be required to be affixed to such application form.
- (3) Every applicant shall satisfy the Council that he is a fit and proper person to carry on the trade or business of a market agent and that he is legally qualified to carry to conduct the business of a market agent.
- (4) The Council shall have a discretion to refuse to issue or renew a permit in respect of any application.
- (5) The Council shall be empowered to cancel any permit issued to any person where it has come to the notice of the Council that such person is not a fit and proper person, or has been found guilty of any contravention of these bylaws.
- (6) Any refusal by the Council to issue or renew a permit shall not debar an applicant from again applying for a permit.
- (7) Every market agent to whom a permit has been issued by the Council shall comply fully with the provisions of the Agricultural Produce Agents Act, 1992 (Act 12 of 1992), as amended, in the conduct of his business on the market.
- (8) Every permit shall be valid from its date of issue until the 30th June next ensuing, unless cancelled or withdrawn.
- (9) Every permit holder desiring to renew a permit shall make an application therefore in the same manner as prescribed in subsection (2) above.
- (10) In addition, to the permit issued by the Council, a market agent shall, before commencing to trade on the market, obtain all such other licences as may be required by law.
- (11) The Council may at any time, without notice, cancel the permit of any market agent who is interested, either directly or indirectly, or concerned in any other business establishment for the sale or purchase of, or dealing in, produce or articles of any kind usually sold on the market, or who acts in any way prejudicial to the interests of the market.
- (12) No liability shall develop on the Council or the Director for any loss or damage resulting from the cancellation of any permit and no refund of any fee paid in respect of such permit, shall be made.
- (13) The refusal or cancellation of a permit in terms of these provisions shall absolve any applicant or holder from payment of any penalty prescribed for any contravention of these bylaws.
- (14) Whenever it is deemed necessary by the Director, every market agent shall undergo an X-ray examination for tuberculosis at his own expense and shall submit the results of such examination to the Director.
- (15) Whenever a market agent's permit is issued to any market agent in terms of these bylaws the market agent concerned shall immediately pay a registration fee in accordance with the tariff of charges to the Director.

#### **Employees of Market Agents**

8. (1) A market agent shall not employ any person as a salesman nor allow any person he or she wishes to employ as a salesman to commence work, until a salesman's permit in respect of such person has been issued by the Director.
- (2) Application for a salesman's permit shall be made by the market agent wishing to employ the person concerned, on a form prescribed by the Director.
- (3) The Director shall be empowered to refuse to issue or renew a permit or, at any time, to cancel a permit if, in his discretion, the person concerned is not a fit and proper person to be employed as a salesman, or if such person has contravened any law or regulation relating to the market.
- (4) Subsections (8), (11), (12), (13) and (14) of section 5 of these bylaws shall apply *mutatis mutandis* to any salesman employed by a market agent.

- (5) Every permit holder desiring to renew a permit shall make application therefore in the same manner as prescribed in subsection (2) above.
- (6) Every market agent shall notify the Director of any change of personnel or directorship within three days of such change.
- (7) Every market agent shall be responsible for the conduct of all persons in his employ, and shall be personally liable for any damage done to Council property by himself or by his employees.
- (8) A market agent shall terminate the services of any employee convicted of a contravention of any laws or regulations relating to the market and shall not engage or re-engage within the market any person whose services have been so terminated.
- (9) Every market agent shall supply to his employees such protective clothing as may be required by the Director and shall ensure that such clothing is distinctly marked with the code mark or name of his firm and such clothing shall at all times be kept clean and in good repair, to the satisfaction of the Director. No market agent shall allow any employee to work on the market unless he is wearing such protective clothing.
- (10) A registration fee in accordance with the tariff of charges shall be payable by the market agent concerned in respect of every salesman's permit issued by the Director.
- (11) Subsection 7(14) shall apply *mutatis mutandis* to any employee of a market agent; provided that any examination shall be at the cost of the market agent concerned.

#### Registration Of Porters Or Carriers

9. (1) No person shall apply for hire as a porter or carrier on the market unless he is in possession of a porter's permit issued by the Director. Such a permit shall be valid for three months and will be issued to persons approved by the Director upon the payment of a charge as set out in the tariff of charges.
- (2) Every person plying for hire as a porter or carrier on the market shall wear a numbered overall as directed by the Director.
- (3) No porter or carrier on the market shall, at any time while he is not engaged or plying for hire, be upon any portion of the market other than an enclosure or other area set aside by the Director for such purpose.
- (4) No porter or carrier on the market shall ply or canvass for hire by shouting or by persistently following a buyer or prospective buyer or fail to keep his person and clothing in a clean and tidy condition to the satisfaction of the Director.
- (5) Any porter or carrier contravening any provisions of these bylaws may be ordered off the market by the Director who may also cancel his permit, and no refund of any fee paid by such porter or carrier shall be made in such event.

#### Trading and Tenancies

10. (1) No person shall in the course of business or trade, within the confines of the market, sell or otherwise dispose of or give delivery of any article purchased by him from a market agent to any other person.
- (2) The Council may sell or lease by public tender the right to conduct the business of a cafeteria within the confines of the market for the purchase of supplying refreshments and foodstuffs, in accordance with such conditions as the Council may see fit to impose.
- (3) (a) Every market agent shall lease from the Council an office allocated to such market agent by the Director and shall pay to the Director monthly, in advance, such rental as may from time to time be determined by the Council; provided however that the Director shall be empowered, in his discretion, to let such additional offices to a market agent as such market agent may require.
- (b) Should any such market agent fail to pay the rent on or before the 7th day of the month in respect of which it is payable, the Council may, after 7 days notice to that effect, cancel his market agent's permit, without prejudice to the Council's right to enforce any other obligation of the market agent.

- (c) In the event of a market agent's permit being cancelled, such market agent shall forthwith vacate the office/s occupied by him, and the Council shall not be liable for any loss suffered by such market agent as a result of such cancellation or vacation.

#### **Cleanliness of Premises**

11. (1) Every person to whom the premises has been allocated any office area or other place on the market in, on or from which to carry on business shall, at all times, keep such office, area or other place and any roadway, gangway or passage adjoining it, neat and clean to the satisfaction of the Director and shall immediately remove there from anything which the Director may instruct him to remove.
- (2) The Director may, at any time, inspect any such office, area or other place and any such roadway, gang way or passage and any vehicles or containers therein or thereon for the purpose of ensuring that these bylaws are being complied with.

#### **Dust and Rubbish - Receptacles**

12. Any person hiring premises on the market shall provide, at his sole cost and expense, an adequate number of dust or rubbish receptacles of a type and size approved by the Director for use on such premises and it shall be the responsibility of every person hiring such premises to ensure that the contents of such receptacles are regularly removed and dumped in a place to be determined by the Director.

#### **Storage of Articles on the Market**

13. (1) No person occupying any office on the market shall, without the prior written consent of the Director, store in such office any articles except stationery and other office equipment required for current use in any office let to him by the Council.
- (2) Subject to the provisions of subsection (1) hereof no person shall store any article on the market without the prior consent of the Director.
- (3) The Director, shall, in his discretion, be empowered to permit any person to store any article on the market at such place as the Director may deem fit and against payment of the fee as set out in the tariff of charges.
- (4) A special fee, as set out in the tariff of charges, shall be payable to the Director in respect of any article unlawfully left on the market.

#### **Cooking on the Market**

14. No person shall cook food, toast bread or make tea or any other beverage in any part of the Market other than in such places as may have been set aside for the purpose: Provided that the Director may allow tea or any other beverage to be made in premises set aside for market business subject to such premises being kept neat and clean to the satisfaction of the Director.

#### **Damage To Accommodation**

15. Every tenant shall be responsible for any damage caused to any part of the accommodation let to him, and shall not erect fittings, shelving, partitions, locks, letter boxes or anything else in such accommodation, without the prior written permission of the Director, and the tenant shall, on vacating the accommodation make good any damage caused by the erection or removal of any such items.

#### **Market Agent's Signs**

16. Every market agent shall, at his own expense, have affixed over the door of an office occupied by him, a board duly approved by the Director, bearing in letters of legible size and colour, his own as well as his business name, and shall preserve such name or names legibly and undefaced so long as he shall be an occupier of such office.

#### **Conduct of Market Agent's Business**

17. Every market agent shall conduct his business solely for the purpose of receiving direct from vendors, articles to be sold on the market, or of concluding direct sales and ensuring delivery of produce sold to buyers on a commission basis, and shall not at any time be directly or indirectly interested or concerned in any other business establishment for the sale or purchase of, or dealing in produce or articles of any kind usually sold on the market.

**Off-Loading On Arrival**

18. (1) Every article to be offered for sale on the market, shall, on arrival, be delivered to a market agent, who shall immediately make all arrangements deemed necessary by the Director to off-load and place such article in the space or enclosure provided for it.
- (2) All articles consigned or delivered to a market agent shall be stacked in a position within the market approved by the Director and to his satisfaction.

**Way-Bills**

19. The Director may obtain from the South African Railways Administration a copy of every delivery note or way-bill issued by the said Administration and any other particulars required by him in respect of every article delivered at the market by the said Administration, irrespective of whether such article has been transported by rail or road.

**Delivery Notes**

20. (1) Every person bringing or causing to be brought to the market any article to be offered for sale thereon shall, immediately on its arrival, register such article with the Director and the market agent to whom the article is consigned.
- (2) The Director shall issue or cause to be issued, a delivery note signed by him or her and such person showing: -
- (a) date of arrival;
  - (b) the full name and address of the vendor;
  - (c) the description of the article;
  - (d) the description of the container;
  - (e) the mass or quantity;
  - (f) the variety and quality;
  - (g) the name or code mark of the market agent to whom such article is sent;
  - (h) the registration number of the vehicle, if any;
  - (i) any other particulars that may from time to time be required by the Director.
- (3) The Director shall furnish every such person and the market agent concerned each with a copy of the said delivery note, and shall keep a copy himself.
- (4) In the event of a direct sale the market agent shall for the purpose of obtaining his authority provide the Director with the purchase price relating to such sale, a sales docket and a delivery note showing -
- a) the date;
  - (b) the name and address of the vendor;
  - (c) the name and address of the buyer;
  - (d) the commodity;
  - (e) the quantity;
  - (f) the price per unit; and
  - (g) any other information that the Director shall reasonably require in respect of such sale.

**Rejection of Articles**

21. If the Director shall reasonably suspect that any articles submitted for sale are stolen property, he may, in his discretion, refuse to offer such articles for sale or to permit them to be sold, and he may, if he so suspects only after the sale, or if he allows a sale of articles suspected to be stolen, retain the proceeds of such sale in his possession until he has been satisfied as to the ownership of such articles: Provided always that neither the Council nor the Director shall be liable for any loss of damage caused to any person by any such sale or refusal to sell.

**Variation in Quality**

22. No person shall bring or offer for sale on the market any produce which is so packed that the produce at the top or sides of the container is of better quality or larger size than the produce in any other part of the container.

**Separation of Produce**

23. Every market agent shall remove and effectively separate from any produce received by him for sale on the market, any article which at any time is, or shows signs of being deteriorated or damaged and shall re-sort or re-pack such produce if, in the opinion of the Director, it is necessary to do so.

**Poultry and Birds**

24. (1) All live poultry or birds brought upon the market for sale shall be in a healthy condition and free from disease, well exposed in crates or boxes, well open to public view and shall not be tied by the legs.
- (2) The market agent shall feed and water such poultry and birds in such a manner and at such times as may be determined by the Director.
- (3) The manner in which such poultry and birds are sold shall be determined by the Director.
- (4) After sales, poultry and birds shall not be left in the crates or boxes for longer than is necessary for the delivery to be made to the buyer; provided that the Director may instruct a market agent or a buyer to remove the poultry or birds as soon as they have been sold; provided further that the Director may refuse to release poultry or birds if he has reason to believe that they are unhealthy, or if a buyer has failed to comply with any condition of sale imposed by the Director.
- (5) No person shall slaughter, destroy, pluck or clean poultry or birds within the confines of the market.
- (6) The Director may take all such steps as he may deem advisable to prevent or to stop the infliction of suffering, cruelty or rough handling on any poultry or birds.

**Stacking, Arrangement and Display of Articles**

25. (1) Every market agent shall make all arrangements deemed necessary by the Director to place, stack, arrange and display all articles received on the market, at such time as the Director may determine and in such a way that they will have an orderly appearance, be conspicuous to intending buyers and adequately separated from other articles, whether or not the articles are of the same commodity or come from the same vendor.
- (2) The Director may at any time direct a market agent to remove some or all of such articles to another space or enclosure, or to re-stack, re-arrange or re-display them.

**Containers**

26. (1) (a) Every container shall have the name and address of the consignor and market agent clearly and legibly marked in capital letters on such container or on a label securely attached to it.
- (b) All other names, addresses or marks, except the name, address or mark of the consignee and such other marks or labels are required by law to appear, shall be obliterated.
- (c) No articles shall be displayed for sale, offered for sale or sold unless the container is so marked.



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- (2) (a) Where articles are sold in containers, such containers shall be included in the purchase price of such articles, except in the case of patent boxes or baskets, or crates used in connection with the poultry, which shall be returned to the market agent concerned.
- (b) Buyers shall return such patent boxes, baskets or crates to the market agent concerned in the same condition and state of repair in which such were received, within 3 hours after the sale.
- (c) Buyers shall under no circumstances remove such patent boxes, baskets or crates from the precincts of the market.
- (d) The market agent concerned shall return such patent boxes, baskets or crates to the vendor within 24 hours after the sale.

### Inspection, Grading, Packing and Marking

27. No article required by law to be graded, shall be offered for sale or sold on the market unless it has been submitted by the market agent concerned for inspection and has been inspected as prescribed by law and the grade assigned to it as a result of such inspection has been clearly marked on it by such market agent or inspector and no article required by law to be offered for sale or sold by mass, or to be packed, marked or graded in a prescribed manner shall be offered for sale or sold or removed from the market agent unless it complies in every respect with the requirements of such law; provided that the Director may, in his discretion, direct that any article be sold if he deems it expedient to do so.

### Commencement and Closing of Sales

28. (1) Sales shall commence and close at such times as may be determined by the Director and no sales shall be held at any other time.
- (2) The Director shall cause a bell to be rung or some other sound to be made as a signal for the commencement and for the closing of sales.
- (3) The ringing of such bell or the making of such other sound, shall be deemed to mark the commencement and closing respectively of all sales, and no article shall be offered for sale or sold before such commencement or after such closing.

### Private Treaty Sales

29. (1) All sales by market agents shall be conducted by private treaty, unless otherwise directed by the Director.
- (2) No market agent shall offer for sale or sell any article by private treaty unless he is in a position to deliver the article concerned as soon as the purchase price has been paid by the buyer, except in the case of a direct sale when delivery may be effected directly between buyer and vendor.
- (3) Any market agent who concludes a direct sale between a vendor and a buyer and omits or neglects to advise the Director in advance of the details of such sale shall contravene these Bylaws.

### Auction by Director

30. (1) No person, other than the Director, shall organise or conduct or attempt to organise or conduct any auction sale on the market.
- (2) The Director, in his discretion, may direct that any article brought onto the market for sale to be sold by auction.
- (3) When any article is put up for sale by auction it shall be deemed to be sold to the highest bidder upon the work "gone" being declared by the Director in respect of such article.
- (4) If the Director is in doubt as to the highest bidder, the article shall again be put up for sale.
- (5) The Director may declare any article unsold when the highest bid, in his opinion, is unreasonable.

- (6) Any article offered for sale by auction shall be deemed to be so offered without a reserve price having been placed thereon, unless the market agent concerned informs the Director of the reserve price so placed before the article is offered for sale. If the highest bid does not equal the reserve fixed by the market agent, the Director may declare such article unsold.

#### How Articles Are To Be Sold

31. (1) No article shall be sold except according to quality, mass, number, quantity or as otherwise required by law or as determined by the Director.
- (2) Any article sold or required to be sold by mass shall be sold in accordance with the regulations made in terms of the Trade Metrology Act, 1973 (Act 77 of 1973), as amended, and the mass shall in every case be nett mass.
- (3) Except in the case of a direct sale, it shall be the responsibility of the market agent concerned to ensure that articles which are required to be sold by mass are arranged in units, the mass of which shall comply with any legal requirements, before such articles are displayed for sale, offered for sale or sold and such mass shall be clearly and legibly marked on such articles or their containers.
- (4) No market agent shall display a sample of any article for sale or sell any article by sample unless such sample is truly representative of the entire consignment, and the Director may satisfy himself in such manner as he may determine that the entire consignment is truly represented by the sample so displayed or offered for sale.

#### Preference

32. No market agent shall, when conducting private treaty sales, give preference to any person in any way whatsoever.

#### Purchase and Sale By Council Employees

33. Neither the Director nor any market official shall be allowed to trade or purchase articles on the market, either on his own account or on commission except such articles as they *bona fide* require for their own private consumption.

#### Sales Dockets

34. (1) In the case of all sales, whether by private treaty, direct sale or by public auction, a sales docket complying with the provisions of subsection (2) hereof shall subject to section 20(4) be issued to the Director, the vendor and the buyer by a salesman employed by the market agent concerned immediately upon a sale being concluded; Provided that in the case of a direct sale the salesman shall issue the sales docket to the vendor and buyer as soon as reasonably practicable.
- (2) Every sales docket referred to in subsection (1) shall be clearly and legibly completed and shall contain the following information:
- (a) the date of transaction;
  - (b) the market agent's name;
  - (c) the vendor's full name;
  - (d) in the case of a credit buyer, his full name and his number;
  - (e) a description of the article sold;
  - (f) a description of the type of container used;
  - (g) the quality of the article sold;
  - (h) the mass, quantity or number of units, as the case may be, of the article sold;
  - (i) the price per unit;

- (j) the full purchase price in the case of a cash buyer; and
  - (k) such other information as may be required by the Director from time to time.
- (3) When making payment in terms of by-law the buyer shall produce the sales docket issued to him to the Director who shall endorse thereon that payment of the purchase price has been received.
- (4) A credit buyer shall, immediately after purchasing any article, produce his buyer's card as well as the sales docket issued to him to the Director, who shall, subject to the conditions on which such buyer's card was issued, endorse on the sales docket that payment of the purchase price has been deferred.

#### Payment Of Purchase Price

35. No market agent or his employees shall receive or handle cash in respect of any purchase on the market .

#### Removal Of Articles From The Market

36. (1) Unless otherwise permitted by the Director every buyer shall collect and remove all articles bought by him from the market within three hours of purchase.
- (2) The market agent concerned shall be responsible for delivering to the buyer the correct quantity, mass, quality, grade and variety of the purchased article in its proper container.
- (3) (a) The Director shall be empowered to set aside loading bays to cater for the loading and off-loading of goods, and the provisions of subsection (2), (3), (4) and (5) of section 6 of these bylaws shall *mutatis mutandis* apply to this subsection.
- (b) No person operating or in charge of any vehicle shall, except by reason of a cause beyond his control, allow such vehicle to remain stationary in a loading bay for any purposes other than for the loading or off-loading of goods; provided that any vehicle shall not remain in a loading bay for a period longer than is absolutely necessary for loading or off-loading or after effecting the necessary repairs, and such loading and off-loading or repairing shall be conducted without delay.
- (2) The buyer of any article shall pay the purchase price thereof in cash to the Director immediately after it has been sold, unless he is in possession of a valid buyer's card.
- (3) The Director shall be and is hereby authorised to furnish any buyer with a buyer's card in terms of which the payment of any purchase may be deferred on such conditions as the Director may deem fit, provided always that the Director shall have a discretion to grant or cancel any buyer's card.
- (4) Every holder of a buyer's card shall pay to the Council a fee as set out in the tariff of charges.
- (5) Every buyer to whom a buyer's card has been issued shall provide at his ost a bank or insurance company guarantee to the satisfaction of the City Treasurer as security against monies due in respect of credit purchases made in terms of subsections (6) and (7) not being paid by the due date.
- (6) Notwithstanding the provisions of subsection (3) hereof, a buyer to whom a buyer's card has been issued shall pay the purchase price of any article not later than 11h00 on the day following the date of purchase except in the case of purchases on a Saturday, in which case payment shall be made before 11h00 on the following Tuesday, and in the case of purchases made on a day preceding a public holiday payment shall be made by 11h00 on the following business day.
- (7) Notwithstanding the provisions of subsection (6) hereof, the Director may in his discretion, on application by a buyer, in writing grant to such buyer an extended period within which he may make purchases on credit subject to such terms and conditions as the Director may prescribe.
- (8) Notwithstanding anything contained hereinbefore, interest at a percentage rate per annum approved by the Council **from time to time shall accrue and be payable on any amounts owing in respect of any purchase made in terms of subsections (6) and (7) hereof, which have not been paid by due date.**

- (9) The due date, for the purpose of calculating interest accruing in terms of subsection (8) on purchases made in terms of subsection (6) shall be deemed to be the date of purchase and the due date in respect of purchases made in terms of subsection (7) shall be the day following the date on which payment was due.
- (10) Any vendor who wishes to remove from the market any article brought onto the market by him shall first obtain the prior written consent of the Director before removing such article.

#### Proceeds Of Sales

37. (1) The Director shall pay the proceeds of the sale of any article consigned to a market agent and sold on the market, or sold by means of a direct sale, to such market agent after deducting there from the market dues, duties, levies or charges payable in respect of such sale; provided that in the case of a direct sale the Director may in his discretion withhold such proceeds pending written certification by the market agent that the sale has been completed and delivery effected to the satisfaction of both vendor and buyer.
- (2) Every market agent shall account promptly, correctly and in full to the vendor for the proceeds of any sale after receiving payment from the Director in terms of subsection (1) hereof and shall within the period, as may be required by any law from time to time, pay the vendor the amount owing to him after deducting from such monies any amount which he is legally entitled to do.
- (3) The director may furnish any vendor with such information relating to the sale of any article, sold by any market agent on behalf of such vendor, as the Director may deem expedient, and every market agent shall, at the request of the Director, furnish the Director with such information as he may require.

#### Accounts

38. (1) The Director shall keep a correct amount of all articles sold and monies handled by him.
- (2) Such account and all books and documents relating thereto shall at all times be open to inspection by any officer as may from time to time be appointed by the Council to carry out such inspection.

#### Unclaimed and Uncleared Articles

39. (1) Any article left on the market which is not claimed within 4 hours by the person entitled thereto shall be sold by the Director who shall hold the proceeds of such sale, less all market charges, on behalf of any person duly establishing a claim thereto.
- (2) No claim referred to in subsection (1) hereof shall be recognised after the expiration of 90 days from the date of sale, and in such case all the proceeds of such sale shall revert to the Council.
- (3) If any article already sold on the market remains uncleared at the close of the sale of any day, the Director may re-sell such article on the following day and the buyer in default shall be liable for any changes and losses arising out of the resale of such article.

#### Disputes

40. (1) The Director may demand any information from any person relating to any aspects of private treaty sales and may conduct any investigation which he may deem fit, in the opinion of the Director, any person has suffered or is likely to suffer damage or loss of a result of non-compliance by a market agent with the provisions of these bylaws.
- (2) In the event of any dispute arising between a market agent and any buyer, or between a market agent and any vendor, relating to the sale of any article on the market, or any direct sale, or any matter incidental thereto, the Director shall be empowered to decide the issue, and such decision shall be final and binding on the parties.
- (3) Any agent who concludes a direct sale in respect of which a dispute arises, shall be responsible for and undertake any negotiations and shall handle any claims between the vendor and the buyer in respect of that dispute.

- (4) Any problem or dispute relating to any market business and requiring immediate decision, arising in respect of any matter for which no provisions exist elsewhere in these bylaws, shall be dealt with by the Director, whose decision shall be final and binding.
- (5) In the event of a dispute arising between a vendor and a buyer in respect of the produce sold under a direct sale authorised by the Director, the Director may at any time prior to payment of the proceeds in terms of section 36(4) refund the purchase price relating to the transaction to the buyer concerned.

### Security

41. All purchases shall be subject to inspection and the Director or any police officer shall, within the confines of the market, be empowered, without warrant, to search any vehicle or receptacle of whatever nature and to seize any article in respect of which any offence has been, or on reasonable grounds, is suspected to have been committed.

### Risk Of Articles

42. (1) Every article brought onto the market shall at all times be at the sole risk of the agent until such article is sold.
- (2) Every article sold on the market shall be at the buyer's sole risk from the moment it is sold.

### Non-Liability Of Council And Director

43. (1) Neither the Council nor the Director shall be liable for any error of description, shortage or excess in quantity or lack of quality in regard to any article sold on the market or in respect of any direct sale.
- (2) Neither the Council nor the Director shall be liable for any damage, injury or loss arising out of any lawful act or decision on the part of the Director in the execution of his duties in terms of these bylaws.

### Conduct Of Persons Within The Market

44. (1) All persons on the market shall comply with the lawful and reasonable instructions of the Director.
- (2) No person shall, in or about the market:
  - (a) cause a nuisance, or behave in a manner which is disorderly or unseemly, or use threatening, obscene, abusive, violent, offensive or disgusting language;
  - (b) interfere with or molest any other person or tout for custom;
  - (c) interfere with or obstruct any employee of the market in the execution of his duties;
  - (d) throw anything at any person or object;
  - (e) organize or conduct a meeting without obtaining the prior written consent of the Director;
  - (f) touch, taste, smell, handle or remove any article exposed for sale in such way as to mark it liable to contamination;
  - (g) keep or expose for sale any article of an offensive nature;
  - (h) smoke in any part where a notice prohibiting smoking is displayed;
  - (i) light a fire, save at such times and in such places as have been authorized by the Director;
  - (j) stand, sit or lie upon or lean against any article or container;
  - (k) without lawful reason tamper with or remove or cause to be removed any article placed or exposed for sale or any container, or any label on such article or container;

- (l) without the written permission of the Director erect any additional fence or buildings on premises hired from the Council, or convert existing buildings or erect partitions or install or extent existing water or electrical leads or fittings or make any other changes of a like nature on such premises;
  - (m) cause or permit any solids or other matter likely to cause blockage in or damage to drains to enter any drain or gulley, or cause to permit any sewage, oil, foul water or other objectionable substance to enter any stormwater drain;
  - (n) without the permission of the Director wash, pack, sort, grade or clean fruit, vegetables or any other article, or
  - (o) throw or deposit in any place other than receptacles provided for the purpose, any fruit peel or any other vegetable matter or refuse.
- (3) No person shall bring or convey any intoxicating liquor onto the market, or have intoxicating liquor in his possession whilst in the market, or enter or remain upon the market while under the influence of intoxicating liquor.
  - (4) No person shall damage, ruin or tamper with any article brought to the market, or any building or property belonging to the Council. Any person committing a breach hereof shall pay the Council the amount of the damage done, as well as the penalty imposed for the breach hereof;
  - (5) No person shall dispose of any article by way of gift or in any manner give delivery of any article to another person within the precincts of the market, save as in accordance with the provisions of these bylaws.
  - (6) It shall be lawful for the Director or any policeman to exclude or remove from the market any person who is in a state of intoxication or who behaves in a manner which is disorderly or unseemly or who causes a nuisance in the precincts of the market.
  - (7) No person excluded or removed from the market in terms or subsection (6) hereof shall enter or re-enter any part of the market on the same day that he was so excluded or removed.
  - (8) Notwithstanding the provisions of subsections (6) and (7) hereof, the Director shall be empowered to exclude any person referred to in subsection (6) hereof from the market for any period not exceeding fourteen days.
  - (9) The Director or any police official shall be empowered to arrest, without warrant, any person found committing any offence within the precincts of the market or any person who he on reasonable grounds believes to have recently contravened any of the provisions of these bylaws.
  - (10) No persons shall bring onto the market any refuse, garbage or vegetable matter for the purpose of discarding such refuse, garbage or vegetable matter within the precincts of the market.
  - (11) The municipality may put measures to control and manage market agents and vendors at social grant payment site including provision of security personnel.

#### **Obstructions**

45. (1) No person shall place any article or thing anywhere in the market so as to cause inconvenience or obstruction or so as to prevent the proper sweeping, washing or cleaning of the market.
- (2) Any person in control of any article or thing shall immediately remove such article or thing when instructed to do so by the Director.
- (3) Should any person refuse or neglect to comply with any instructions issued by the Director in terms of subsection (2) hereof or should any article or thing causing obstruction or inconvenience be unattended, the Director may, without notice, remove the obstruction, and no liability shall attach to the Director or to the Council for any damage, injury or loss resulting from such removal.

**Cold Store and Ripening Chamber**

46. (1) The Director shall be empowered to place in cold storage or in the ripening chamber at the request of any person, any article approved by the Director, and to charge a fee for such storage in accordance with the tariff of charges.
- (2) Neither the Council nor the Director shall be liable for any loss, damage or injury to goods placed in the cold store, or the ripening chamber whether caused by maintaining too high or too low a temperature, by excessive or insufficient moisture, by failure of machinery or any other cause whatsoever.

**Protective Clothing**

47. All persons concerned with marketing or the handling of produce shall wear such protective clothing whilst perform in their duties as may be required by the Director.

**Recovery by Director of Monies Outstanding**

48. (1) The Director shall be empowered on behalf of the Council to recover any monies due and outstanding in respect of any business conducted on the market, including monies owing by either vendors or buyers in respect of any market sales, and any monies due and payable in respect of any provisions of these bylaws.
- (2) The Director shall be empowered to set off against any outstanding debts any monies in his possession belonging to the debtor.
- (3) The Director may sue on behalf of the Council in connection with any matter relating to the provisions of subsection (1) hereof.
- (4) The Director shall be empowered to submit to the South African Railways administration claims on behalf of vendors arising out of breakages, shortages or undue delays in delivery, etc, or articles consigned to the market.

**Name of Market**

49. The market established by the Council, in terms of these bylaws, shall be known as the Matjhabeng Fresh Produce market.

**Offences and Penalties**

50. (1) any person who:
- (a) contravenes any provision of these bylaws; or
- (b) contravenes any conditions imposed upon the granting of any application, consent, approval, concession, relaxation, permit of authority in terms of these bylaws; or
- (c) fails to comply with the terms of any notice served upon him in terms of these bylaws,
- shall be guilty of an offence and liable, upon conviction, to the maximum penalty prescribed for the offence by Local Government Ordinance, 1962 (Ordinance No. 8 of 1962).
- (2) Failure to comply with the terms of any condition or notice referred to in subsection (1)(b) or (c) above shall constitute a continuing offence and a person failing to comply with the terms of such condition of notice shall be guilty of a separate offence for each day during which he fails to comply with such terms.

**Farmers' Retail Market**

51. Notwithstanding anything hereinbefore contained, the provisions of Part I shall have no application to the Farmers' Retail Market as defined in Part II of these Bylaws.

## PART II : FARMERS' RETAIL MARKET

### Definitions

52. 1. In these Bylaws, unless inconsistent with the context:

**"Agricultural Produce"** means anything grown on a farm or in a garden for human consumption and includes flowers green Lucerne, green forage, eggs, live poultry and such dried and any other produce which the Director of Markets may permit to be sold;

**"Article"** means any produce, goods, object or thing brought onto the market for sale;

**"Council"** has a corresponding meaning to "Council" as defined in Part I of these bylaws;

**"Container"** has a corresponding meaning to "Container" as defined in Part 1 of these bylaws;

**"Director"** has a corresponding meaning to "Director" as defined in Part I of these bylaws;

**"Farmer"** means any person authorized in writing by the Director to sell or expose for sale, within the retail market, agricultural produce produced by him;

**"Farmers' Retail Market"** means the Market located within a fenced area on the raised platform section on the east side of the Cold Storage Complex in the National Market;

**"Manufacturer"** means any person who sells or expose for sale within the retail market, baskets or such articles manufactured by himself, as the Director may authorize;

**"Permit"** means the document issued to a farmer by the Director in terms of section 6(1) authorizing him to sell or expose for sale within the Retail Market, agricultural produce produced by him;

**"Produce Entry document"** means a document issued to farmer by the Director prior to the entry of the farmer into the Retail Market which shall contain such information as the Director from time to time may determine;

**"Retail Market"** means the Farmers' Retail Market;

**"Seller"** means a Farmer or Manufacturer as defined;

**"Stall"** means any space demarcated and allotted by the Director to a farmer or manufacturer for the purpose of selling authorized articles there from;

### Market Hours

53. (1) The retail market shall remain open every day except Sundays and the public holidays referred to in the second Schedule of the Public Holidays Act, 1994 (Act No. 36 of 1994).
- (2) Notwithstanding the provisions of subsection (1), the Council may close the retail market on any other public holiday, or on such other days or during such period as it deems fit.
- (3) Notwithstanding the provisions of subsection (1) and (2) hereof, the retail market shall be closed on the days the National Market is closed.
- (4) Notice of the opening and closing hours or the closure of the retail market on public holidays and other days in terms of subsections (1), (2) and (3) shall be posted on the notice board within the retail market by the Director.
- (5) No person shall enter or remain, or cause any vehicle, or other thing to enter or remain on the retail market on days or at times when the retail market is closed, save with the permission of the Director.



**Stalls**

54. (1) The Director may, in his discretion, from time to time, determine the position and extent of any stall in the retail market.
- (2) (a) The Director may from time to time, divide the retail market into sections from the sale of different classes of articles.
- (b) No article may be sold from or in any section which does not belong to the class of article for the sale of which that section has been set aside.
- (3) The Director may for purposes of identification allot a distinctive number to each stall as he deems fit.
- (4) Notwithstanding the provisions of this section, stalls shall be allotted on a daily basis and the right acquired under these bylaws in respect thereof shall not be transferable.

**Occupation of stalls**

55. (1) No person shall occupy a stall in any section of the Retail Market unless he or she:
- (a) is not less than 18 years of age;
- (b) has made application to the Direction in a form prescribed by the Director;
- (c) had lodged with the Director :
- (aa) (i) an affidavit
- (ii) an undertaking in forms approved by the Director, and
- (bb) all documents called for in the application;
- (d) has been granted a permit by the Director;
- (e) has furnished proof to the satisfaction of the Director that he is a farmer when called upon by the Director to do so.
- (2) (a) No person shall occupy any stall in the retail market other than the stall allocated to him by the Director.
- (b) No seller shall be permitted or be entitled to occupy more than one stall at any time.
- (3) Every seller shall :
- (a) be in personal attendance at the stall allotted to him;
- (b) personally supervise the business carried on his stall during the hours when sales take place, unless he has first obtained the written permission of the Director to allow some other person to supervise and carry on the said business on his behalf;
- (c) at all times keep his stall clean and tidy to the satisfaction of the Director;
- (d) pay at a time specified by the Director on the Produce entry Document :
- (i) a 5% ad valor me tariff of the value of the produce brought onto the Retail Market as assessed by the Director, or
- (ii) The sum of R1,00 (whichever is the greater)

**Prohibitions**

56. (1) (a) No person shall sell, expose or offer for sale any article in the Retail Market unless :
- (i) he shall first have received the authorization of the Director so to do;
  - (ii) such article has been declared and assessed on a Produce Entry Document;
  - (iii) the tariff prescribed in section 55(3)(d) has been paid.
- (b) The Director may take any such action as may be reasonable to excluded any person who has failed to pay any tariff prescribed in section 55(3)(d) hereof by the time stipulated in the Produce Entry Document from selling or exposing for sale any articles on the Retail Market.
- (2) No seller or manufacturer shall take into the retail market any child under the age of 7 (seven) years.
- (3) No seller or member of the public shall take into the retail market any dog, bicycle or tricycle.
- (4) No person shall perform any service or conduct any business in the retail market for reward otherwise than in accordance with these Bylaws.

**Obstructions**

57. Every seller shall confine his business to the limits of the stall allotted to him in terms of these Bylaws.

**Alteration to stalls**

58. No seller shall construct or attach any fitting s or fixtures to, or make any erections in, or alterations to his or her stall.

**Cleanliness**

59. (1) Every person who brings into the market any vehicle or any basket or other container for the conveyance of goods for sale at the retail market shall keep the same clean and tidy to the satisfaction of the Director.
- (2) The Director may, in his discretion, prohibit the cleaning, stripping or peeling of any articles in any section of the retail market.

**Vehicles**

60. (1) The Director shall be empowered to control and regulate the volume and movement of traffic entering the retail market or within the precincts of the retail market.
- (2) No person shall neglect or refuse to place any vehicle under his control in the position assigned to such vehicle by the Director.
- (3) The Director in his discretion shall be empowered to set aside parking spaces from time to time which shall be defined by white lines painted upon the surface of the ground or by notices placed or erected in conspicuous places, provided, however, that if circumstances demand, the Director shall, in his discretion, be empowered to prohibit for the time being any person from parking a vehicle in spaces so set aside and defined.
- (4) No person in charge of any vehicle shall park such vehicle in any place within the retail market other than in such spaces set aside in terms of subsection (3) hereof, unless he is otherwise directed.
- (5) The Director shall, notwithstanding the provisions of subsection (3) hereof, be empowered to designate temporary parking places, other than defined areas.

- (6) Every person in charge of a vehicle which is admitted to the retail market for the purpose of conveying goods for sale therein, or for the purpose of removing goods there from, shall unload, or as the case may be, load such vehicle without delay and forthwith remove same from the retail market.
- (7) (a) The tariff for the hire of each handcraft, supplied by the Director, shall be as prescribed **[in Item 3 of Part I of the tariff charges referred to in section 7 (1) hereof ]** by the municipality and shall be payable in advance.
- (7) (b) Any person to whom a receipt is issued in respect of a payment made in terms of (a) above, shall retain it for the period of its validity and shall, when required to do so, during that period, produce such receipt for the purpose of inspection or examination by the Director
- (7) (c) The rights acquired in terms of (7)(a) above shall not be transferable.
- (8) The Director, in his discretion, shall be empowered from time to time to allocate a parking space or parking spaces set aside in terms of section (3) hereof and subject to the provisions of that subsection, to any person or persons for his/their exclusive use, on such conditions as the Director may approve subject to any direction by the Council. The tariff for the exclusive use of parking shall be as prescribed **[in Item 5 (d) of the aforementioned tariff of charges]** by the municipality.
- (9) No person shall drive, propel or ride any vehicle within the precincts of the retail market in such way as to endanger persons or property.

#### COMMENCEMENT AND CLOSING OF SALES

##### Commencement and closing of sales

61. (1) Sales shall take place only during such periods as may be determined by the Director and no sale shall take place at any other time.
- (2) The Director shall cause a bell to be run or some other sound to be made as a signal for the commencement. and for the closing of the periods mentioned in (1) above.
- (3) The ringing of such bell or the marking of such other sound, shall be deemed to mark the commencement and closing respectively of such periods, and no article shall be offered for sale or sold before such commencement or after such closing.
- (4) After such closing sellers shall forthwith remove all articles from the retail market.

##### Rejection of articles

62. (1) If the Director reasonably suspects that any article submitted for sale is stolen property, he may, in his discretion, refuse to permit such article to be offered or displayed, for sale or refuse to permit it to be sold until he as a been satisfied as to the ownership of such article, provide always that neither the Council nor the Director shall be liable for any loss or damage caused to any person by any such sale or refusal to sell.
- (2) The Director may reject from the retail market or may decline to accept for sale in the retail market any article which in his opinion is offensive, diseased, unsound, unwholesome or unfit for consumption by human beings, or animals or is contained in a container likely to contaminate it or any other article with which such container may come into contact. Upon the issue of a certificate or condemnation by the Medical Officer of Health, in respect of any offensive, diseased, unsound, unwholesome or unfit article, the Director may seize and destroy it, and the owner of such article shall not be entitled to any compensation in respect thereof.

##### Inspection, grading, packing and marking

63. (1) No article required by law to be graded, shall be offered for sale or sold unless it has been submitted by the seller concerned for inspection and has been inspected as prescribed by law and the grade assigned to it as a result of such inspection has been clearly marked on it by such seller or inspector and no article required by law to be offered for sale or sold by mass, or to be packed, marked or graded in a prescribed manner shall be offered for sale or sold or removed from the retail market unless it complies in every respect with the requirements of such law; provided that the Director may, in his discretion, direct that any article be sold if he deems it expedient to do so.

- (2) (a) The Director may by notice on the Market notice board prescribe containers or specifications for containers for different classes of articles.
- (b) Any person who sells or exposes for sale any articles in containers which fail to comply with the prescriptions or specifications of the Director as aforesaid shall be guilty of an offence.

#### Unclaimed and uncleared articles

64. (1) Any article left on the retail market which is not claimed within 4 hours after the closing period referred to in subsection 61(4) hereof by the person entitled thereto, may be sold by the Director who shall hold the proceeds of such sale, less any storage fees and retail market dues due in terms of the tariff of charges referred to in section 5 (1) on behalf of any person duly establishing a claim thereto.
- (2) No claim referred to in subsection (1) hereof shall be valid after the expiration of 90 days from the date of sale, and in such case all the proceeds of such sale shall revert to the Council

#### Risk of article

65. (1) Every article brought onto the retail market shall at all times be at the sole risk of the seller until such article is sold
- (2) Every article sold on the retail market shall be at the buyer's sole risk from the moment it is sold.

#### Recording of articles

66. (1) Every person bringing or causing to be brought to the retail market any article to be offered for sale thereon shall, forthwith, on its arrival, register such article with the Director, in a manner to be prescribed by him.
- (2) The Director for statistical or any other lawful purpose, may demand any information from any person relating to any aspect of sales, and may conduct any investigation which he may deem fit if, in his opinion, any person has suffered or is likely to suffer damage or loss as a result of noncompliance by a seller with the provisions of these bylaws.

#### Conduct of persons within the market

67. (1) All persons on the retail market shall forthwith comply with the lawful and reasonable instructions of the Director.
- (2) No person shall, in or about the retail market :
- (a) cause a nuisance, or behave in a manner which is disorderly or unseemly, or use threatening, obscene, abusive, violent, offensive or disgusting language or expletives;
  - (b) interfere with or molest any other person or tout for custom;
  - (c) interfere with or obstruct any employee of the retail market in the execution of his duties;
  - (d) throw anything at any person or object;
  - (e) organize or conduct a meeting without obtaining the prior written consent of the Director;
  - (f) touch, taste, consume, smell, handle or remove any article exposed for sale unless otherwise authorised by the seller;
  - (g) keep or expose for sale any article of an offensive nature;
  - (h) smoke in any part where a notice prohibiting smoking is displayed;
  - (i) light a fire, save at such times and in such places as have been authorized by the Director;

- (j) stand, sit or lie upon or lean against any article or container;
  - (k) without lawful reason tamper with or remove or cause to be removed any article placed or exposed for sale, or any container, or any label on such article or container;
  - (l) cause or permit any solids or other matter likely to cause blockage in or damage to drains, to enter any drain or gully, or cause to permit any sewage, oil, foul water or other objectionable substance to enter any stormwater drain;
  - (m) without the permission of the Director wash, pack, sort, grade or clean fruit, vegetables or any other article; or
  - (n) throw or deposit in any place other than receptacles provided for the purpose, any fruit peel or any other vegetable matter or refuse;
  - (o) save with the prior written authority of the Director remove any refuse or waste matter from the retail market.
- (3) No person shall bring or convey any intoxicating liquor onto the retail market, or have intoxicating liquor in his possession whilst in the retail market, or enter or remain upon the retail market while under the influence of intoxicating liquor.
- (4) No person shall damage, ruin or tamper with any article brought to the retail market, or any building or property belonging to the Council. Any person committing a breach hereof shall pay the Council the amount of the damage done, as well as the penalty imposed for the breach hereof.
- (5) It shall be lawful for the Director or any policeman to exclude or remove from the retail market any person who is in a state of intoxication or who behaves in a manner which is disorderly or unseemly or who causes a nuisance in the precincts of the retail market.
- (6) No person excluded or removed from the retail market in terms of subsection (5) hereof shall enter or re- enter any part of the retail market on the same day that he was so excluded or removed.
- (7) Notwithstanding the provisions of subsection (5) and (6) hereof, the Director shall be empowered to exclude any person referred to in subsection (5) hereof from the retail market for any period he may deem fit, and if deemed necessary by him for the orderly and proper conduct of the retail market, the Director shall be empowered to order the **[permanent]** exclusion of such person from the retail market for any period not exceeding fourteen days.
- (8) The Director or any police official shall be empowered to arrest, without warrant, any person found committing any offence referred to in Schedule 3 of the Criminal Procedure Act, No 51 of 1977, within the precincts of the retail market or any person whom he on reasonable grounds believes to have recently contravened any of the provisions of these bylaws.

#### **Non-liability of Council and Director**

68. (1) Neither the Council nor the Director shall be liable for any error in regard to the sale of any article on the retail market or for any other error in regard to any article on the retail market.
- (2) Neither the Council nor the Director shall be liable for any damage, injury or loss arising out of any lawful act or decision on the part to the Director in the execution of his duties in terms of these bylaws.

#### **Offences and penalties**

69. (1) Any person who:
- (a) contravenes any provision of these bylaws; or
  - (b) contravenes any conditions imposed upon the granting of any application, consent, approval, concession, relaxation, permit or authority in terms of these bylaws; or

- (c) fails to comply with the terms of any notice served upon him in terms of these bylaws, shall be guilty of an offence and liable, upon conviction, to the maximum penalty prescribed for the offence by the Local Government Ordinance, 1962 (Ordinance No. 8 of 1962).
- (2) Failure to comply with the terms of any condition or notice referred to in subsection (1)(b) or (c) above shall constitute a continuing offence and a person failing to comply with the terms of such condition or notice shall be guilty of a separate offence for each day during which he fails to comply with such terms.

#### **Exemption of national market**

70. Notwithstanding anything hereinbefore contained, the provisions of Part II shall have no application to the National market as defined in Part I of these Bylaws.

#### **Provision for delegation**

71. Subject to the provisions of any other legislation, the Council may delegate or assign in writing any power, duty of function imposed by or under this by-law, to any person in its employ subject further to such conditions as it may deem necessary.

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

72. The Market by-laws by the former Municipal Councils of Allanridge, Odendaalsrus, Welkom, Virginia, Hennenman and Ventersburg are hereby repealed.

#### **Short title and commencement**

73. This by-law is called the Market By-Law No 29 of 2008 and shall come into operation upon date of publication in the *Provincial Gazette*.

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### **MATJHABENG LOCAL MUNICIPAL COUNCIL**

#### **WATER SERVICES BY-LAW**

##### **PREAMBLE**

The Municipal Manager of the Matjhabeng Local Municipal Council in terms of subsection 156 (2) of the Constitution of the Republic of South Africa, 1996, read with section 13 of the Local Government: Municipal system Act, 2000 (Act 32 of 2000), publishes the by-law as set forth hereafter as by-law made by the Council.

##### **LONG TITLE**

**To provide a regulatory framework for Water Services and the managing thereof, to provide for the strengthening of measures to control Water Services, to provide for sanctions in contravening the provisions, to provide for certain delegated powers to repeal certain by-laws and to provide for matters connected therewith.**

##### **CHAPTER 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;

“**account**” means an account rendered for municipal services provided;

“**agreement**” means the contractual relationship between the municipality and a customer, whether written or deemed as provided for in the municipality’s by-laws relating to credit control and debt collection;

“**approved**” means approved by the municipality in writing;

“**area of supply**” means any area within or partly within the area of jurisdiction of the municipality to which a water service is provided;

“**authorised agent**” means:

- (i). person authorised by the municipality to perform any act, function or duty in terms of, or to exercise any power under, these by-laws;
- (ii). person to whom the municipality has delegated the performance of certain rights, duties and obligations in respect of providing water supply services; or
- (iii). person appointed by the municipality in a written contract as a service provider for the provision of water services to customers on its behalf, to the extent authorised in such contract;

“**average consumption**” means the average consumption of a customer of a municipal service during a specific period, and is calculated by dividing the total measured consumption of that municipal service by that customer over the preceding three months by three;

“**best practicable environmental option**” means the option that provides the most benefit or causes the least damage to the environment as a whole, at a cost acceptable to society, in the long term as well as in the short term;

“**borehole**” means a hole sunk into the earth for the purpose of locating, abstracting or using subterranean water and includes a spring;

“**Building Regulations**” means the National Building Regulations made in terms of the National Building Regulations and Building Standards, 1997 (Act No 103 of 1977) as amended;

“**charges**” means the rate, charge, tariff, flat rate or subsidy determined by the municipal council;

“**cleaning eye**” means any access opening to the interior of a discharge pipe or trap provided for the purpose of internal cleaning;

“**combined installation**” means a water installation used for fire fighting and domestic, commercial or industrial purposes;

“**commercial customer**” means any customer other than domestic consumer and indigent customers, including, without limitation, business, industrial, government and institutional customers;

“**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 customer gains access to water services;

“**connection pipe**” means a pipe, the ownership of which is vested in the municipality and installed by it for the purpose of conveying water from a main to a water installation, and includes a “communication pipe” referred to in SANS 0252 Part I;

“**conservancy tank**” means a covered tank used for the reception and temporary retention of sewage and which requires emptying at intervals;

“**customer**” means a person with whom the municipality has concluded an agreement for the provision a municipal service as provided for in the municipality’s by-laws relating to credit control and debt collection;

“**determined**” means determined by the municipality or by any person who makes a determination in terms of these laws;

“**domestic consumer**” means a customer using water for domestic purposes;

“**domestic purposes**” in relation to the supply of water means water supplied for drinking, ablution and culinary purposes to premises used predominantly for residential purposes;

“**drain**” means that portion of the drainage installation that conveys sewage within any premises;

“**drainage installation**” means a system situated on any premises and vested in the owner thereof and which is used for or intended to be used for or in connection with the reception, storage, treatment or conveyance of sewage on that premises to the connecting point and includes drains, fittings, appliances, septic tanks, conservancy tanks, pit latrines and private pumping installations forming part of or ancillary to such systems;

“**drainage work**” includes any drain, sanitary fitting, water supplying apparatus, waste or other pipe or any work connected with the discharge of liquid or solid matter into any drain or sewer or otherwise connected with the drainage of any premises;

“**dwelling unit**” means an interconnected suite of rooms including a kitchen or scullery, designed for occupation by a single family, irrespective of whether the dwelling unit is a single building or forms part of a building containing two or more dwelling units;

“**effluent**” means any liquid whether or not containing matter in solution or suspension;

“**engineer**” means the engineer of the municipality, or any other person authorised to act on his behalf;

“**emergency**” means any situation that poses a risk or potential risk to life, health, the environment or property;

“**environmental cost**” means the cost of all measures necessary to restore the environment to its condition prior to an incident resulting in damage;

“**estimated consumption**” means the consumption that a customer, whose consumption is not measured during a specific period, is deemed to have consumed, that is estimated by taking into account factors that are considered relevant by the municipality and which may include the consumption of water services by the totality of the users of a service within the area where the service is rendered by the municipality, at the appropriate level of service, for a specific time;

“**fire installation**” means a potable water installation that conveys water for fire-fighting purposes only;

“**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 as calculated in accordance with Schedule C may be charged;

“**household**” means a family unit, as determined by the municipality as constituting a traditional household by taking into account the number of persons comprising a household, the relationship between the members of a household, the age of the persons who are members of it and any other factor that the municipality considers to be relevant;

“**illegal connection**” means a connection to any system, by means of which water services are provided that is not authorised or approved by the municipality;

“**industrial effluent**” means effluent emanating from the use of water for industrial purposes and includes for purposes of 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 No 85 of 1993);



“**installation work**” means any work done in respect of a water installation, including construction, rehabilitation, improvement and maintenance;

“**interest**” means interests as may be prescribed by the minister of Justice in terms of section 1 of the Prescribed Rate of Interest Act, 1975 (Act no 55 of 1975);

“**manhole**” means any access chamber to the interior of the sewer provided for the purpose of maintenance and internal cleaning;

“**main**” means a pipe, other than a connection pipe, of which the ownership vests in the municipality and which is used by it for the purpose of conveying water to a customer;

“**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 water meters of a size greater than 100mm, a device that measures the quantity of water passing through it, including a pre-paid water meter;

“**municipal council**” means the Matjhabeng Local Municipality and includes committees of the Council to which it has delegated any power or function under these by-laws in relation to that power or function;

“**municipality**” means the Matjhabeng Local Municipality and its legal successors, and when referred to as-

- (a) a legal entity, means Matjhabeng Local Municipality as described in section 2 of the Local Government: Municipal Systems Act, (Act No. 32 of 2000); and
- (b) a geographic area, means the municipal area of the Matjhabeng Local Municipality as determined from time to time in terms of the Local Government: Municipal Demarcation Act, 1998(Act No. 27 of 1998);

“**municipal manager**” means the person appointed by the by the municipal council as the municipal manager of the municipality in terms of section 82 of the Local Government Municipal Structures Act, 1998 (Act No 117 of 1998) and includes any person to whom the municipal manager has delegated a power, function or duty but only in respect of that delegated power, function or duty;

“**municipal services**” means, for purposes of these by-laws, services provided by a municipality, including refuse removal, water supply, sanitation, electricity services and rates or any one of the above;

“**occupier**” means a person who occupies any (or part of any) land, building, structure or premises and includes a person who, for someone else’s reward or remuneration allows another person to use or occupy any (or any part of any) land, building structure or premises;

“**on-site sanitation services**” means any sanitation services other than water borne sewerage disposal through a sewerage disposal system;

“**owner**” means:

- (a) the person in whose name the ownership of the premises is registered from time to time or his agent;
- (b) where the registered owner of the premises is insolvent or dead, or for any reason lacks legal capacity, or is under any form of legal disability, that has the effect of preventing him from being able to perform a legal act on his own behalf, the person in whom the administration and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;
- (c) where the municipality is unable to determine the identity of the owner, a person who has a legal right in, or the benefit of the use of, any premises, building, or any part of a building, situated on them;
- (d) where a lease has been entered into for a period of 30 (thirty) years or longer, or for the natural life of the lessee or any other person mentioned in the lease, or is renewable from time to time at the will of the lessee indefinitely or for a period or periods which, together with the first period of the lease, amounts to 30 years, the lessee or any other person to whom he has ceded his right title and interest under the lease, or any gratuitous successor to the lessee;

(e) in relation to:

- (i) a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act No 95 of 1986), the developer or the body corporate in respect of the common property, or
- (ii) a section as defined in the Sectional Titles Act, 1986 (Act No 95 of 1986), the person in whose name such section is registered under a sectional title deed and includes the lawfully appointed agent of such a person; or
- (iii) a person occupying land under a register held by a tribal authority or in accordance with a sworn affidavit made by a tribal authority;

**“person”** means any person, whether natural or juristic and includes. But is not limited to, any local government body or like authority, a company or close corporation incorporated under any law, a body of persons whether incorporated or not, a statutory body, public utility body, voluntary association or trust;

**“plumber”** means a person who has passed a qualifying Trade Test in Plumbing or has been issued with a certificate of proficiency in terms of the Skills Development Act, 1998 (97 of 1998) or such other qualification as may be required under national legislation;

**“pollution”** means the introduction of any substance into the water supply system, a water installation or a water resource that may make the water harmful to health or environment or impair its quality for the use for which it is normally intended;

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

- (a) a general plan or diagram registered in terms of the Land Survey Act, 1927 (Act No 9 of 1927), or in terms of the Deeds Registries Act, 1937 (Act No 47 of 1937);
- (b) a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act No 5 of 1986); or
- (c) a register held by a tribal authority or in accordance with a sworn affidavit made by a tribal authority;

**“prescribed”** means prescribed by the municipal council;

**“professional engineer”** means a person registered in terms of the Engineering Profession Act, 2000 (Act N 46 of 2000) as a professional engineer;

**“public notice”** means publication in the media including one or more of the following:

- (a) publication of a notice, in the official languages determined by the municipal council:-
  - (i) in any local newspaper or newspapers circulating in the area of supply of the municipality;
  - (ii) in the newspaper or newspapers circulating in the area of supply of the municipality determined by the municipal council as a newspaper of record; or
  - (iii) on the official website of the municipality;
  - (iv) by means of radio broadcasts covering the area of supply of the municipality;
- (b) displaying a notice in or at any premises, office, library or pay-point of either the municipality, or of its authorized agent, to which the public has reasonable access; and
- (c) communication with customers through public meetings and ward committee meetings;

**“SANS”** means the South African National Standard;

**“sanitation services”** has the same meaning assigned to it in terms of the Act and includes for purposes of 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;

“**septic tank**” means a water tight tank designed to receive sewage and to effect the adequate decomposition of organic matter in sewage by bacterial action;

“**service pipe**” means a pipe which is part of a water installation provided and installed on any premises by the owner or occupier and which is connected or to be connected to a connection pipe to serve the water installation on the premises;

“**share consumption**” means the consumption by a customer of a municipal service during a specific period, that is calculated by dividing the total metered consumption of that municipal service in the supply zone where the customer’s premises are situated for the same period by the number of customers within the supply zone, during that period;

“**sewage**” means waste water, industrial effluent, standard domestic effluent and other liquid waste, either separately or in combination, but shall not include storm water;

“**sewer**” means any pipe or conduit which is the property of or is vested in the municipality and which may be used for the conveyance of sewage from the connecting sewer and shall not include a drain as defined;

“**standpipe**” means a connection through which water supply services are supplied to more than one person;

“**standard domestic effluent**” means domestic effluent with prescribed strength characteristics as determined by the municipality in respect of chemical oxygen demand and settleable solids as being appropriate to sewage discharges from domestic premises within the jurisdiction of the municipality, but shall not include industrial effluent;

“**stormwater**” means water resulting from natural precipitation or accumulation and includes rainwater, subsoil water or spring water;

“**terminal water fitting**” means water fitting at an outlet of a water installation that controls the discharge of water from a water installation;

“**trade premises**” means premises upon which industrial effluent is produced;

“**trap**” means a pipe fitting or portion of a sanitary appliance designed to retain water seal which serves as a barrier against the flow of foul air or gas, in position;

“**unauthorized service**” means the receipt, use or consumption of any municipal service which is not in terms of an agreement with, or approved by, the municipality;

“**water fitting**” means a component of a water installation, other than a pipe, through which water passes or in which it is stored;

“**water installation**” means the pipes and water fittings which are situated on any premises and ownership thereof vests in the owner thereof and used or intended to be used in connection with the use of water on such premises, and includes a pipe and water fitting situated outside the boundary of the premises, which either connects to the connection pipe relating to such premises or is otherwise laid with the permission of the municipality;

“**water services**” means water supply services and sanitation services;

“**water services intermediaries**” has the same meaning as that assigned to it in terms of the Act;

“**water supply services**” has the same meaning assigned to it in terms of the Act and includes for purposes of 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; and

“**working day**” means a day other than a Saturday, Sunday or public holiday.

**Application of by-law**

2. (1) This by-law applies to all Water Services used by customers which fall under the jurisdiction of Council.
- (2) This by-law is binding on the municipality as an organ of state.

**Purpose of by-law**

3. The purpose of this by-law is to provide, in conjunction with other applicable legislation, an effective legal and administrative framework:
- (a) to ensure that the way in which the Council controls, manages and develops water services is environmentally sustainable, and is in the long-term interests of the whole community of Matjhabeng including future generations; and
- (b) which clearly defines the rights and obligations of the public in relation to water services.

**APPLICATION, PAYMENT AND TERMINATION****PART 1: APPLICATION****Application for Water Services**

4. (a) No person shall be provided with access to water services unless application has been made to, and approved by, the municipality on the form prescribed in terms of the municipality's by-laws relating to credit control and debt collection.
- (b) Water services rendered to a customer by the municipality are subject to the municipality's by-laws relating to credit control and debt collection, these by-laws and the conditions contained in the relevant agreement.

**Special Agreements for Water Services**

5. The municipality may enter into a special agreement for the provision of water services with an applicant in accordance with the municipality's by-laws relating to credit control and debt collection.

**Change in Purpose for which Water Services are used**

6. Where the purpose for, or extent to which, any municipal service is changed, the customer must promptly advise the municipality of the change and enter into a new agreement with the municipality.

**PART 2: CHARGES****Prescribed Charges for Water Services**

7. (1) All applicable charges payable in respect of water services, including but not restricted to the payment of connection charges, fixed charges or any additional charges or interest will be set by the municipal council in accordance with :
- (a) its Rates and Tariff policy;
- (b) any by-laws in respect thereof; and
- (c) any regulations in terms of national or provincial legislation; but
- (c) differences between categories of customers, users of services, types and levels of services, quantities of services, infrastructural requirements and geographic areas, may justify the imposition of differential charges.

### Availability Charges for Water Services

8. The municipal council may, in addition to the charges determined for water services that have been actually provided, levy a monthly fixed charge, an annual fixed charge or only one fixed charge where water services are available, whether or not such services are consumed.

## PART 3

### Payment for Water Services

9. The owner, occupier and customer shall be jointly and severally liable and responsible for payment of all water services charges and water services consumed by a customer, in accordance with the municipality's by-laws relating to credit control and debt collection.

## PART 4: TERMINATION, LIMITATION AND DISCONNECTION

### Termination of Agreement for the Provision of Water Services

10. A customer may terminate an agreement for the provision of water services in accordance with the municipality's by-laws relating to credit control and debt collection.

### Limitation and or Disconnection of Water Services Provided

11. (1) The engineer may restrict or discontinue water supply services provided in terms of these by-laws:
- (a) on failure to pay the determined charges on the date specified, in accordance with and after the procedure set out in the municipality's by-laws relating to credit control and debt collection has been applied;
  - (b) at the written request of a customer;
  - (c) if the agreement for the provision of services has been terminated in accordance with the municipality's by-laws relating to credit control and debt collection;
  - (d) the building on the premises to which services were provided has been demolished;
  - (e) if the customer has interfered with a restricted or discontinued service;
  - (f) in an emergency or emergency situation declared in terms of the municipality's by-laws relating to credit control and debt collection: provided that the municipality may, as far as reasonably possible, provide alternative means for water supply after disconnection; or
  - (g) if the customer has interfered, tampered or damaged or caused or permitted interference, tampering or damage to the water supply system of the municipality for the purposes of gaining access to water supply services after notice by the municipality;
- (2) The engineer may disconnect sanitation services provided in terms of these by-laws:
- (a) at the written request of a customer;
  - (b) if the agreement for the provision of sanitation services has been terminated in accordance with the municipality's by-laws relating to credit control and debt collection; or

- (c) the building on the premises to which services were provided has been demolished.
- (3) The municipality shall not be liable for any damages or claims that may arise from the limitation or disconnection of water services provided in terms of subsections (1) and (2), including damages or claims that may arise due to the limitation or disconnection of water services by the municipality in the bona fide belief that the provisions of subsections (1) and (2) applied.

### SERVICE LEVELS

#### Service Levels

12. (1) The municipal council may, from time to time, and in accordance with national policy, but subject to principles of sustainability and affordability, by public notice, determine the service levels it is able to provide to customers.
- (2) The municipal council may in determining service levels differentiate between types of customers, domestic customers, geographical areas and socio-economic areas.
- (3) The following levels of service may, subject to subsection (1), be provided by the municipality on the promulgation of these by-laws:-
- (a) Communal water supply services and on-site sanitation services:
- (i) constituting the minimum level of service provided by the municipality;
- (ii) installed free of charge;
- (iii) provided free of any charge to consumers; and
- (iv) maintained by the municipality.
- (b) Yard connection not connected to any water installation and an individual connection to the municipality's sanitation system:
- (i) consisting of an un-metered standpipe on a premises not connected to any water installation and a pour flush toilet pan, wash-trough and suitable toilet top structure connected to the municipality's sanitation system;
- (ii) installed free of charge; and
- (iii) maintained by the municipality.
- (c) a metered pressured water connection with an individual connection to the municipality's sanitation system:-
- (i) installed against payment of prescribed connection charges and maintained by the municipality;
- (ii) provided against payment of prescribed charges and maintained by the municipality; and
- (iii) with the water and drainage installed and maintained by the municipality against payment of prescribed charges.

### CONDITIONS FOR WATER SUPPLY SERVICES

#### PART 1: CONNECTION TO WATER SUPPLY SYSTEM

##### Provision of Connection Pipe

13. (1) If an agreement for water supply services in respect of premises has been concluded and no connection pipe exists in respect of the premises, the owner shall make application on the prescribed form and pay the determined charge for the installation of such a pipe.

- (2) If an application is made for water supply services which are of such an extent or so situated that it is necessary to extend, modify or upgrade the water supply system in order to supply water to the premises, the municipality may agree to the extension provided that the owner shall pay for the cost of the extension, as determined by the engineer.
- (3) Only the engineer may install a connection pipe but the owner or customer may connect the water installation to the connection pipe.
- (4) No person may commence any development on any premises unless the engineer has installed a connection pipe and meter.

#### **Location of Connection Pipe**

14. (1) A connection pipe provided and installed by the engineer shall: -
  - (a) be located in a position determined by the engineer and be of a suitable size as determined by the engineer;
  - (b) terminate at:
    - (i) the boundary of the land owned by or vested in the municipality, or over which it has a servitude or other right; or
    - (ii) at the outlet of the water meter or isolating valve if it is situated on the premises.
- (2) The engineer may at the request of any person agree, subject to such conditions as the engineer may impose, to a connection to a main other than that which is most readily available for the provision of water supply to the premises; provided of the water installation to the connecting point designated by the municipality and for obtaining at his cost, any servitudes over other premises that may be necessary.
- (3) An owner must pay the determined connection charge in advance before a water connection can be effected.

#### **Provision of Single Water Connection for Supply to Several Customers on the Same Premises**

15. (1) Notwithstanding the provision of section 13, 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 customers located on such premises.
- (2) Where the owner, or the person having the charge or management of any premise on which several accommodation units are situated, requires the supply of water to such premises for the purpose of supply to the different accommodation units, the engineer may, in its discretion, provide and install either:-
  - (a) a single measuring device in respect of the premises as a whole or any number of such accommodation units; or
  - (b) a separate measuring device for each accommodation unit or any number thereof.
- (3) Where the engineer has installed a single measuring device as contemplated in subsection (2) (a), the owner or the person having the charge or management of the premises, as the case may be:-
  - (a) must 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
    - (iii) will be liable to the municipality for the charges for all water supplied to the premises through such a single measuring device, irrespective of the different quantities consumed by the different customers served by such measuring device.

- (b) Where premises are supplied by a number of connection pipes, the engineer may require the owner to reduce the number of connection points and alter his water installation accordingly.

#### **Disconnection of Water Installation from the Connection Pipe and damages to Connection Pipe**

16. The engineer may by notice to the customer or owner, disconnect a water installation from the connection pipe and remove the connection pipe on termination of an agreement for the provision of water supply services in accordance with the municipality's by-laws relating to credit control and debt collection: provided that the municipality may, as far as reasonably possible, provide alternative means for water supply in the event of pipe burst.

### **PART 2: STANDARDS**

#### **Quantity, Quality and Pressure**

17. Water supply services provided by the municipality must comply with the minimum standards set for the provision of water supply services in terms of section 21 of the Act.

#### **Testing of Pressure in Water Supply Systems**

18. The engineer may, on application by an owner and on payment of the determined charge, determine and furnish the owner with the amount of the pressure in the water supply system relating to his premises over such period as the owner may request.

#### **Pollution of Water**

19. An owner must provide and maintain approved measures to prevent the entry of any substance, which might be a danger to health or adversely affect the portability of water or affect its fitness for use, into:-
- (a) the water supply system; and
  - (b) any part of the water installation on his premises.

#### **Water Restrictions**

20. (1) The municipality may for purposes of water conservation or where, in its opinion, drought conditions prevail are imminent, by public notice:-
- (a) prohibit or restrict the consumption of water in the whole or part of its area of jurisdiction;
  - (b) in general or for specified purposes;
  - (c) during specified hours of the day or on specified days; and
  - (d) in a specified manner; and
  - (e) determine and impose:-
    - (i) a restriction on the quantity of water that may be consumed over a specified period;
    - (ii) charges additional to those determined in respect of the supply of water in excess of a restriction contemplated in subsection (1)(b)(i); and



- (iii) a general surcharge on the determined charges in respect of the supply of water; and
  - (iv) impose restrictions or prohibitions on the use or manner of use or disposition of an appliance by means of which water is used or consumed, or on the connection of such appliances to the water installation.
- (2) The municipality may restrict the application of the provisions of a notice contemplated by subsection (1) to specified areas and categories of customers or users of premises, and activities, and may permit deviations and exemptions from, and the relaxation of, any of its provisions where there is reason to do so.
- (3) the municipality:-
- (a) may take, or by written notice require a customer at his own expense to take, such measures, including the installation of measurement devices and devices for restricting the flow of water, as may in its opinion be necessary to ensure compliance with a notice published in terms of subsection (1); or
  - (b) may, subject to notice, and for such period as it may consider fit, restrict the supply of water to any premises in the event of a contravention of these by-laws that takes place on or in such premises or a failure to comply with the terms of a notice published in terms of subsection (1); and
  - (c) shall where the supply has been discontinued, restore it only when the determined charge for discontinuation and reconnecting the supply has been paid.

### Specific Conditions of Supply

21. (1) The granting of a supply of water by the municipality shall not constitute an undertaking by it to maintain at any time or any point in its water supply system:
- (a) an uninterrupted supply, subject to the provisions of regulations 4 and 14 of Regulation 22355 promulgated in terms of the Act on 8 June 2003; or
  - (b) specific pressure or rate of flow in such supply other than requires in terms of regulation 15(2) of Regulation 22355 promulgated in terms of the Act on 8 June 2003.
- (2) The engineer may, subject to the provisions of subsection (1) (b), specify the maximum pressure to which water will be supplied from the water supply system.
- (3) If an owner of customer requires:-
- (a) that any of the standards referred to in subsection (1); or
  - (b) a higher standard of service than specified in section 17; be maintained on his premises, he or she shall take the necessary steps to ensure that the proposed water installation is able to meet such standards.
- (4) The engineer may, in an emergency, interrupt the supply of water to any premises without prior notice:-
- (a) If in the opinion of the engineer the consumption of water by a customer adversely affects the supply of water to another customer, he may apply such restrictions as he may consider fit, to the supply of water to customer in order to ensure a reasonable supply of water to the other customer and must inform that customer about the restrictions.
- (5) The municipality shall not be liable for any damage to property caused by water flowing from any water installation that is left open when the water supply is re-instated, after an interruption in supply.
- (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 shall have a storage tank, which must comply with the specification for water storage tanks as stipulated in SANS 0252 Part 1, with a capacity of not less than 24 hours water supply calculated as the quantity required to provide the average daily consumption, where water can be stored when the continuous supply is disrupted.

- (7) No customer shall resell water supplied to him by the municipality except with the written permission of the municipality, which may stipulate the maximum price at which the water may be resold, and may impose such other conditions as the municipality may deem fit.

### PART 3: MEASUREMENT

#### Measuring of Quantity of Water Supplied

22. (1) The engineer must provide a measuring device designed to provide either a controlled volume of water, or an uncontrolled volume of water, to a customer.
- (2) The municipality must, at regular intervals, measure the quantity of water supplied through a measuring device designed to provide an uncontrolled volume of water.
- (3) Any measuring device and its associated apparatus through which water is supplied to a customer by the municipality, shall be provided and installed by the engineer, shall remain its property and may be changed and maintained by the engineer when he consider it necessary to do so.
- (4) The engineer may install a measuring device, and it's associated apparatus, at any point on the service pipe.
- (5) If the engineer installs a measuring device on a service pipe in terms of subsection (4), he may install a section of pipe and associated fittings between the end of its connection pipe and the meter, and that section shall form part of the water installation.
- (6) If the engineer installs a measuring device together with its associated apparatus on a service pipe in terms of subsection (4), the owner shall-
- (a) provide a place satisfactory to the engineer in which to install it;
  - (b) ensure that unrestricted access is available to it at all times;
  - (c) be responsible for its protection and be liable for the costs arising from damage to it, excluding damage arising from normal fair wear and tear;
  - (d) ensure that no connection is made to the pipe in which the measuring device is installed between the measuring device and the connection pipe serving the installation;
  - (e) make provision for the drainage of water which may be discharged from the pipe, in which the measuring device is installed, in the course of work done by the engineer on the measuring device; and
  - (f) not use, or permit to be used on any water installation, any fitting, machine or appliance which causes damage or which, in the opinion of the engineer, is likely to cause damage to any meter.
- (7) No person other than the engineer shall:-
- (a) disconnect a measuring device and its associated apparatus from the pipe on which they are installed;
  - (b) break a seal which the engineer has placed on a meter; or
  - (c) in any other way interfere with a measuring device and its associated apparatus.
- (8) If the engineer considers that, a measuring device is a meter whose size is unsuitable because of the quantity of water supplied to premises, he may install a meter of a size that he considers necessary, and the cost for the installation of the meter must be the sole responsibility of the municipality.

- (9) The municipality may require the installation, at the owner's expense, of a measuring device to each dwelling unit, in separate occupancy, on any premises, for use in ascertaining the quantity of water supplied to each such unit; but where controlled volume water-delivery systems are used, a single measuring device may otherwise be used for more than one unit.

#### Quantity of Water Supplied to Customer

23. (1) For the purposes of ascertaining the quantity of water that has been measured by a measuring device that has been installed by the engineer and that has been supplied to a customer over a specific period, it will, for the purposes of these by-laws, be presumed except in any criminal proceedings, unless the contrary is proved, that:
- (a) the quantity, where the measuring device designed to provide an uncontrolled volume of water, is the difference between measurements taken at the beginning and end of that period;
  - (b) the quantity, where the measuring device designed to provide a controlled volume of water, is the volume dispensed by the measuring device;
  - (c) the measuring device was accurate during that period; and
  - (d) the entries in the records of the municipality were correctly made; and
  - (e) if water is supplied to, or taken by, a customer without having passed through a measuring device, the estimate by the municipality of the quantity of that water shall be presumed, except in any criminal proceedings, to be correct unless the contrary is proved.
- (2) Where water supplied by the municipality to any premises is in any way taken by the customer without the water passing through any measuring device provided by the municipality, the municipality may, for the purpose of rendering an account, estimate, in accordance with subsection (3), the quantity of water supplied to the customer during the period that water is so taken by the customer.
- (3) For the purposes of subsection (2), an estimate of the quantity of water supplied to a customer shall, as the municipality may decide, be based either on:
- (i) the average monthly consumption of water on the premises recorded over three succeeding measuring periods after the date on which an irregularity referred to in subsection (2) has been discovered and rectified, or
  - (ii) the average monthly consumption of water on the premises during any three consecutive measuring periods during the twelve months immediately before the date on which an irregularity referred to in subsection (2) was discovered.
- (4) Nothing in these by-laws shall be construed as imposing on the municipality an obligation to cause any measuring device installed by the engineer on any premises to be measured at the end of every month or any other fixed period, and the municipality may charge the customer for an average consumption during the interval between successive measurements by the measuring device.
- (5) Until the time when a measuring device has been installed in respect of water supplied to a customer, the estimated or shared consumption of that customer during a specific period, must be based on the average consumption of water supplied to the specific supply zone within which the customer's premises are situated.
- (6) Where in the opinion of the engineer it is not reasonably possible or cost effective to measure water that is supplied to each customer 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.
- (7) The municipality must within seven days, on receipt of a written notice from the customer and subject to payment of the determined charge, measure the quantity of water supplied to the customer at a time, or on a day, other than that upon which it would normally be measured.
- (8) If a contravention of subsection (7) occurs, the customer must pay to the municipality the cost of whatever quantity of water was, in the opinion by the municipality, supplied to him.

**Special Measurement**

24. (1) If the engineer requires, for purposes other than charging for water consumed, to ascertain the quantity of water which is used in a part of a water installation, may, by written notice, advise the owner concerned of his intention to install a measuring device at any point in the water installation that he may specify.
- (2) The installation of a measuring device referred to in subsection (1), its removal, and the restoration of the water installation after such a removal shall be carried out at the expense of the municipality.
- (3) The provisions of these by-laws shall apply, insofar as they may be applicable, in respect of a measuring device that has been installed in terms of subsection (1).

**No reduction of Amount Payable for Water Wasted**

25. A customer shall not be entitled to a reduction of the amount payable for water wasted or lost in a water installation.

**PART 4: AUDIT****Water Audit**

26. (1) The municipality may require a customer, within one month after the end of a financial year of the municipality, to undertake a water audit at his/her own cost.
- (2) The audit must at least involve and report:-
- (a) the amount of water used during the financial year;
  - (b) the amount paid for water for the financial year;
  - (c) the number of people living on the stand or premises;
  - (d) the number of people permanently working on the stand or premises;
  - (e) the seasonal variation in demand through monthly consumption figures;
  - (f) the water pollution monitoring methods;
  - (g) the current initiatives for the management of the demand for water;
  - (h) the plans to manage their demand for water;
  - (i) a comparison of the report with any report that may have been made during the previous three years;
  - (j) estimates of consumption by various components of use; and
  - (k) a comparison of the above factors with those reported in each of the previous three years, where available.

**PART 5: INSTALLATION WORK****Approval of Installation Work**

27. (1) If an owner wishes to have installation work done, he or she must first obtain the municipality's written approval; provided that approval shall not be required in the case of water installations in dwelling units or installations where no fire installation is required in terms of SANS 0400, or in terms of any Municipal by-laws, or for the repair or replacement of an existing pipe or water fitting other than a fixed water heater and its associated protective devices.

- (2) Application for the approval referred to in subsection (1) shall be made on the prescribed form and shall be accompanied by:-
- (a) the determined charge, if applicable;
  - (b) copies of the drawings as may be determined by the municipality, giving information in the form required by Clause 4.1.1 of SANS Code 0252: Part I; and
  - (c) a certificate certifying that the installation has been designed in accordance with SANS Code 0252: Part I by a professional engineer.
- (3) Authority given in terms of subsection (1) shall lapse at the expiry of a period of twenty-four months.
- (4) 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 the work has been completed.
- (5) If installation work has been done in contravention of subsection (1) or (2), the municipality may require the owner:-
- (a) to rectify the contravention within a specified period;
  - (b) if work is in progress, to cease the work; and
  - (c) to remove all such work which does not comply with these by-laws.

#### **Provision for installation of Empty Tank Flushing**

28. (1) An empty tank flushing mechanisms must be provided in toilet cisterns for:-
- (a) all new housing developments;
  - (b) all existing indigent consumers;
  - (c) all consumers with arrear accounts; and
  - (d) all other consumer by 2008.

#### **Persons Permitted to do Installation and Other Work**

29. (1) Only a plumber, a person working under the control, of a plumber, or another person authorized in writing by the municipality, shall be permitted to:
- (a) do installation work other than the replacement or repair of an exiting 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 provender; or
  - (e) install, maintain or replace a meter provided by an owner in a water installation.
- (2) No person shall require or engage a person who is not a plumber to do the work referred to in subsection (1).
- (3) Notwithstanding the provisions of subsection (1) the municipality may permit a person who is not a plumber to do installation work on his own behalf on premises owned and occupied solely by himself and his immediate household, provided that such work must be inspected and approved by a plumber at the direction of the engineer.

### Provision and Maintenance of Water Installations

30. (1) An owner must provide his or her water installation at his or her own cost and, must ensure that the installation is situated within the boundary of his or her premises.
- (2) The municipality must maintain water installation at its own costs except where the customer or owner cause or permitted an occurrence in terms of section 96.
- (3) An owner must install an isolating valve at a suitable point on service pipe immediately inside the boundary of the property in the case of a meter installed outside the boundary, and in the case of a meter installed on the premises at a suitable point on his service pipe.
- (4) Before doing work in connection with the maintenance of a portion of his water installation, which is situated outside the boundary of his premises, an owner shall obtain the written consent of the municipality or the owner of the land on which the portion is situated, as the case may be.

### Technical Requirements for a Water Installation

31. Notwithstanding the requirement that a certificate be issued, all water installations shall comply with SANS 0252 Part 1 and all fixed electrical storage water heaters shall comply with SANS 0254.

### Use of Pipes and Water Fittings to be Authorised

32. (1) No person shall, without the prior written authority of the engineer, install or use a pipe or water fitting in a water installation within the municipality's area of jurisdiction unless it is included in the Schedule of Approved Pipes and Fittings as compiled by the municipality.
- (2) Application for the inclusion of a pipe or water fitting in the Schedule referred to in subsection (1) must be made on the form prescribed by the municipality.
- (3) A pipe or water fitting may be not be included in the Schedule referred to in subsection (1) unless it:
- (a) bears the standardization mark of the South African Bureau of Standards in respect of the relevant SANS specification issued by the Bureau;
  - (b) bears a certification mark issued by the SANS to certify that the pipe or water fitting complies with an SANS Mark specification or a provisional specification issued by the SANS, provided that no certification marks shall be issued for a period exceeding two years; or
  - (c) is acceptable to the municipality.
- (4) The municipality may, in respect of any pipe or water fitting included in the Schedule, impose such additional conditions, as it may consider necessary in respect of the use or method of installation.
- (5) A pipe or water fitting shall be removed from the Schedule if it:-
- (a) no longer complies with the criteria upon which its inclusion was based; or
  - (b) is no longer suitable for the purpose for which its use was accepted.
- (6) The current Schedule shall be available for inspection at the office of the municipality at any time during working hours.
- (7) The municipality may sell copies of the current Schedule at a determined charge.

### Labelling of Terminal Water Fittings and Appliances

33. (1) All terminal water fittings and appliances using or discharging water shall be marked, or have included within its packaging, the following information:

- (a) the range of pressure in kPa over which the water fitting or appliance is designed to operate.
- (b) the flow rate, in litres per minute, related to the design pressure range, provided that this information shall be given for at least the following pressures: 20kPa, 100kPa and 400kPa.

#### **Water Demand Management**

34. (1) In any water installation where the dynamic water pressure is more than 200 kPa at a shower control valve, and where the plumbing has been designed to balance the water pressures on the hot and cold water supplies to the shower control valve, a shower head with a maximum flow rate of greater than 10 litres per minute must not be installed.
- (2) The maximum flow rate from any tap installed on a wash hand basin must not exceed 6 litres per minute.

### **COMMUNAL WATER SUPPLY SERVICES**

#### **Provision of Water Supply to Several Consumers**

35. (1) The engineer may install a communal standpipe for the provision of water supply services to several consumers at a location it considers appropriate, provided that a majority of consumers, who in the opinion of the engineer, constitute a substantial majority, and to whom water services will be provided by the standpipe, has been consulted by him or the municipality.
- (2) The engineer may provide communal water supply services through a communal installation designed to provide a controlled volume of water to several consumers.

### **PART 6: TEMPORARY WATER SUPPLY SERVICES**

#### **Water Supplied from a Hydrant**

36. (1) The engineer may authorize a temporary supply of water to be taken from one or more fire hydrants specified by it, subject to such conditions and for any period that may be prescribed by him and payment of such applicable charges, including a deposit, as may be determined by the municipal council from time to time.
- (2) A person who wishes to obtain a temporary supply of water referred to in subsection (1) must apply for such a water supply service in terms of section (2) and must pay a deposit determined by the municipal council from time to time.
- (3) The engineer shall 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 remain the property of the municipality and must be returned to the municipality on termination of the temporary supply. Failure to return the portable meter and all other fittings and apparatus shall result the imposition of penalties determined by the municipality from time to time.

### **PART 7: BOREHOLES**

#### **Notification of Boreholes**

37. (1) No person may sink a borehole on premises situated in a dolomite area, and before sinking a borehole a person must determine if the premises on which the borehole is to be sunk are situated within a dolomite area.
- (2) The municipality may, by public notice, require:-
- (a) the owner of any premises within any area of the municipality upon which a borehole exists or, if the owner is not in occupation of such premises, the occupier to notify it of the existence of a borehole on such premises, and provide it with such information about the borehole that it may require; and

- (b) the owner or occupier of any premises who intends to sink a borehole on the premises, to notify it on the prescribed form of its intention to do so before any work in connection sinking it is commenced.
- (3) The municipality may require the owner or occupier of any premises who intends to sink a borehole, to undertake an environmental impact assessment of the intended borehole, to the satisfaction of the municipality, before sinking it.
- (4) The municipality may by notice to an owner or occupier or by public notice, require an owner or occupier who has an existing borehole that is used for water supply services to:-
  - (a) obtain approval from it for the use of a borehole for potable water supply services in accordance with sections 6, 7 and 22 of the Act; and
  - (b) impose conditions in respect of the use of a borehole for potable water services.

## **PART 8: FIRE SERVICES CONNECTIONS**

### **Connection to be approved by the Municipality**

38. (1) The engineer shall be entitled in his absolute discretion to grant or refuse an application for the connection of a fire extinguishing installation to the municipality's main.
- (2) No water shall be supplied to any fire extinguishing installation until a certificate that the municipality's approval in terms of section 25 has been obtained and that the installation complies with the requirements of these and any other by-laws of the municipality, has been submitted.
- (3) if in the engineer's opinion a fire extinguishing installation, which he has allowed to be connected to the municipality's main, is not being kept in proper working order, or is otherwise not being properly maintained, or is being used for purpose other than fire fighting, the he shall be entitled either to require the installation to be disconnected from the main or itself to carry out the work of disconnecting it at the customer's expense.

### **Special Provisions**

39. The provisions of SANS 0252-1 shall apply to the supply of water for fire fighting purposes.

### **Dual and Combined Installations**

40. All new buildings erected after the commencement of these by-laws, must comply with the following requirements in relation to the provision of fire extinguishing services:-
- (a) If boosting of the system is required, a dual pipe system must be used, one for fire extinguishing purposes and the other for general domestic purposes.
  - (b) Combined installations shall only be permitted where no booster pumping connection is provided on the water installation. In such cases a fire hydrant must be provided by the municipality, at the customer's expense, within 90 metres of the property to provide a source of water for the fire tender to use in extinguishing the fire.
  - (c) Combined installations where a booster pumping connection is provided, shall only be permitted when designed and certified by a professional engineer.
  - (d) All pipes and fittings must be capable of handling pressures in excess of 1 800 KP, if that pressure could be expected when boosting takes place and must be capable of maintaining their integrity when expose to fire conditions.



**Connection Pipes for Fire Extinguishing Services**

41. (1) After the commencement of these by-laws, a single connection pipe for both fire (excluding sprinkler systems) and potable water supply services shall be provided by the engineer.
- (2) The engineer shall provide and install, at the cost of the owner a combination meter on the connection pipe referred to in (1).
- (3) A separate connection pipe shall be laid and used for every fire sprinkler extinguishing system unless the engineer gives his approval to the contrary.
- (4) A connection pipe must be equipped with a measuring device that will not obstruct the flow of water while the device is operating.

**Valves and Meters in Connection Pipes**

42. Every connection pipe to a fire extinguishing installation must be fitted with valves and a measuring device which shall be:
- (a) supplied by the engineer at the expense of the customer;
- (b) installed between the customer's property and the main; and
- (c) installed in such position as may be determined by the engineer.

**Meters in Fire Extinguishing Connection Pipes**

43. The engineer shall be entitled to install a water meter in any connection pipe used solely for fire extinguishing purposes and the owner of the premises shall be liable for all costs in so doing if it appears to the municipality that water has been drawn from the pipe for purposes other than for the purpose of extinguishing a fire.

**Sprinkler Extinguishing Installation**

44. A sprinkler installation may be installed directly to the main, but the municipality may not be deemed to guarantee any specified pressure at any time.

**Header Tank or Double Supply from Main**

45. (1) The customer must install a header tank at such elevation as will compensate for any failure or reduction of pressure in the municipality's main for its sprinkler installation, unless this installation is provided with a duplicate supply from a separate main.
- (2) The main pipe leading from a header tank to the sprinkler installation may be in direct communication with the main, provided that the main pipe must be equipped with a reflux valve which, if for any reason the pressure in the main fails or is reduced, will shut off the supply from the main.
- (3) Where a sprinkler installation is provided with a duplicate supply from a separate main, each supply pipe must be equipped with a reflux valve situated within the premises.

**Sealing of Private Fire Hydrants**

46. (1) Except where a system is a combined system with a combination meter, all private hydrants and hose-reels must be sealed by the municipality and the seals must not, except for the purposes of opening the hydrant or using the hose when there is a fire, be broken by any person other than by the municipality in the course of servicing and testing.
- (2) The customer must give the municipality at least 48 hours notice prior to a fire extinguishing installation being serviced and tested.

- (3) The cost of resealing hydrants and hose-reels shall be borne by the customer except when the seals are broken by the municipality's officers for testing purposes.
- (4) Any water consumed through a fire installation or sprinkler system shall be paid for by the customer at the charges determined by the municipality.

## CONDITIONS FOR SANITATION SERVICES

### PART 1: CONNECTION TO SANITATION SYSTEM

#### Obligation to Connect to Sanitation System

47. (1) All premises on which sewage is produced must be connected to the municipality's sanitation system if a connecting sewer is available or if it is reasonably possible or cost effective for the municipality to install a connecting sewer, unless approval for the use of on-site sanitation services was obtained in accordance with section 102.
- (2) The municipality may, by notice, require the owner of premises not connected to the municipality's sanitation system to connect to the sanitation system.
- (3) An owner of premises, who is required to connect those premises to the municipality's sanitation system in accordance with subsection (1), must inform the municipality in writing of any sanitation services, provided by the municipality on the site, which will no longer be required as a result of the connection to the sanitation system.
- (4) The owner will be liable for any charge payable in respect of sanitation services on the site, until an agreement for rendering those services has been terminated in accordance with the municipality's by-laws relating to credit control and debt collection.
- (5) If the owner fails to connect premises to the sanitation system after having had a notice in terms of subsection (2) the municipality, notwithstanding any other action that it may take in terms of these by-laws, may impose a penalty determined by it.

#### Provision of Connecting Sewer

48. (1) If an agreement for sanitation services in respect of premises has been concluded in accordance with the municipality's by-laws relating to credit control and debt collection and no connecting sewer exists in respect of the premises, the owner shall make application on the prescribed form, and pay the tariffs and charges determined by the municipality for the installation of a connecting sewer.
- (2) If an application is made for sanitation services which are of such an extent or so situated that it will become necessary to extend, modify or upgrade the sanitation system in order to provide sanitation services to any premises, the municipality may agree to the extension only if the owner pays or undertakes to pay for the cost, as determined by the engineer, of the extension, modification or upgrading of the services.
- (3) Only the engineer may install or approve an installed connecting sewer; but the owner or customer may connect the sanitation installation to the connection pipe.
- (4) No person may commence any development on any premises unless the engineer has installed a connecting sewer.

#### Location of Connecting Sewer

49. (1) A connecting sewer that has been provided and installed by the engineer must:
  - (a) be located in a position determined by the engineer and be of a suitable size determined by the engineer; and
  - (b) terminate at:
    - (i) the boundary of the premises; or
    - (ii) at the connecting point if it is situated on the premises.

- (2) The engineer may at the request of the owner of premises, approve, subject to any conditions that he may impose, a connection to a connecting sewer other than one that is most readily available for the provision of sanitation services to the premises; in which event the owner shall be responsible for any extension of the drainage installation to the connecting point designated by the municipality and for obtaining, at his own cost, any servitude over the premises that may be necessary.
- (3) Where an owner is required to provide a sewage lift as provided for in terms of the Building Regulations, or the premises are at a level where the drainage installation cannot discharge into the sewer by gravitation, the rate and time of discharge into the sewer be subject to the approval of the municipality.
- (4) The owner of premises must pay the connection charges and tariffs determined by the municipality before a connection to the connecting sewer can be effected.

#### **Provision of One Connecting Sewer for Several Consumers on Same Premises**

50. (1) Notwithstanding the provisions of section 47 only one connecting sewer to the sanitation system may be provided for the disposal of sewage from any premises, irrespective of the number of accommodation units of consumers located on such premises.
- (2) Notwithstanding subsection (1), the municipality may authorize that more than one connecting sewer be provided in the sanitation system for the disposal of sewage from any premises comprising sectional title units or if, in the opinion of the municipality, undue hardship or inconvenience would be caused to any consumer on such premises by the provision of only one connecting sewer.
- (3) Where the provision of more than one connecting sewer is authorized by the municipality under subsection (2), the tariffs and charges for the provision of a connecting sewer is payable in respect of each sewage connection so provided.

#### **Interconnection between Premises**

51. An owner of premises must ensure, unless he has obtained the prior approval of the municipality and complies with any conditions that it may have imposed, that no interconnection exists between the drainage installation on his premises and the drainage installation on any other premises.

#### **Disconnection of Connecting Sewer**

52. The engineer may disconnect a drainage installation from the connection pipe and remove the connection pipe on the termination of an agreement for the provision of water supply services in accordance with the municipality's by-laws relating to credit control and debt collection.

### **PART 2: STANDARDS**

#### **Standards for Sanitation Services**

53. Sanitation services provided by the municipality must comply with the minimum standards set for the provision of sanitation services in terms of the section 9 of the Act.

### **PART 3: METHODS FOR DETERMINING CHARGES**

#### **Measurement of Quantity of Domestic Effluent Discharged**

54. (1) As from 1 July 2003, the quantity of domestic effluent discharged shall be determined as a percentage of water supplied by the municipality; provided that where the municipality is of the opinion that such a percentage in respect of specific premises is excessive, having regard to the purposes for which water is consumed on those premises, the municipality may reduce the percentage applicable to those premises to a figure which, in its opinion and in the light of the available information, reflects the proportion between the likely quantity of sewage discharged from the premises and the quantity of water supplied.

- (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 must be a percentage of the total water used on those premises that is reasonably estimated by the municipality.

#### Measurement of Quantity and Determination of Quality of Industrial Effluent Discharged

55. (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 the premises as measured by that measuring device; or
  - (b) until the time that a measuring device is installed, by a percentage of the water supplied by the municipality to those premises.
- (2) The municipality may require the owner of any premises to incorporate in any drainage installation conveying industrial effluent to a sewer, any control meter or gauge or other device of an approved type and in the control of the municipality for the purpose of ascertaining to the satisfaction of the municipality, the tempo, volume and composition of the effluent.
- (3) The municipality may install and maintain any meter, gauge or device referred to in subsection (2) at the expense of the owner of the premises on which it is installed.
- (4) Where premises are supplied with water from a source other than or in addition to the municipality's water supply system, including abstraction from a river or borehole, the quantity will be a percentage of the total water used on those premises reasonably estimated by the municipality.
- (5) Where a portion of the water supplied to the premises forms part of the end product of any manufacturing process or is lost by reaction or evaporation during the manufacturing process or for any other reason, the municipality may on application by the owner reduce the assessed quantity of industrial effluent.
- (6) The municipality may at its discretion enter into an agreement with any person discharging industrial effluent into the sanitation system, establishing an alternative method of assessing the quantity and tempo of effluent so discharged.
- (7) Charges relating to the quality of industrial effluent will be based on the formula for industrial effluent discharges as prescribed in Schedule CA.
- (8) The following conditions apply in respect of the assessment of the quality of industrial effluent discharged:-
- (a) each customer must conduct the prescribed tests, on a regular schedule as provided for in the approval to discharge industrial effluent, and report the results to the municipality;
  - (b) the municipality may conduct random compliance tests to correlate with those used in subsection (a) and, if discrepancies are found, the values of the municipality shall, except for the purpose of criminal proceedings, be presumed to be correct and further tests may be required by the municipality to determine, at the cost of the customer, the values for the formula;
  - (c) the average of the values of the different analysis results of 24 hourly composite or snap samples of the effluent, taken during the period of charge, will be used to determine the quality charges payable;
  - (d) in the absence of a complete daily set of 24 hourly composite or snap samples, the average of not less than two values of the sampled effluent, taken during the period of charge, will be used to determine the charges payable;
  - (e) in order to determine the strength (Chemical oxygen demand, suspended solids concentration, Ammonia concentration, and ortho-phosphate concentration) in the effluent as well as the concentration of Group 1 and 2 metals, pH value and conductivity, the municipality will use the tests normally used by municipalities for these respective purposes. Details of the appropriate test may be ascertained from the municipality or the SANS. Test results from a laboratory, accredited by the municipality, will have precedence over those of the municipality;

- (f) the formula is calculated on the basis of the different analysis results of individual snap or composite samples and the period of treatment for calculation shall not be less than one full 24-hour period; unless evidence, is submitted to the municipality that a lesser period is actually applicable;
- (g) the terms of the disincentive formula cannot assume a negative value;
- (h) the total system values for quality charges shall remain constant for an initial period of one month, but in any case not longer than twelve months from the date of commencement of these charges, after the expiry of which time they may be amended or revised from time to time depending on such changes in the analysis results or further samples, as may be determined from time to time: provided that the municipality in its discretion in any particular case, may levy the minimum charges prescribed in subsection (7) without taking any samples;
- (i) whenever the municipality takes a sample, one half of it must be made available to the customer;
- (j) for the purpose of calculating of the quantity of effluent discharged from each point of discharge of effluent, the total quantity of water consumed on the premises shall be allocated to the several points of discharge as accurately as is reasonably practicable;
- (k) the cost of conveying and treating industrial effluent shall be determined by the municipality and shall apply with effect from date determined by the municipality; and
- (l) in the discretion of the municipality, the charges for industrial effluent may be changed to a fixed monthly charge determined by taking into consideration the effluent strengths, the volume and the economic viability of micro and small industries.

#### **Reduction in the Measured Quantity of Effluent Discharged**

- 56.
- (1) A person shall be entitled to a reduction in the quantity of effluent discharged, as determined in terms of section 54 and 55, where the quantity of water, on which a percentage is calculated, was measured during a period where water was wasted or a leakage went undetected, if the consumer demonstrates to the satisfaction of the municipality that the water was not discharged into the sanitation system.
  - (2) The reduction in the quantity shall be based on the quantity of water lost through leakage or wastage during the leak period.
  - (3) The leak period shall be either the measuring period immediately prior to the date of repair of the leak, or the measurement period during which the leak is repaired, whichever results in the greater reduction in the quantity.
  - (4) The quantity of water lost shall be calculated as the consumption for the leak period less the average consumption, based on the preceding 3 (three) months, for the same length of time. In the event of no previous history of consumption being available, the average water consumption will be determined by the municipality, after taking into account all information that is considered by it to be relevant.
  - (5) There shall be no reduction in the quantity if a loss of water, directly or indirectly, resulted from a consumer's failure to comply with these or other by-laws.

#### **Charges in Respect of "On-Site" Sanitation Services**

57. Charges in respect of the removal or collection of conservancy tank contents, night soil or the emptying of pits will cover all the operating and maintenance costs arising from the removal of the pit contents, its transportation to a disposal site, the treatment of the contents to achieve a sanitary condition and the final disposal of any solid residues and are payable by the owner.

**PART 4: DRAINAGE INSTALLATIONS****Installation of Drainage Installations**

58. (1) An owner must provide and maintain his drainage installation at his own expense, unless the installation constitutes a basic sanitation facility as determined by the municipality, and except where otherwise approved by the municipality, must ensure that the installation is situated within the boundary of his premises.
- (2) The municipality may prescribe the point in the sewer, and the depth below the ground, at which any drainage installation is to be connected and the route to be followed by the drain to the connecting point and may require the owner not to commence the construction or connection of the drainage installation until the municipality's connecting sewer has been laid.
- (3) Any drainage installation that has been constructed or installed must comply with any applicable specifications in terms of the Building Regulations and any standard prescribed in terms of the Act.
- (4) No person shall permit the entry of any liquid or solid substance whatsoever, other than clean water for testing purposes, to enter any drainage installation before the drainage installation has been connected to the sewer.
- (5) Where premises are situated in the 1 in 50 years flood plain, the top level of all service access holes, inspection chambers and gullies must be above the 1 in 50 years flood level.
- (6) After the completion of any drainage installation, or after any alteration to any drainage installation is completed, the plumber responsible for the execution of the work must submit to the building inspection section of the municipality a certificate certifying that the work was completed to the standards set out in the building regulations, these by-laws and any other relevant law or by-laws.
- (7) No rainwater or storm-water, and no effluent other than an effluent that has been approved by the municipality, may be discharged into a drainage installation.

**Disconnection of Drainage Installations**

59. (1) Except for the purpose of carrying out maintenance or repair work, no drainage installation may be disconnected from the connection point.
- (2) Where any part of a drainage installation is disconnected from the remainder because it will no longer be used, the disconnected part must be destroyed or entirely removed from the premises on which it was used, unless the municipality approved otherwise.
- (3) When a disconnection has been made after all the requirements of the Building Regulations in regard to disconnection have been complied with, the engineer must upon the request of the owner, issue a certificate certifying that the disconnection has been completed in terms of the Building Regulations and that any charges raised in respect of the disconnected portion of the drainage installation shall cease to be levied from the end of the month preceding the first day of the month following the issue of such certificate.
- (4) When a drainage installation is disconnected from a sewer, the engineer must seal the opening caused by the disconnection and may recover the cost of doing so from the owner of the premises on which the installation is disconnected.
- (5) Where a drainage system is connected to or disconnected from the sewer system during a month, charges will be calculated as if the connection or disconnection were made on the first day of the month following the month in which the connection or disconnection took place.

**Maintenance of Drainage Installations**

60. (1) An owner must provide and maintain his drainage installation at his own cost.
- (2) Where any part of a drainage installation is used by two or more owners or occupiers, they shall be jointly and severally liable for the maintenance of the installation.

- (3) The owner of any premises must ensure that all manholes and cleaning eyes on the premises are permanently visible and accessible.

### Technical Requirements for Drainage Installations

61. All drainage installations shall comply with SANS code 0252 and the Building Regulations.

#### Drains

62. (1) Drains passing through ground which in the opinion of the engineer is liable to movement, shall be laid on a continuous bed of river sand or similar granular material not less than 100mm thick under the barrel of the pipe and with a surround of similar material and thickness, and the joints of such drains must be flexible joints approved by the engineer.
- (2) A drain or part of it may only be laid within, or either passes under or through a building, with the approval of the engineer.
- (3) A drain or part of it which it is laid in an inaccessible position under a building may not bend or be a gradient;
- (4) If a drain passes through or under a wall, foundation or other structure, adequate precautions shall be taken to prevent the discharge of any substance to the drain.

#### Sewer Blockages

63. (1) No person may cause or permit an accumulation of grease, oil, fat, solid matter, or any other substance in any trap, tank, or fitting that may cause its blockage or ineffective operation.
- (2) When the owner or occupier of premises has reason to believe that a blockage has occurred in any drainage installation in or on it, he shall take immediate steps to have it cleared.
- (3) When the owner or occupier of premises has reason to believe that a blockage has occurred in the sewer system, he shall immediately inform the municipality.
- (4) Where a blockage occurs in a drainage installation, any work necessary for its removal must be done by, or under the supervision of, a plumber.
- (5) Should any drainage installation on any premises overflow as a result of an obstruction in the sewer, and if the municipality is reasonably satisfied that the obstruction was caused by objects emanating from the drainage installation, the owner of the premises served by the drainage installation shall be liable for the cost of clearing the blockage.
- (6) Where a blockage has been removed from a drain or portion of a drain which serves two or more premises, the owners are jointly and severally liable for the cost of clearing the blockage.
- (7) Where a blockage in a sanitation system has been removed by the engineer and the removal necessitated the disturbance of an owners paving, lawn or other artificial surface neither the engineer nor the municipality shall be required to restore them to their previous condition and shall not be responsible for any damage to them unless caused by the wrongful act or negligence of the engineer.

#### Grease Traps

64. A grease trap of an approved type, size and capacity must be provided in respect of all premises that discharge sewage to on-site sanitation systems or where, in the opinion of the municipality, the discharge of grease, oil and fat is likely to cause an obstruction to the flow in sewers or drains, or to interference with the proper operation of any waste-water treatment plant.

#### Industrial Grease Traps

65. (1) The owner or manufacturer must ensure that industrial effluent which contains, or which, in the opinion of the municipality is likely to contain, grease, oil, fat or inorganic solid matter in suspension shall, before it is allowed to enter any sewer, be passed through one or more tanks or chambers, of a type, size and capacity designed to intercept and retain such grease, oil, fat or solid matter, that is approved by the engineer.

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- (2) The owner or manufacturer must ensure that oil, grease or any other substance which is contained in any industrial effluent or other liquid and which gives off an inflammable or noxious vapour at a temperature of, or exceeding, 20° C must be intercepted and retained in a tank or chamber so as to prevent its entry of into the sewer.
- (3) A tank or chamber as referred to in subsection (2) must comply with the following requirements:
- (a) it shall be of adequate capacity, constructed of hard durable materials and water-tight when completed;
  - (b) the water-seal of its discharge pipe shall be not less than 300 mm in depth; and
  - (c) shall be provided with sufficient such number of manhole covers for the adequate and effective removal of grease, oil fat and solid matter.
- (4) Any person discharging effluent to a tank or chamber must remove grease, oil, fat or solid matter regularly from the tank or chamber and must maintain a register recording-
- (a) the dates on which the tank or chamber was cleaned;
  - (b) the name of any the person employed by him to clean the tank or chamber or, if he cleaned it himself, that fact that he did so; and
  - (c) a certificate from the person employed to clean it certifying that the tank or chamber has been cleaned and stating the manner in which the contents of the tank or chamber were disposed of, or, if he cleaned it himself, his own certificate to that effect.

#### **Mechanical Appliances for Lifting Sewage**

66. (a) The owner of any premise must obtain the approval of the engineer before installing any mechanical appliance for the raising or transfer of sewage in terms of the Building Regulations.
- (b) Approval must be applied for by a professional engineer and must be accompanied by drawings prepared in accordance with the relevant provisions of the Building Regulations and must show details of the compartment containing the appliance, the sewage storage tank, the stilling chamber and their position, and the position of the drains, ventilation pipes, rising main and the sewer connection.
- (c) Notwithstanding any approval given in terms of subsection (1), the municipality shall not be liable for any injury, loss or damage to life or property caused by the use, malfunctioning or any other condition arising from the installation or operation of a mechanical appliance for the raising or transfer of sewage unless the injury or damage be caused by the wrongful intentional or negligent act or negligence of an employee of the municipality.
- (4) Every mechanical appliance installed for the raising or transfer of sewage shall be specifically designed for the purpose and shall be fitted with a discharge pipe, sluice valves and non-return valves located in approved positions.
- (5) Unless otherwise permitted by the engineer, such mechanical appliances shall be installed in duplicate and each such appliance shall be so controlled that either will immediately begin to function automatically in the event of failure of the other.
- (6) Every mechanical appliance forming part of a drainage installation shall be located and operated so as to not cause any nuisance through noise or smell or otherwise, and every compartment containing any such appliance must be effectively ventilated.
- (7) The maximum discharge rate from any mechanical appliance, and the times between which the discharge may take place, shall be as determined by the engineer who may, at any time, require the owner to install such fittings and regulating devices as may in his opinion, be necessary to ensure that the determined maximum discharge rate shall not be exceeded.
- (8) Except where sewage storage space is incorporated as an integral part of a mechanical appliance, a sewage storage tank must be provided in conjunction with such appliance.
- (9) Every sewage storage tank required in terms of paragraph (1) must:-



- (a) be constructed of hard, durable materials and must be watertight and the internal surface of the walls and floor must be smooth and impermeable;
  - (b) have a storage capacity below the level of the inlet equal to the quantity of sewage discharged there into it in 24 hours or 900 litres, whichever is the greater quantity; and
  - (c) be so designed that the maximum of its sewage content shall be emptied at each discharge cycle of the mechanical appliance.
- (10) Every storage tank and stilling chamber shall be provided with a ventilation pipe in accordance with the engineer's specifications.

## PART 5: ON-SITE SANITATION SERVICES AND ASSOCIATED SERVICES

### Installation of On-Site Sanitation Services

67. If an agreement for on-site sanitation services in respect of premises has been concluded, or if it is not reasonably possible or cost effective for the municipality to install a connecting sewer, the owner must install sanitation services specified by the municipality, on the site unless the service is a subsidized service that has been determined by the municipality in accordance with section 11 of the municipality's Credit Control and Debt Collection By-law.

### Ventilated Improved Pit Latrines

68. (1) The municipality may, on such conditions as it may prescribe, having regard to the nature and permeability of the soil, the depth of the water table, the size of, and access to, the site and the availability of a piped water supply, approve the disposal of human excrement by means of a ventilated improved pit (VIP) latrine.
- (2) A ventilated improved pit latrine must have:
- (a) a pit of 2m<sup>3</sup> capacity;
  - (b) lining as required;
  - (c) a slab designed to support the superimposed loading; and
  - (d) protection preventing children from falling into the pit.
- (3) A ventilated improved pit latrine must conform to the following specifications:-
- (a) the pit must be ventilated by means of a pipe, sealed at the upper end with durable insect proof screening fixed firmly in place;
  - (b) the ventilation pipe must project not less than 0.5m above the nearest roof, must be of at least 150mm in diameter, and must be installed vertically with no bend;
  - (c) the interior of the closet must be finished smooth so that it can be kept in a clean and hygienic condition.
  - (d) The superstructure must be well-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 adequate size as to prevent fouling. The rim must be raised so that liquids used for washing the floor do not flow into the pit. It shall be equipped with a lid to prevent the egress of flies and other insects when the toilet is not in use;

- (f) must be sited in a position that is independent of the dwelling unit;
- (g) must be sited in positions that are accessible to road vehicles having a width of 3.0m in order to facilitate the emptying of the pit;
- (g) in situations where there is the danger of polluting an aquifer due to the permeability of the soil, the pit must be lined with an impermeable material that is durable and will not crack under stress; and
- (i) in situations where the ground in which the pit is to be excavated is unstable, suitable support is to be given to prevent the collapse of the soil.

### Septic Tanks and Treatment Plants

69. (1) The municipality may, on such conditions as it may prescribe, approve the disposal of sewage or other effluent by means of septic tanks or other on-site sewage treatment plants.
- (2) A septic tank or other sewage treatment plant on a site must not be situated closer than 3 metres to any dwelling unit or to any boundary of the premises on which it is situated.
- (3) Effluent from a septic tank or other on-site sewage treatment plant must be disposed of to the satisfaction of the municipality.
- (4) A septic tank must be watertight, securely covered and provided with gas-tight means of access to its interior adequate to permit the inspection of the inlet and outlet pipes and adequate for the purpose of removing sludge.
- (5) A septic tank serving a dwelling unit must:
- (a) have a capacity below the level of the invert of the outlet pipe of not less than 500 litres per bedroom, subject to a minimum capacity below such an invert level of 2 500 litres;
  - (b) have an internal width of not less than 1 metre measured at right angles to the direction of the flow;
  - (c) have an internal depth between the cover and the bottom of the tank of not less than 1,7 metre; and
  - (d) retain liquid to a depth of not less than 1,4 metre.
- (6) Septic tanks serving premises other than a dwelling unit must be designed and certified by a professional civil engineer registered as a member of the engineering Council of South Africa.
- (7) No rain water, storm-water, or effluent other than that approved by the municipality may be discharged into a septic tank.

### French Drains

70. (1) The municipality may, on such conditions as it may prescribe having regard to the quantity and the nature of the effluent and the nature of the soil as determined by the permeability test prescribed by the South African Bureau of Standards, approve the disposal of waste-water or other effluent by means of French drains, soakage pits or other approved works.
- (2) A French drain, soakage pit or other similar work shall not be situated closer than 5m to any dwelling unit or to any boundary of any premises on which it is situated, nor in any such position that will, in the opinion of the municipality, cause contamination of any borehole or other source of water which is, or may be, used for drinking purposes, or cause dampness in any building.
- (3) The dimensions of any French drain, soakage pit or other similar work shall be determined in relation to the absorbent qualities of the soil and the nature and quantity of the effluent.
- (4) French drains serving premises other than a dwelling house must be designed and certified by a professional Civil engineer registered as a member of the engineering Council of South Africa.

- (5) Where the municipality's removal vehicle has to traverse private premises for the emptying of a conservancy tank, the owner shall provide a roadway at least 3,5m wide, so hardened as to be capable of withstanding a wheel load of 4 metric tons in all weather, and shall ensure that no gateway through which the vehicle is required to pass to reach the tank, shall be less than 3,5m wide for such purposes.
- (6) The owner or occupier of premises on which a conservancy tank is installed shall at all times maintain the tank in good order and condition to the satisfaction of the municipality.

### Conservancy Tanks

71. (1) The municipality may, on such conditions as it may prescribe; approve the construction of a conservancy tank and ancillary appliances for retention of sewage or effluent.
- (2) No rain, water, storm-water, or effluent other than approved by the municipality may be discharged into a conservancy tank.
- (3) No conservancy tank must be used 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, terminating at an approved valve and fittings for connection to the municipality's removal vehicles;
  - (d) the valve and fittings referred to in paragraph (c) or the outlet end of the pipe, as the case may be, are located in a chamber that has hinge cover approved by the engineer and which is situated in a position required by the municipality;
  - (e) access to the conservancy tank must be provided by means of an approved manhole fitted with a removable cast iron cover placed immediately above the visible spigot of the inlet pipe.
- (4) The municipality may, having regard to the position of a conservancy tank or of the point of connecting for a removal vehicle, require the owner or customer to indemnify the municipality, in writing, against any liable for any damages that may result from rendering of that service as a condition for emptying the tank.
- (5) Where the municipality's removal vehicle has to traverse private premises for the emptying of a conservancy tank, the owner shall provide a roadway at least 3, 5 m wide, so hardened as to be capable of withstanding a wheel load of 4 metric tons in all weather, and shall ensure that no gateway through which the vehicle is required to pass to reach the tank, shall be less than 3, 5 m wide for such purposes.
- (6) The owner or occupier of premises on which a conservancy tank is installed shall at all times maintain the tank in good order and condition to the satisfaction of the municipality.

### Operation and Maintenance of On-Site Sanitation Services

72. The operation and maintenance of on-site sanitation services and all costs pertaining to it remains the responsibility of the owner of the premises, unless the on-site sanitation services are subsidized services determined in accordance with the municipality's by-laws relating to credit control and debt collection.

### Disused Conservancy and Septic Tanks

73. If an existing conservancy tank or septic tank is no longer required for the storage or treatment of sewage, or if permission for its use is withdrawn, the owner must either cause it to be completely removed or to be completely filled with earth or other suitable material, provided that the engineer may require a tank to be dealt with in another way, or approve its use for other purposes, subject to any conditions specified by him.

**PART 6: INDUSTRIAL EFFLUENT****Approval to Discharge Industrial Effluent**

74. (1) No person shall discharge or cause or permit industrial effluent to be discharged into the sanitation system except with the approval of the municipality.
- (2) A person must apply for approval to discharge industrial effluent into the sanitation system of the municipality on the prescribed form attached as Schedule B to these by-laws.
- (3) The municipality may, if in its opinion 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 into the sanitation system.
- (4) Any person who wishes to construct or cause to be constructed, a building which shall be used as a trade premises, must at the time of lodging a building plan in terms of section 4 of the National Building Regulations for the provision of sanitation services and for approval to discharge industrial effluent.

**Withdrawal of Approval to Discharge Industrial Effluent**

76. (1) The municipality may withdraw any approval to a commercial customer, who has been authorized to discharge to discharge industrial effluent into the sanitation system, upon giving 14 (fourteen) days notice, if the customer:
- (a) fails to ensure that the industrial effluent discharged conforms to the industrial effluent standards prescribed in Schedule A of these by-laws or the written permission referred to in section 74;
- (b) fails or refuses to comply with any notice lawfully served on him in terms of these by-laws, or contravenes any provision of these by-laws or any condition imposed in terms of any permission granted to him; or
- (c) fails to pay the charges in respect of any industrial effluent discharged.
- (2) The municipality may on withdrawal of any approval:-
- (a) in addition to any steps required by in these by-laws, and on 14 (fourteen) days' written notice, authorize the closing or sealing of the connecting sewer of the said premises; and
- (b) refuse to receive any industrial effluent until it is satisfied that adequate steps to ensure that the industrial effluent that is to be discharged conforms to the standards required by in these by-laws.

**Quality Standards for Disposal of Industrial Effluent**

77. (1) A commercial customer, to whom approval has been granted, must ensure that no industrial effluent is discharged into the sanitation system of the municipality unless it complies with the standards and criteria set out in Schedule A.
- (2) The municipality may, in giving its approval, relax or vary the standards in Schedule A, provided that it is satisfied that any relaxation represents the best practicable environmental option.
- (3) In determining whether relaxing or varying the standards in Schedule A represents the best practicable environmental option a municipality must consider:
- (a) whether the commercial customer's undertaking is operated and maintained at optimal levels;
- (b) whether technology used y the commercial customer represents the best available to the commercial customer's industry and, if not, whether the installation of the best technology would cause the customer unreasonable expense;

- (c) whether the commercial customer is implementing a programme of waste minimization standards set in accordance with national legislation;
  - (d) the cost to the municipality of granting the relaxation or variation; and
  - (e) the environmental impact or potential impact of the relaxation or variation.
- (4) Test samples may be taken at any time by a duly qualified sampler to ascertain whether the industrial effluent complies with Schedule A or any other standard laid down as a requisition for granting an approval.

#### **Conditions for the Discharge of Industrial Effluent**

78. (1) The municipality may on granting approval for the discharge of industrial effluent, or at any time that it considers appropriate, by notice, require a commercial customer to:-
- (a) subject the industrial effluent to such preliminary treatment as in the opinion of the municipality will ensure that the industrial effluent conforms to the standards prescribed in Schedule A before being discharged into the sanitation system;
  - (b) install equalizing tanks, valves, pumps, appliances, meters and other equipment which, in the opinion of the municipality, will be necessary to control the rate and time of discharge into the sanitation system in accordance with the conditions imposed by it;
  - (c) install for the conveyance of the industrial effluent into the sanitation system at a given point, a drainage installation separate from the drainage installation for other sewage and may prohibit a commercial customer from disposing of his industrial effluent at any point;
  - (d) construct on any pipe conveying his industrial effluent to any sewer, a service access hole or stop-valve in such position and of such dimensions and materials as the municipality may prescribe;
  - (e) provide all information that may be required by the municipality to enable it to assess the tariffs or charges due to the municipality;
  - (f) provide adequate facilities including, but not limited to, level or overflow detection devices, standby equipment, overflow catch-pits, or other appropriate means of preventing a discharge into the sanitation system in contravention of 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 commercial customer at such intervals as may be required by the municipality and copies of the calibration must to be forwarded to it by the commercial customer; and
  - (h) cause industrial effluent to be analyzed as often, and in whatever manner, may be determined by the municipality and provide it with the results of these tests when they are completed.
- (2) The cost of any treatment, plant, work or analysis, which a person may be required to carry out, construct or install in terms of subsection (1), shall be borne by the commercial customer concerned.
- (3) If industrial effluent that neither complies with the standards in Schedule A nor has received the approval of the municipality, is discharged into the sanitation system, the municipality must be informed and the reasons for it, within twelve hours of the discharge.

#### **PART 7: SEWAGE DELIVERED BY ROAD HAULAGE**

##### **Acceptance of Sewage Delivered by Road Haulage**

79. The engineer may, in his discretion, and subject to such conditions as he may specify, accept sewage for disposal that is delivered to the municipality's sewage treatment plants by road haulage.

**Approval for Delivery of Sewage by Road Haulage**

80. (1) No person shall deliver sewage by road haulage in order to discharge it into the municipality's sewage treatment plants by except with the approval of the engineer and subject to any conditions, and any times, that may on reasonable grounds be imposed by him.
- (2) The charges for any sewage delivered for disposal to the municipality's sewage treatment plants shall be assessed by the municipalities in accordance with the prescribed tariffs of charges.

**Withdrawal of Permission for Delivery of Sewage by Road Haulage**

81. The engineer may withdraw any approval, given in terms of section 74, after giving at least 14 (fourteen) day's written notice of his intention to do so, if a person who has been allowed to discharge sewerage by road haulage:-
- (a) fails to ensure that the sewage conforms to the standards prescribed either in Schedule A, or as a condition of approval; or
  - (b) fails or refuses to comply with any notice served on him in terms of these by-laws or contravenes any provision of these by-laws or any condition has been imposed on him as a condition of approval; and
  - (c) fails to pay all the charges applicable to the delivery of sewage.

**Conditions for Delivery of Sewage by Road Haulage**

82. When sewage is to be delivered by road haulage:-
- (a) the time and place when delivery is to be made shall be arranged in consultation with the engineer; and
  - (b) the engineer must be satisfied before a delivery can take place, that the sewerage is of a nature suitable for road haulage and that the sewerage is of a nature suitable for road haulage and that the delivery would comply with the provisions, of these by-laws.

**PART 8: OTHER SANITATION SERVICES****Stables and Similar Premises**

83. The municipality may approve the connection of a drainage installation to stables, cowsheds, dairies, kennels, other premises for the accommodation of animals, and tanneries, subject to the payment of all applicable charges and the fulfilment of any condition that the municipality may impose; but approval will be given only if:-
- (a) the floor of the premises is paved by impervious materials that are approved by the municipality and graded to a silt trap, grease trap or gully of adequate capacity; and
  - (b) every part of the floor of the premises is covered by a roof, or another protective device, in a way that adequately prevents the entry of rain or storm water into the drainage installation.

**Mechanical Food-Waste or Other Disposal Units**

84. (1) The municipality may approve the connection or incorporation of a mechanical waste food, disposal which and any disposal unit or garbage grinder, into a drainage installation that has a capacity in excess of 500W, subject to the payment of all applicable charges and to any condition that the municipality may impose, but approval will be given only if:-

- (a) a water meter is installed by the municipality;
- (b) the engineer is satisfied that the municipality's sewerage and sewage treatment system will not be adversely affected; and
- (c) the installation or incorporation is installed in conformity with the municipality's by-laws relating to electricity.

#### **PART 9: INSTALLATION WORK**

##### **Approval of Installation Work**

85. (1) If an owner wishes to have installation work done, he must first obtain the municipality's written approval.
- (2) Application for the approval referred to in subsection (1) must be made on the prescribed form and shall be accompanied by-
- (a) a charge determined by the municipality, if a charge is determined, and
  - (b) copies of all drawings that may be required and approved by the municipality;
  - (c) a certificate by a professional engineer certifying that the installation has been designed in accordance with any applicable SANS Codes.
- (3) Approval given in terms of subsection (1) shall lapse after 24 (twenty-four) months.
- (4) When approval has been given in terms of subsection (1), a complete set of the drawings that have been required and approved by the municipality must be available for inspection at the site at all reasonable times until the work has been completed.
- (5) If installation work has been done in contravention of sub sections (1) or (2), the municipality may require the owner-
- (a) to rectify the contravention within a specified time;
  - (b) if work is in progress, to cease the work; and
  - (c) to remove all work that does not comply with these by-law.

##### **Persons Permitted to do Installation and Other Work**

86. (1) No person who is not a plumber, or working under the control of a plumber, shall be permitted to:
- (a) do installation work other than the replacement or repair of an existing pipe or sanitation fitting;
  - (b) inspect, disinfect and test a drainage installation, fire installation or storage tank;
  - (c) service, repair or replace a back flow provender; or
  - (d) install, maintain or replace a meter provided by an owner in a drainage installation.
- (2) No person shall require or engage a person who is not a plumber to do the work referred to in subsection (1).
- (3) Notwithstanding the provisions of subsections (1) and (2), the municipality may permit a person who is not a plumber, to do installation work at his own premises if they are occupied by himself or his own household, but if permission is given, the work must be inspected and approved by a plumber under the direction of or who has been nominated by, the engineer.

##### **Use of Pipes and Water Fittings to be Authorised**

87. (1) No person shall, without the prior written authority of the engineer, install or use a pipe or water fitting in a water installation within the municipality's area of jurisdiction unless it is included in the Schedule of Approved Pipes and Fittings compiled by the municipality.

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- (2) Application for the inclusion of a pipe or water fitting in the Schedule referred to in subsection (1) must be made on the form prescribed by the municipality.
- (3) A pipe or water fitting may be included in the Schedule referred to in subsection (1) if:-
- (a) it bears the standardization mark of the South African Bureau of Standards in respect of the relevant SANS specification issued by the Bureau; or
  - (b) it bears a certification mark issued by the SANS to certify that the pipe or water fitting-
    - (i) complies with an SANS Mark specification; or
    - (ii) a provisional specification issued by the SANS
  - (c) it is included in the list of water and sanitation installations accepted by JASWIC.
  - (d) No certification marks shall be for a period exceeding two years.
- (4) The municipality may impose any additional condition that it considers necessary as relating to the use, or method of installation, of any pipe or water fitting included in the Schedule.
- (5) A pipe or sanitation 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 current Schedule 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 a charge determined by it.

#### Testing of Drainage Installations

88. (1) No drainage installation, or any part of one, shall be connected to on-site sanitation services nor shall, the municipality's sanitation system be connected to an existing approved installation, unless any one or more of the following tests have been applied in the presence, and to the satisfaction, of the engineer, before the draining installation has been enclosed:-
- (a) the interior of every pipe or series of pipes between two points of access shall be inspected throughout its length by means of a mirror and a source of light, and during the inspection, a full circle of light must appear to the observer, and the pipe or series of pipes must be seen to be unobstructed;
  - (b) a smooth ball having a diameter 12mm less than the nominal diameter of the pipe shall, when inserted at the higher end of the pipe, roll down without assistance or interruption to the lower end;
  - (c) after all openings to the pipe or series of pipes to be tested, after having been plugged or sealed and after all traps associated with them have been filled with water, air shall be pumped into the pipe or pipes until a manometric pressure of 38mm of water is indicated, after which the pressure must remain greater than 25mm of water for a period of at least 3 (three) minutes without further pumping; and
  - (d) all parts of the installation are subjected to and withstand an internally applied hydraulic test pressure of not less than a 3m head of water for a period of not less than 10 minutes.
- (2) If the municipality has reason to believe that any drainage installation or any part of it has become defective, it may require the owner of any premises to conduct any or all of the tests prescribed in subsection (1) and, if the installation fails to pass any test, or all the tests, to the satisfaction of the municipality, the municipality may by notice require the owner to take all reasonable measures that may be necessary to enable the installation to satisfy any or all of them.



**Water Demand Management**

89. (1) Notwithstanding the provisions of these regulations, no flushing urinal that is not user-activated shall be installed or continue to operate in any water installation. All flushing urinals that are not user-activated installed prior to the commencement of these regulations must be converted to user-activated urinals within two years of the commencement of these by-laws.
- (2) No cistern, and related pan designed to operate with such cistern, shall be installed with a cistern capacity of greater than 9 litres and all cisterns not intended for public use shall be fitted with flushing devices allowing interruptible or multiple flushes, provided that such flushing device shall not be required in cisterns with a capacity of 4, 5 litres or less.

**WATER SERVICES INTERMEDIARIES****Registration**

90. The municipality may by public notice require water services intermediaries or classes of water services intermediaries to register with the municipality in a manner specified in the public notice.

**Provision of Water Services**

91. (a) Water services intermediaries must ensure that water services, including basic services as determined by the municipal council, are provided to such persons it is obliged to provide with water services.
- (b) The quality, quantity and sustainability of water services provided by 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 customers.

**Charges for Water Services Provided**

92. (a) A water services intermediary may not charge for water services at a price which does not comply with any norms and standards prescribed under the Act and any additional norms and standards as may be set by the municipality.
- (b) A water services intermediary must provide subsidized water services, as determined by the municipal council in terms of the municipality's by-laws relating to credit control and debt collection from time to time, and provided by the municipality to customers at a price that is the same or less than the charges at which the municipality provides such services.

**UNAUTHORISED WATER SERVICES****Unauthorised Services**

93. (1) No person may gain access to water services unless it is in terms of an agreement 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 is using unauthorized services to:
- (a) apply for such services in terms of sections 4 and 5; and
- (b) undertake such work as may be necessary to ensure that the customer installation through which access was gained complies with the provisions of these or any other relevant by-laws.

**Interference with Infrastructure for the Provision of Water Services**

94. (1) No person other than the municipality shall manage, operate or maintain infrastructure through which water services are provided.
- (2) No person other than the municipality shall effect a connection to infrastructure through which water services are provided.

- (3) The municipality may recover any costs associated with repairing damage caused as a result of a contravention of subsections (1) and (2). 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 of tools, the expenditure of labour involved in disturbing or rehabilitation of any part of a street or ground affected by the repairs and the environmental cost.

#### **Obstruction of Access to Infrastructure for the Provision of Water Services**

95. (1) No person shall prevent or restrict the physical access of the municipality to infrastructure through which water services are provided.
- (2) If a person contravenes subsection (1), the municipality may:
- (a) by written notice require such person to restore access at his own expense within a specified period; or
- (b) if it is of the opinion that the situation is a matter of urgency, without prior notice restore access and recover the cost from such person.
- (3) The costs recoverable 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 rehabilitation of any part of a street or ground affected by restoring access and the environmental cost.

#### **Waste of Water**

96. (1) No customer or owner shall cause or 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; or
- (d) an overflow of water to persist.
- (2) The municipality shall, at its own costs, repair water and sanitation installation which is in such a state of disrepair save for the occurrence listed in subsection(1) caused or permitted by a customer or owner.
- (3) If a customer or owner permits an occurrence contemplated in subsection (1), the municipality shall, by written notice, require the customer or owner to comply with the provisions of subsection (1).
- (4) The municipality may, by written notice, prohibit the use by a customer or owner of any equipment in a water or sanitation installation if, in its opinion, its use of water is inefficient.
- (5) Such equipment shall not be returned to use until its efficiency has been restored and a written application to do so has been approved by the municipality.

#### **Unauthorised and Illegal Discharges**

97. (1) No person may discharge or cause or permit any sewage to be discharged directly or indirectly into a storm water drain, river, stream or other watercourse, whether natural or artificial.
- (2) The owner or occupier of any premises on which steam or any liquid other than potable water, is stored processed or generated shall provide all facilities necessary to prevent any discharge or leakage of such liquid to any street, storm water drain or watercourse, whether natural or artificial, except where, in the case of steam, the municipality has approved such discharge.

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- (3) Where the hosing down or flushing by rainwater of an open area on any premises is in the opinion of the municipality is likely to cause the discharge of objectionable matter into any street, storm water drain, river, stream or other watercourse, whether natural or artificial, or to cause or contribute towards the pollution of any such watercourse, the municipality may, by notice, require the owner of the premises to take reasonable measures to prevent or minimize such discharge or pollution.
- (4) No person may discharge or cause or permit the discharge of:
- (a) any substance, including storm water, other than sewage, to be discharged into a drainage installation;
  - (b) of water from any swimming pool directly or indirectly over any road or into a gutter, storm water drain, watercourse, open ground or private premises other than the premises of the owner of such swimming pool;
  - (c) water from artificial fountains, reservoirs or swimming pools situated on premises into a drainage installation, without the approval of the municipality and subject to the payment of relevant charges and such conditions as the municipality may impose;
  - (d) any sewage, industrial effluent or other liquid or substance which:-
    - (a) in the opinion of the engineer may be offensive to or may cause a nuisance to the public;
    - (b) is in the form of steam or vapour or has a temperature exceeding 44°C at the point where it enters the sewer;
    - (c) has a pH value less than 6.0;
    - (d) contains any substance of whatsoever nature likely to produce or release explosive, flammable, poisonous or offensive gases or vapours in any sewer;
    - (e) contains any substance having an open flashpoint of less than 93°C or which releases a poisonous vapour at a temperature below 93°C;
    - (f) contains any material of whatsoever nature, including oil, grease, fat or detergents capable of causing obstruction to the flow in sewers or drains or interference with the proper operation of a sewerage treatment works;
    - (g) shows any visible signs of tar or associated products or distillates, bitumen or asphalts;
    - (h) contains any substance in such concentration to produce an undesirable taste after chlorination or an undesirable odour or colour, or excessive foam;
    - (i) has either a greater PV or COD (Chemical Oxygen Demand) value, a lower pH value, or a higher caustic alkalinity or electrical conductivity than specified in Schedule A, without the prior approval and subject to the payment of relevant charges and such conditions as the municipality may impose;
    - (j) contains any substance which in the opinion of the engineer:
      - (aa) cannot be treated at the sewage treatment work to which it could be discharged; or
      - (bb) will negatively affect the treatment processes at the sewage treatment work to which it could be discharged or
      - (cc) will negatively impact on the ability of the sewage treatment work to produce discharges that meet the waste water discharge standards set in terms of the National Water Act, 1998 (Act No 36 of 1998), or
    - (k) either alone or in combination with other substance may:

- (aa) generate or constitute a toxic substance dangerous to the health of persons employed at the sewage treatment works or entering the council's sewers or manholes in the course of their duties; or
  - (bb) be harmful to sewers, treatment plant or land used for the disposal of treated waste water; or
  - (cc) adversely affect any of the processes whereby sewage is treated or any re-use of sewage effluent.
- (l) No person shall cause or permit the accumulation of grease, oil, fat or solid matter in any drainage installation that will adversely affect its effective functioning.
- (m) The municipality may, notwithstanding 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:-
- (i) injury to persons, damage to the sanitation system; or
  - (ii) a prosecution in terms of the National Water Act, 1998 (Act No 36 of 1998).

#### **Illegal Re-Connection**

98. A customer whose access to water supply services have been restricted or disconnected, who intentionally reconnects to services or who intentionally or negligently interferes with infrastructure through which water supply services are provided, shall on written notice be disconnected.

#### **Interference with Infrastructure**

99. (1) No person may unlawfully and intentionally or negligently interfere with infrastructure through which the municipality provides municipal services.
- (2) If a person contravenes subsection (1), the municipality may:
- (a) by written notice require such person to seize or rectify the interference at his own expense within a specified period; or
  - (b) if it is of the opinion that the situation is a matter of urgency, without prior notice prevent or rectify the interference and recover the cost from such person.

#### **Pipes in Streets or Public Places**

100. No person shall for the purpose of conveying water or sewage derived from whatever source, lay or construct a pipe or associated component on, in or under a street, public place or other land owned by or under the control of any municipality, except with the prior written permission of the municipality and subject to such conditions as it may impose.

#### **Use of Water from Sources Other than the Water Supply System**

101. (1) No person shall use or permit the use of water obtained from a source other than the water supply system, other than rain water tanks which are not connected to the water installation, except with the prior approval of the engineer, and in accordance with such conditions as it may impose, for domestic, commercial or industrial purposes.
- (2) Any person desiring the consent referred to in subsection (1) shall provide the engineer with evidence satisfactory to it that the water referred to in subsection (1) complies, whether as a result of treatment or otherwise, with the requirements of SANS 241: Drinking Water, or that the use of such water does not or will not constitute a danger to health.

- (3) Any consent given in terms of subsection (1) may be withdrawn if, in the opinion of the engineer:
- (a) a condition imposed in terms of subsection (1) is breached; or
  - (b) the water quality no longer conforms to the requirements referred to in subsection (2).
- (4) The engineer may take samples of water obtained from a source, other than the water supply system and cause the samples to be tested for compliance with the requirements referred to in subsection (2).
- (5) The determined charge for the taking and testing of the samples referred to in subsection (4) above shall be paid by the person to whom consent was granted in terms of subsection (1).
- (6) If water obtained from a borehole or other source of supply on any premises is used for a purpose which gives rise to the discharge of such water or a portion thereof into the municipality's sewerage system, the municipality may install a meter in the pipe leading from such borehole or other source of supply to the point or points here it is so used.
- (7) The provisions of section 19 shall apply insofar as they may be applicable in respect of the meter referred to in subsection (4).

#### **USE OF ON-SITE SANITATION SERVICES NOT CONNECTED TO THE SANITATION SYSTEM**

102. (1) No person shall use or permit the use of on-site sanitation services not connected to the municipality's sanitation system except with the prior approval of the engineer, and in accordance with such conditions as it may impose, for domestic, commercial or industrial purposes.
- (2) Any person desiring the consent referred to in subsection (1) shall provide the engineer with evidence satisfactory to it that the sanitation facility is not likely to have a detrimental effect on health or the environment.
- (3) Any consent given in terms of subsection (1) may be withdrawn if, in the opinion of the engineer-
- (a) a condition imposed in terms of subsection (1) is breached; or
  - (b) the sanitation facility has a detrimental impact on health or the environment.
- (4) The engineer may undertake such investigations as he or she may deem necessary to determine if a sanitation facility has a detrimental impact on health or the environment.
- (5) The person to whom consent was granted in terms of subsection (1) shall be liable for the costs associated with an investigation undertaken in terms of subsection (2) if the result of the investigation indicates that the sanitation facility has a detrimental impact on health or the environment.

#### **NOTICES**

##### **Power to Serve and Compliance with Notices**

103. (1) The municipality may, by written notice, order an owner, customer or any other person who fails, by-laws, or to fulfil any condition imposed in it, to rectify his failure within a period specified in the notice, which period shall not be less than thirty days except where a notice is issued in terms of section 18, when the period shall not be less than seven days.
- (2) If a person fails to comply with a written notice served on him by the municipality in terms of these by-laws within the specified period, it may take such action that in its opinion is necessary to ensure compliance, including:
- (a) undertaking the work necessary itself and recovering the cost of such action or work from that owner, consumer or other person;

- (b) restricting or discontinuing the provision of services; and
- (c) instituting legal proceedings;
- (3) A notice in terms of subsection (1) must-
  - (a) give details of any provision of the by-laws that has not been complied with;
  - (b) give the owner, consumer or other person a reasonable opportunity to make representations and state his case, in writing, to the municipality within a specified period, unless the owner, consumer or other person was given such an opportunity before the notice was issued;
  - (c) specify the steps that the owner, consumer or other person must take to rectify the failure to comply
  - (d) specify the period within which the owner, consumer or other person must take the steps specified to rectify such failure; and
  - (e) indicate that the municipality:
    - (i) may undertake any work that is necessary to rectify a failure to comply with a notice and the cost to the municipality of rectification may be recovered from the owner, consumer or other person who has failed to comply with it; and
    - (ii) may take any other action that it considers necessary for ensuring compliance.
- (4) In the event of an emergency the municipality may, without prior notice to anyone, undertake the work required by subsection (3) (e) (i) and recover the costs from a person who, but for the emergency, would have to be notified in terms of subsection (1).
- (5) The costs recoverable by the municipality in terms of subsections (3) and (4) are the full costs associated with that work and includes, but are 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 rehabilitation of any part of a street or ground affected by the work and the environmental cost.

## APPEALS

### Appeals Against Decisions of the Municipality

- 104.
- (1) A customer may appeal in writing against a decision of, or a notice issued by, the municipality in terms of these by-laws.
  - (2) An appeal in terms of subsection (1) must be made in writing and lodged with the municipality within 14 (fourteen) days after a customer became aware of the decision or notice and must:
    - (a) set out the reasons for the appeal; and
    - (b) be accompanied by any security determined by the municipality for the testing of a measuring device, if it has been tested.
  - (3) An appeal must be decided by the municipality within 14 (fourteen) days after an appeal was lodged and the customer must be informed of the outcome in writing, as soon as possible thereafter.
  - (4) The decision of the municipality is final.
  - (5) The municipality may condone the late lodging of appeals or other procedural irregularities.

## OFFENCE

### Offences

105. (1) Subject to subsection (2), any person who-
- (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 municipal equipment, the wear supply system, sanitation system and reticulation network or consumption of services rendered;
  - (c) contravenes or fails to comply with a provision of these by-laws other than a provision relating to payment for municipal services
  - (d) fails to comply with the terms of a notice served upon him in terms of these by-laws;

is guilty of an offence and liable on conviction to a fine or in default of payment to imprisonment for a period not exceeding 6 months and in the case of any continued offence, to a further fine not exceeding R50, or in default of payment, to imprisonment not exceeding one day for every day during the continuance of such offence, after a written notice has been issued by the municipality and served on the person concerned requiring the discontinuance of such an offence.

(2) No person shall be liable to imprisonment if he is unable to afford to pay a fine, and shall instead be liable to a period of community service.

(3) Any person committing a breach of the provisions of these by-laws shall be liable to recompense the municipality for any loss or damage suffered or sustained by it in consequence of the breach.

## DOCUMENTATION

### Signing of Notices and Documents

106. A notice or document issued by the municipality in terms of these by-laws and signed by a staff member of the municipality shall be deemed to have been duly issued and must on its mere production be accepted by a court as prima facie evidence of that fact.

### Service of Notices

107. (1) Any notice, order or other document that is served on any person in terms of these by-laws must, subject to the provisions of the Criminal Procedure Act 1977 (Act 51 of 1977), be served personally, failing which it may be regarded as having been served-
- (a) when it has been left at a person's village, place of residence, or business or employment in the Republic with a person apparently over the age of sixteen years;
  - (b) when it has been posted by registered or certified mail to a person's last known residential address or business address in the Republic and an acknowledgement of posting thereof from the postal service is obtained;
  - (c) if a person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in a manner provided for in subsections (a), (b) or (d); or
  - (d) if that person's address and agent or representative in the Republic is unknown, when it has been placed in a conspicuous place on the property or premises, if any, to which it relates.
- (2) Any legal process is effectively and sufficiently served on the municipality when it is delivered to the municipal manager or a person in attendance at the municipal manager's office.

- (3) When any notice or other document must be authorised or served on the owner, occupier of any property, or on any person who holds a right over, or in respect of it, it is sufficient if that person is described in the notice or other document as the owner, occupier or holder of the right over or in respect of, the property, and shall not be necessary to name him.
- (4) Where compliance with a notice is required within a specified number of working days, the period that is required shall commence on the date when the notice is served or when it has first been given in any other way contemplated in these by-laws.

#### **Authentication of Documents**

108. (1) Every order, notice or other document requiring authentication by the municipality shall be sufficiently authenticated, if it is signed by the municipal manager, by a duly authorised officer of the municipality or by the Manager of the municipality's authorised agent.
- (2) Authority to authorise, as envisaged in subsection (1) must be conferred by a resolution of the municipality, by a written agreement or by a bylaw.

#### **Prima Facie Evidence**

109. In legal proceedings by or on behalf of the municipality, a certificate reflecting an amount of money as being due and payable to the municipality, shall, if it is made under the hand of the municipal manager, or of a suitably qualified employee of the municipality who is authorised by the municipal manager or the Manager of the municipality's authorised agent, shall upon its mere production constitute prima facie evidence of the indebtedness.

### **GENERAL PROVISIONS**

#### **Responsibility for Compliance with these By-Laws**

110. (1) The owner of premises is responsible for ensuring compliance with these by-laws in respect of all or any matters relating to water and the installation and maintenance of sanitation.
- (2) The customer is responsible for compliance with these by-laws in respect of matters relating to the use of any water and the installation and maintenance of sanitation.

#### **Provision of Information**

111. An owner, occupier, customer or person within the area of supply of the municipality must provide the municipality with accurate information requested by the municipality that is reasonably required by the municipality for the implementation or enforcement of these by-laws.

#### **Power of Entry and Inspection**

112. (1) The municipality may enter and inspect any premises for any purpose connected with the implementation or enforcement of these by-laws, at all reasonable times, after having given reasonable written notice to the occupier of the premises of the intention to do so.
- (2) Any entry and inspection must be conducted in conformity with the requirements of the Constitution of South Africa, 1996, and any other law and, in particular, with strict regard to decency and order, respect for a person's dignity, freedom and security, and personal privacy.
- (3) The municipality may be accompanied by an interpreter and any other person reasonably required assisting the authorised official in conducting the inspection.
- (4) A person representing the municipality must, on request, provide his identification.



**Indemnification from Liability**

113. Neither employees of the municipality nor any person, body, organisation or corporation acting on behalf of the municipality is liable for any damage arising from any omission or act done in good faith in the course of his duties unless the damage is caused by a wrongful and intentional act or negligence.

**Exemption**

114. (1) The engineer may, in writing exempt an owner, customer, any other person or category of owners, customers, ratepayers, users of services from complying with a provision of these by-laws, subject to any conditions it may impose, if he or she is of the opinion that the application or operation of that provision would be unreasonable, provided that the engineer shall not grant exemption from any section of these by-laws that may result in:-
- (a) the wastage or excessive consumption of water supply services;
  - (b) significant adverse effects on public health, safety or the environment;
  - (c) the non-payment for services;
  - (d) the Act, or any regulations made in terms of it, being not complied with.
- (2) The municipality may at any time after giving written notice of at least thirty days, withdraw any exemption given in terms of subsection (1).

**Conflict of Law**

115. If there is any conflict between these by-laws and any other by-laws of the municipality, these by-laws will prevail.

**Transitional Arrangements**

116. (1) Installation work authorised by the municipality prior to the commencement date of these by-laws or authorised installation work in progress on that date shall be deemed to have been authorised in terms of these by-laws; and the municipality may, for a period of 90 (ninety) days after the commencement of these by-laws, authorise installation work in accordance with the by-laws that regulated that work immediately prior to the promulgation of these by-laws.
- (2) Any reference in these by-laws to a charge determined by the municipal council shall be deemed to be a reference to a charge determined by the municipal council under the laws repealed by section 118, until the effective date of any applicable charges that may be determined by the municipal council 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 118 shall be deemed to be a reference to a corresponding provision in these by-laws.
- (3) Any approval, consent or exemption granted under the laws repealed by section 114 shall, save for the provisions of subsection (3), remain valid.
- (4) No customer shall be required to comply with these by-laws by altering a water installation or part of it which was installed in conformity with any laws applicable immediately prior to the commencement of these by-laws; provided that if, in the opinion of the engineer, the installation, or part, is so defective or in a condition or position that could cause waste or undue consumption of water, pollution of the water supply or a health hazard, the engineer may by notice require the customer to comply with the provisions of these by-laws.

**Provision for delegation**

117. Subject to the provisions of any other legislation, the Council may delegate or assign in writing any power, duty or function imposed by or under this by-laws, to any person in its employ subject further to such conditions as it may deem necessary.

**Repeal of by-laws**

118. The Water Services by-laws by the former Municipal Councils of Allanridge, Odendaalsrus, Welkom, Virginia, Hennenman and Ventersburg are hereby repealed.

**Short title and commencement**

119 This by-law is called the Water Services By-Law No 2 of 2008 and shall come into operation upon date of publishing in the *Provincial Gazette*.

**SCHEDULE A**

**LIMITS OF CONCENTRATION OF SUBSTANCES THAT MAY BE DISCHARGED TO THE MUNICIPALITY'S SANITATION SYSTEM**

<b>Parameter</b>	<b>Allowed Specification</b>
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 <sub>3</sub> )	2 000 mg / l
Substances 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 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 <sub>4</sub> )	1 800 mg / l
Fluorine-containing compounds (expressed as F)	5 mg / l
Anionic surface active agents	500 mg / l

**METALS:**

**Group 1:**

<b>Metal</b>	<b>Expressed As</b>
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:**

<b>Metal</b>	<b>Expressed As</b>
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**

<b>Element</b>	<b>Expressed As</b>
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 B**

**APPLICATION FORM FOR THE DISCHARGE OF INDUSTRIAL EFFLUENT TO THE MUNICIPALITY'S SANITATION SYSTEM**

(Please complete application in block capitals)

I (name):

the undersigned, duly authorised to set on behalf of

and hereinafter referred to as the applicant, hereby apply in terms of the Water Services By-laws of the municipality for approval to discharge industrial effluent into the municipality's sanitation system in accordance with the information provided herein.



2. WATER CONSUMPTION

- (i) Industrial kl/Month .....
- (ii) Quantity of water in product .....
- (iii) Quantity of water lost by evaporation .....
- (iv) Quantity of water used as boiler make-up .....
- (v) 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 ..... kl/Month
- (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:

$$A - (B + C) = \dots \text{ Kilolitre / Month}$$

**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 .....
- (2) pH value .....
- (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	Suphide	mg/l	Synthetic detergents mg/l
Chromium	mg/l	Suphate	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 attached descriptions and a statement of the dimensions of grease and oil traps, screens, dilution and neutralising tanks and any other provision made for the treatment of the effluent prior to discharge to the sanitation system.
- (2) The applicant shall submit to the municipality, if requested, plans showing the reticulation systems on his premises for water and industrial effluent.
- (3) The applicant shall, in addition to complying with the provisions of the municipality's Water Services By-laws aimed at the protection of its employees, sewers and treatment plant from damage, comply with any direction concerned with such protection given by the engineer verbally or in writing for the purpose of ensuring the applicant's compliance with the said by-laws.
- (4) The applicant shall notify the municipality, as soon as possible after he becomes aware thereof, or at least 14 days before anything is done to cause material alteration in the nature or quantity of the industrial effluent specified in this application or in any of the facts stated by him therein.
- (5) The applicant shall, within 30 days from the date of signature of this application, procure an accurately representative sample of not less than 5 litre of the industrial effluent to be discharged into the sewer, which sample shall be free of domestic sewage, and shall submit one half thereof to the municipality for analysis and also submit to the engineer a report on the sample made by an analyst appointed by him; Provided that in the case of a newly established industry the period specified may be extended by the municipality for a period not exceeding six months or such further extended periods as the municipality in its discretion may approve.

- (6) The applicant hereby declares and warrants that the information given by him in this form, or otherwise, in connection with this application is, to the best of his knowledge and belief, in all respects correct.
- (7) The applicant agrees that the said information. Being in all respects correct, shall form the basis on which this application is granted by the municipality.

THUS DONE AT ..... BY THE APPLICANT THIS ..... DAY OF ..... 20.....

.....  
SIGNATURE AND CAPACITY OF THE APPLICANT

**SCHEDULE C**

**FORMULA FOR THE CALCULATION OF EFFLUENT DISCHARGE CHARGES**

- 1. The additional charge for industrial effluent for the disposal of high strength sewage to a waste water treatment plant shall be determined in accordance with the following formula:

- Where T = Extraordinary Treatment Cost to Consumer
- Q = Waste water volume discharged by consumer in kl
- T = Unit treatment cost of waste water in R/kl
- COD = 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 = Total COD of domestic Waste water in milligrams per litre
- P = Ortho-phosphate concentration of waste water discharged by consumer in milligrams phosphorus per litre
- P = Ortho-phosphate concentration of domestic waste water in milligrams phosphorus per litre
- N = Ammonia concentration of waste water discharged by consumer in milligrams of nitrogen per litre
- N = 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	600 mg/l
N	25 mg/l
A	0.6
B	0.25
C	0.15

## ANNEXURE A:

## EXTRACTS FROM THE LEGISLATION THAT SETS OUT WHAT MUST BE ADDRESSED IN BY-LAWS

**The Water Services Act**

Section 21 of the Water Services Act provides as follows:

**“21. By-laws**

- (1) Every water services authority must make by-laws which contain conditions for the provision of water services, and which must provide for at least-
  - (a) the standard of services;
  - (b) the technical conditions of supply, including quality standards, units or standards of measurement, the verification of meters, acceptable limits of error and procedures for the arbitration of disputes relating to the measurement of water services provided;
  - (c) the installation, alteration, operation, protection and inspection of water services works and consumer installation;
  - (d) the determination and structure of tariffs in accordance with section 7;
  - (e) the payment and collection of money due for the water services;
  - (f) the circumstances under which water services may be limited or discontinued and the procedure for such limitation or discontinuation; and
  - (g) the prevention of unlawful connections to water services works and the unlawful or wasteful use of water.
- (2) Conditions under which water services are provided:
  - (a) may place limits on the areas to which water services will be provided according to the nature, topography, zoning and situation of the land in question;
  - (b) may provide for the limitation or discontinuation of water services where a consumer fails to meet his or her obligations to the water services provider, including-
    - (i) a failure to pay for services; or
    - (ii) a failure to meet other conditions for the provision of services:
  - (c) may place an obligation on a payment defaulter-
    - (i) to pay a higher deposit;
    - (ii) to pay a reconnection fee after disconnection of water services;
  - (d) may require a payment defaulter to pay a higher tariff for water services, where that defaulter gains access to water services through a communal water services work and the provision thereof cannot be disconnected or limited without other consumers being prejudiced;
  - (e) may provide for the general limitation or discontinuation of water services where-
    - (i) national disaster cause disruptions in the provision of services; or
    - (ii) sufficient water is not available for any other reason;
  - (f) may include an option to retain limited access to at least basic water supply or basic sanitation for a consumer whose water services are to be discontinued; and



- (g) must be accessible to consumers and potential consumers.
- (3) A water services authority which-
- (a) provides water for industrial use; or
  - (b) controls a system through which industrial effluent is disposed of, must make by-laws providing for at least-
    - (i) the standards of service;
    - (ii) the technical conditions of provision and disposal;
    - (iii) the determination and structure of tariffs;
    - (iv) the payment and collection of money due; and
    - (v) the circumstances under which the provision and disposal may be limited or prohibited.”

### **The Municipal Systems Act Tariffs**

Section 75 of the Municipal Systems Act provides as follows :

#### **“75. By-laws to give effect to policy**

- (1) A municipal council must adopt by-laws to give effect to the implementation and enforcement of its tariff policy.
- (2) By-laws in terms of subsection (1) may differentiate between different categories of users, debtors, service providers, services, service standards and geographical areas as long as such differentiation does not amount to unfair discrimination.”
- (3) When making by-laws relating to tariffs it is important that a tariff policy must be drafted by the municipality prior to making such by-laws. The policy must precede the bylaws. The by-laws must give effect to the tariff policy. The Municipal Systems Act provides the following in respect of a tariff policy :

#### **“74. Tariff policy**

- (1) A municipal council must adopt and implement a tariff policy on the levying of fees for municipal services provided by the municipality itself or by way of service delivery agreements, and which complies with the provisions of this Act and with any other applicable legislation.
- (2) A tariff policy must reflect at least the following principles, namely that-
  - (a) users of municipal services should be treated equitably in the application of tariffs;
  - (b) the amount individual users pay for services should generally be in proportion to their use of that service;
  - (c) poor households must have access to at least basic services through-
    - (i) tariffs that cover only operating and maintenance costs;
    - (ii) special tariffs or life line tariffs for low levels of use or consumption of services or for basic levels of services; or
    - (iii) any other direct or indirect method of subsidisation of tariffs for poor households;
  - (d) tariffs must reflect the costs reasonably associated with rendering the service, including capital, operating, maintenance, administration and replacement costs, and interest charges;

- (e) tariffs must be set at levels that facilitate the financial sustainability of the service, taking into account subsidisation from sources other than the service concerned;
  - (f) provision may be made in appropriate circumstances for a surcharge on the tariff for a service;
  - (g) provision may be made for the promotion of local economic development through special tariffs for categories of commercial and industrial users;
  - (h) the economical, efficient and effective use of resources, the recycling of waste, and other appropriate environmental objectives must be encourage;
  - (i) the extent of subsidisation of tariffs for poor households and other categories of users should be fully disclosed.
- (3) A tariff policy may differentiate between different categories of users, debtors, service providers, services, service standards, geographical areas and other matters as long as the differentiation does not amount to unfair discrimination.”

### **Credit Control**

Section 75 of the Municipal Systems Act provides as follows –

#### **“98. By-laws to give effect to policy**

- (1) A municipal council must adopt by-laws to give effect to the municipality’s credit control and debt collection policy, its implementation and enforcement.
- (2) By-laws in terms of subsection (1) may differentiate between different categories of ratepayers, users of services, debtors, taxes, services, service standards and other matters as long as the differentiation dos not amount to unfair discrimination.”

When making by-laws relating to credit control and debt collection it is important that a credit control and debt collection policy must be drafted by the municipality prior to making such by-laws. The policy must precede the by-laws.

The by-laws must give effect to the credit control and debt collection policy. The Municipal Systems Act provides the following in respect of a credit control and debt collection policy:

#### **“96. Debt collection responsibility of municipalities**

A municipality –

- (i) must collect all money that is due and payable to it, subject to this Act and any other applicable legislation; and
- (ii) for this purpose, must adopt, maintain and implement a credit control and debt collection policy which is consistent with its rates and tariff policies and complies with the provisions of this Act.

#### **97. Contents of policy**

- (1) A credit control and debt collection policy must provide for –
  - (i) credit control procedures and mechanisms;
  - (ii) debt collection procedures and mechanisms;
  - (iii) provision for indigent debtors that is consistent with its rates and tariff policies and any national policy on indigents;
  - (iv) realistic targets consistent with:
    - 1. general recognised accounting practices and collection ratios, and
    - 2. the estimates of income set in the budget it less an acceptable provision of bad debts;

- (v) interest on arrears, where appropriate;
  - (vi) extensions of time for payment of accounts;
  - (vii) termination of services or the restriction of the provision of services when payments are in arrears;
  - (viii) matters relating to unauthorised consumption of services, theft and damages; and
  - (ix) any other matters that may be prescribed by regulation in terms of section 104.
- (2) A credit control and debt collection policy may differentiate between different categories of ratepayers, users of services, debtors, taxes, services, service standards and other matters as long as the differentiation does not amount to unfair discrimination."

#### **Other relevant sections**

The Municipal Systems Act further contains a number of additional sections relating to credit control and debt collection that are relevant to by-laws in respect thereof. These are:

#### **"95. Customer care and management**

- (1) In relation to the levying of rates and other taxes by a municipality and the charging of fees for municipal services, a municipality must, within its financial and administrative capacity –
- (a) establish a sound customer management system that aims to create a positive and reciprocal relationship between persons liable for these payments and the municipality, and where applicable, a service provider;
  - (b) establish mechanisms for users of services and ratepayers to give feedback to the municipality or other service provider regarding the quality of the services and the performance of the service provider;
  - (c) take reasonable steps to ensure that users of services are informed of the costs involved in service provision, the reasons for the payment of service fees, and the manner in which monies raised from the service are utilised;
  - (d) where the consumption of services has to be measured, take reasonable steps to ensure that the consumption by individual users of services is measured through accurate and verifiable metering systems;
  - (e) ensure that persons liable for payments, receive regular and accurate accounts that indicate the basis for calculating the amounts due;
  - (f) provide accessible mechanisms for those persons to query or verify accounts and metered consumption, and appeal procedures which allow such persons to receive prompt redress for inaccurate accounts;
  - (g) provide accessible mechanisms for dealing with complaints from such persons, together with prompt replies and corrective action by the municipality;
  - (h) provide mechanisms to monitor the response time and efficiency in complying with paragraph (g); and
  - (i) provide accessible pay points and other mechanisms for settling accounts or for making pre-payments for services.

#### **101. Municipality's Right of Access to Premises**

The occupier of premises in a municipality must give an authorised representative of the municipality or of a service provider access at all reasonable hours to the premises in order to read, inspect, install or repair any meter or service connection for reticulation, or to disconnect, stop or restrict the provision of any service.

#### **102. Accounts**

- (1) A municipality may-

- xii. consolidate any separate accounts of persons liable for payments to the municipality;
  - xiii. credit a payment by such a person against any account of that person; and
  - xiv. implement any of the debt collection and credit control measures provided for in this Chapter in relation to any arrears on any of the accounts of such a person.
- b. Subsection (1) does not apply where there is a dispute between the municipality and a person referred to in that subsection concerning any specific amount claimed by the municipality from that person.

### 103. Agreements with Employers

A municipality may –

- i. with the consent of a person liable to the municipality for the payment of rates or other taxes, or fees for municipal services, enter into an agreement with that person's employer to deduct from the salary or wages of that person :
  - 1. employers to enter into such agreements; and
  - 2. employees to consent to such agreements.”
- ii. provide special incentives for –

### 118. Restraint on Transfer of Property

- (1) A registrar of deeds may not register the transfer of property except on production to that registrar of deeds of a prescribed certificate :
- (a) issued by the municipalities in which that property is situated; and
  - (b) which certifies that all amounts that become due in connection with that property for municipal service fees, surcharges on fees, property rates and other municipal taxes, levies and duties during the two preceding the date of application for the certificate have been fully paid.
- (1A) A prescribed certificate issued by a municipality in terms of subsection (1) is valid for a period of 120 days from the date it has been issued.
- (2) In the case of the transfer of property by a trustee of an insolvent estate, the provisions of this section are subject to section 89 of the Insolvency Act No, 24 of 1936.
- (3) An amount due for municipal service fees, surcharges on fees, property rates and other municipal taxes, levies and duties is a charge upon the property in connection with which the amount is owing and enjoys preference over any mortgage bond registered against the property.
- (4) Subsection (1) does not apply to -
- (a) a transfer from the national government, a provincial government or a municipality of a residential property which was financed with funds of loans made available by the national government, a provincial government or a municipality; and
  - (b) the vesting of ownership as a result of a conversation of land tenure rights into ownership in terms of Chapter 1 of the Upgrading of Land Tenure Rights Act No. 112 of 1991: Provided that nothing in this subsection precludes the subsequent collection by a municipality of any amounts owed to it in respect of such a property at the time of such transfer or conversion.
- (5) Subsection (3) does not apply to any amount referred to in that subsection that became due before a transfer of a residential property or a conversion of land tenure rights into ownership contemplated in subsection (4) took place.

It is important to remember that the Minister may make regulations or issue guidelines to provide for a regulate the following matters relating to credit control and debt collection in terms of the Municipal Systems Act. No regulations have been promulgated to date.

**ANNEXURE B:****EXTRACTS FROM THE STRATEGIC FRAMEWORK FOR WATER SERVICES, 2003****Tariffs**

Retail tariffs policies must be based on the following tariff principles:

- Tariffs should be applied equitably and fairly.
- The amount individual users pay for services generally should be in proportion to their use of that service.
- Water and sanitation tariffs for domestic use should be pro-poor in their orientation, that is, they should seek to ensure that a minimum basic level of water supply and sanitation service is affordable for all households, especially vulnerable groups such households headed by women or children or affected by HIV/Aids.
- Tariffs must reflect all of the costs reasonably associated with rendering the service.
- Tariffs must be set at levels that facilitate the financial sustainability of the service, taking into account subsidisation from sources other than the service concerned.
- The economical, efficient and effective use of resources, the reduction of leaks and unaccounted-for water, the recycling of water, and other appropriate environmental objectives must be encouraged.
- A tariff policy may differentiate between different categories of users, debtors, service providers, services, service standards, geographical areas and other matters as long as the differentiation does not amount to unfair discrimination.
- All forms of subsidies should be transparent and fully disclosed.

**Retail Water and Sanitation Tariff Policies – Water Services Authorities**

Retail water and sanitation tariff policies must be developed by water services authorities. These must conform to the following requirements.

**Revenue requirements.** When determining the revenue requirements for services, a water services institution must take into account at least the following: realistic operating and maintenance costs (including any relevant and applicable overheads, charges and levies), interest costs, depreciation charges, a reasonable rate of return on assets (where appropriate), and provisions for bad debt and other future costs (including infrastructure expansion). In addition, a water services institution must determine the cash needs to maintain a financially viable and sustainable operation over time, taking into account any available and secure operating subsidies. A water services institution may take into account a contribution to the general municipal rates fund (where appropriate).

**Costs.** All water services authorities must plan to provide all households with at least a basic level of water supply and sanitation service). In the first instance, national government subsidies in the form of the municipal infrastructure grant and the local government equitable share should be used to assist in the provision of these services). Taking these sources of subsidy into account, any additional cost associated with the provision of basic water supply and sanitation services (including the implementation of fee basic water supply and sanitation policies) must be included in the revenue requirements outlined above. The costs of rehabilitation and system expansion must be taken into account. Water losses and unaccounted for water must be managed down to acceptable levels. The allocation of funds for maintenance must be sufficient to maintain the water services infrastructure and related systems adequately.

**Contributions.** The contribution from water services to the rates and general fund should be limited to less than ten percent of gross revenue from the sale of water. Income from sanitation charges should not be used to subsidise other services.

**Consumer categories.** Retail water and wastewater tariffs shall distinguish between at least three categories of consumers: domestic, industrial and other.

**Levels of service.** Retail water and wastewater tariffs shall distinguish between significantly different levels and standards of service provided and between at least the following: a communal water service (water services provided to more than one household); where a controlled (limited or restricted) volume of water is supplied to a household; where an uncontrolled volume of water is supplied to a household (that is, the volume water supply is not limited for all practical purposes); water a household is connected to a sewer and where a household is not connected to a sewer

**Cross-subsidies.** Tariffs shall support the viability and sustainability of water supply services to the poor through cross-subsidies (where feasible) and discourage wasteful or inefficient use.

**Metering.** All connections providing an uncontrolled volume of water supply shall be metered and tariffs shall be applied in proportion to water use.

**Marginal domestic tariff above the basic amount.** Where domestic consumers consume just more than a defined basic amount, water services authorities shall not be entitled to recoup the full financial cost of providing the basic amount in the marginal tariff for the next small increment consumed. In other words, if the free basic water allocation is 6 kl per month, then a water services authority may not require a consumer who uses 7 kl per month to pay for the full financial costs for the supply of 7 kl per month.

**Domestic water tariffs** for water consumed significantly in excess of a defined basic amount shall at least recover the full direct financial costs of the service provider in excess of the defined basic amount, and may take into account any external economic costs and benefits, (externalities) associated with the provision of the service including, where appropriate, the average incremental costs that would be incurred to increase the capacity of the water supply and wastewater infrastructure to meet an incremental growth in demand.

**Industry and non-domestic.** Water and sanitation tariffs for industrial and other categories of non-domestic consumer shall at least recover the full direct financial costs of the service. Tariffs any take into account any external economic costs and benefits (externalities) associated with the provision of the service including, where appropriate, the average incremental costs that would be incurred to increase the capacity of the water supply and wastewater infrastructure to meet an incremental growth in demand.

**Tariff increases.** Water services authorities must strive to keep tariff increases to below the rate of inflation. Tariff increases must be based on the efficient use of resources and the actual input cost increases incurred (for example, chemical and energy costs). Where there have been no recent expansions in infrastructure, then it should be possible to keep tariff increases to well below the rate of inflation due to the fact that fixed depreciation and financing costs are likely to make up a significant share of total costs. Conversely, when system expansion has occurred and this has resulted in increased depreciation and financing costs, then tariff increases in excess of inflation may be necessary in order to maintain the financial viability of the service. Where current tariffs do not adequately cater for system rehabilitation and maintenance, then tariffs will need to be increased appropriately.

**Subsidies.** Where subsidies for water services are applied, these shall be prioritised for the provision of basic water supply and sanitation services in terms of the free basic water and free basic sanitation policies.

**Special tariffs.** Water services authorities may implement special tariffs during periods of water restrictions to reduce water use to within sustainable levels.

#### **Credit Control**

Effective credit control is a critically important component providing a reliable and effective service to all communities and consumers. Failure to consistently apply fair credit control policies can result in consumers and whole communities going without water.

Water services authorities have the responsibility to develop credit control policy. This policy must provide for credit control procedures which are fair and equitable, provide for warnings and adequate notice, provide for consumer representations, allow alternative payment arrangements, and set out a fair procedure that will be applied in the event of on-payment. Where a consumer continues to fail to pay for services provided after the application of such procedures and a fair warning, a municipality must be able to take actions that will limit its financial loss and promote good payment habits.

When a municipality formulates its credit control policy it must take into account the impact of credit control mechanisms (and the lack thereof) on the community, the existing service delivery context, the need for financial viability to support the sustainable provision of services and the effectiveness of the proposed credit control mechanisms.

The following principles must be incorporated in the credit control policy:

**Compassion:** Local government must develop and implement a credit control policy which is compassionate, especially towards poor and vulnerable households. This means that priority should be given to providing a reliable, secure, sustainable and affordable water supply and sanitation service to all households including the poor. Policies and procedures should seek to avoid the accumulation of bad debt and the high costs associated with restrictions or disconnections and reconnections.

**Communication:** Consumers must be informed with respect to water consumption, credit control, debt collection and disconnection policies, credit control procedures and consumer responsibilities. Communication must be clear and accessible and, where practical, in the home language of the consumer.

**Fair Process:** All restrictions and disconnections must be done in terms of a fair and transparent process and as a result of the failure of a consumer (or consumers) to fulfil obligations in terms of a consumer contract.

**Warning:** Domestic consumers must receive a warning prior to any credit control action.

**Restricting Domestic Connections:** In the first instance, and after following due process (including a warning), domestic water supply connections must be restricted and not disconnected, ensuring that at least a basic supply of water is available. (Only where the costs associated with restricting water services in this manner would have a substantial and significant impact on the sustainable provision of water services to the broader community, may water services be disconnected after proper procedures have been followed.)

**Tampering:** Disconnection (after a warning) may be appropriate where services equipment has been tampered with, since tampering may jeopardise the health of consumers and the proper functioning of the system.

**Interference:** Where a domestic consumer's access to water services has been restricted (in terms of an appropriate policy and procedure) and that consumer interferes with the restriction in a manner that renders the limitation less effective, the municipality may disconnect such a consumer (after a warning) until such time as the consumer has made an arrangement for settlement of the outstanding amount and has paid any fine that the water services provider may impose.

**Disconnecting Water Supplies.** A water services provider has the right to disconnect water services of domestic water consumers only where all of the above provisions have been followed. A water services provider has the right to disconnect water services of non-domestic water consumers whenever a non-domestic consumer has breached its contract with the water services provider, provided a fair process is followed. In addition to the above, various alternative or complementary credit control mechanisms could be considered where appropriate.

**Responsibility for Implementing Credit Control:** Water services providers have the responsibility of implementing credit control (in terms of the credit control policy established by the water services authority) where they assume the financial risk and have the responsibility for collecting user charges. Where this is not the case, then the water services authority has the responsibility to implement credit control itself. In order to protect the financial viability of a water services provider, a water services authority must give the water services provider the right to restrict and disconnect water services connections subject to the credit control policy established by the water services authority and developed in terms of the policies set out in this White Paper.

**Balancing Rights and Responsibilities:** The limitation and disconnection of water services is a sensitive issue that requires the balancing of rights and obligations. Consumers have a right to a basic water supply and sanitation service. However, this right also embodies the obligation to exercise that right reasonably and in accordance with general limitations placed on that right. At the same time, water services authorities must ensure sustainable provision of water services and safeguard the financial viability of the water services provider. These rights and responsibilities must be clearly communicated to consumers.

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## MATJHABENG LOCAL MUNICIPAL COUNCIL

### WASTE MANAGEMENT BY-LAW

#### PREAMBLE

The Municipal Manager of the Matjhabeng Local Municipal Council in terms of subsection 156 (2) of the Constitution of the Republic of South Africa, 1996, read with section 13 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), publishes the by-law as set forth hereafter as by-law made by the Council.

#### LONG TITLE

To provide a regulatory framework for Waste Management and managing thereof, to provide for the strengthening of measures to control Waste Management, to provide for sanctions in contravening the provisions, to provide for certain delegated powers, to repeal certain by-laws and to provide for matters connected therewith.

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**INTERPRETATION, PRINCIPLES AND OBJECTS****Definitions, Principles and Interpretation**

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

“**approved**”, in relation to bins, bin liners, containers, receptacles and wrappers means approved by the Council for the collection and storage of waste;

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

“**bin**” means an approved receptacle for the storage of less than 1, 5 cubic metres of waste which may be supplied by the Council 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 the bin;

“**building waste**” means all waste produced during the construction, alteration, repair or demolition of any structure, and includes building rubble, earth, vegetation and rock displaced during such construction, alteration, repair or demolition;

“**bulky waste**” means business waste or domestic waste which by virtue of its mass, shape, size or quantity is inconvenient to remove in the routine door-to-door municipal service provided by the Council;

“**business waste**” means waste, other than hazardous waste, healthcare risk waste, building waste, industrial waste, garden waste, bulky waste, recyclable waste and special industrial waste, generated on premises used for non-residential purposes;

“**city manager**” means the municipal manager appointed in terms of section 82(1) (a) of the Structures Act;

“**commercial service**” means any service, excluding the municipal service, relating or connected with 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 with a capacity greater than 1, 5 cubic metres for the temporary storage of waste in terms of these by-laws;

“**Council**” means the Matjhabeng Local Municipality Council and includes a committee of the Council to which it has delegated any power or function under these by-laws in relation to that power or function;

“**damage to the environment**” means any pollution, degradation or harm to the environment whether visible or not;

“**dailies**” means putrescible waste generated by hotels, restaurants, food shops, hospitals, and canteens that must be collected on a daily basis, to prevent the waste from decomposing and presenting a nuisance or an environmental or health risk;

“**designated officer**” means a person in the employ of the Council authorised to be a designated officer;

“**domestic waste**” means waste generated on premises used solely for residential purposes and purposes of public worship, including halls or other buildings used for religious purposes, but does not include business waste, building waste, garden waste or bulky waste;

“**dump**” means placing waste anywhere other than an approved receptacle or a place designated as a waste handling facility or waste disposal facility by the Council;

“**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 of combination of (a) and (b) and the interrelationships among and between them, and
- (d) the physical, chemical aesthetic and cultural properties and conditions of the foregoing that influence human health and well-being;

“**environmental emergency**” means any unexpected or sudden occurrence resulting from any act or omission relating to waste which 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;

“**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, in respect of any domestic, business, commercial or industrial premises;

“**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, bulky waste, building waste or any waste generated as a result of garden service activities;

“**garden waste handling facility**” means a waste handling facility in or on which garden waste or any other recyclable waste is received and temporarily stored;

“**hazardous waste**” means waste containing, or contaminated by, poison, any corrosive agent, any flammable substance having an open flash-point of less than 90 deg C, an explosive, radioactive material, any chemical or any other waste that has the potential even in low concentrations to have a significant adverse effect on public health or the environment because of its inherent toxicological, chemical and physical characteristics;

“**health care risk waste**” means all hazardous waste generated at any health care facility such as a hospital, clinic, laboratory, medical research institution, dental or medical research institution, dental or medical practitioner or veterinarian;

“**industrial waste**” means waste generated as a result of manufacturing, maintenance, fabricating, processing or dismantling activities, but does not include building waste, business waste, dailies, special industrial waste, hazardous waste, health care risk waste or domestic waste;

“**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 the municipal service and the type of service point;

“**licensee**” means any 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 handling facility or waste disposal facility;

“**local community**” in relation to the Council means that body of persons comprising-

- (a) the residents in the municipal area,
- (b) the ratepayers of the Council,
- (c) any civic organisation and non-governmental, private sector or labour organisation or body which is involved in local affairs within the municipal area, and
- (d) visitors and other people residing outside of the municipal area who, because of their presence in that area, make use of services or facilities provided by the Council;

“**municipality**” means the Matjhabeng Local Municipality and its legal successors, and when referred to as-

- (a) a legal entity, means Matjhabeng Local Municipality as described in section 2 of the Local Government: Municipal Systems Act, (Act No. 32 of 2000); and
- (b) a geographic area, means the municipal area of the Matjhabeng Local Municipality as determined from time to time in terms of the Local Government: Municipal Demarcation Act, 1998(Act No. 27 of 1998);

“**municipal service**” means the municipal service relating to the collection of waste, including domestic waste, business waste and dailies, provided exclusively by the Council in accordance with Chapter 3 of these By-laws, and which in the case of business waste extends only to waste deposited in bin liners, bins and 240 litre wheeled bins;

**“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”** includes any person in actual occupation of land or premises without regard to the title under which he or she occupies, and, in the case of premises let, includes the person receiving the rent payable by the lodgers or tenants whether for his own account or as an agent for any person entitled thereto or interested therein;

**“owner”** includes any person who has the title to land or premises or any person receiving the rent or profits of land or premises, or who would receive such rent or profits if such land or premises were let, whether for his own account or as an agent for any person entitled thereto or interested therein and in relation to premises on a sectional title register opened in terms of section 12 of the Sectional Titles Act, 1986 (Act No. 95 of 1986), means the body corporate as defined in that Act;

**“pollution”** means any change in the environment caused by:

- (a) any substance; or
- (b) noise, odour, dust or heat, emitted from any activity, including the storage or treatment of any waste or substance, construction and the provision of any service, whether engaged in by any person or an organ of state; if that change has an adverse effect on human health or well-being or on the composition, resilience and productivity of a natural or managed ecosystem, or on material 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, agricultural or residential purposes;

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

**“public place”** includes any public building, public road, overhead bridge, subway, foot pavement, footpath, sidewalk, lane, square, open space, garden, park or enclosed space, vested in the 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 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;

**“radioactive waste”** means any radioactive material which is, or is intended to be, disposed of as waste;

**“recyclable waste”** means waste which has been separated from the waste stream, and set aside for purposes of recycling;

**“recycling”** means the use, re-use or reclamation of material so that it re-enters an industrial process rather than becoming waste;

**“resident”** in relation to the municipal area, means a person who is ordinarily resident within that area;

**“SANS Codes”** means the South African National Standards Codes of Practice or the South African Bureau of Standards Codes of Practice as contemplated in Government Notice No. 1373 published in Government Gazette 24002, dated 8 November 2002 in terms of the Standards Act, 1993 (Act No. 29 of 1993);

“**special industrial waste**” means waste consisting 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;

“**storage**” means the storage of waste for a period of less than 90 days;

“**Structures Act**” means the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

“**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;

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

“**target**” means any desired air quality, water quality or waste standard contained in any legislation;

“**verge**” means a verge as defined in the National Road Traffic Act, 1996 (Act No. 93 of 1996);

“**waste**” means any undesirable or superfluous matter, material, by-product or residue of any process or activity that has been discarded, accumulated or stored for the purpose of treatment, discarding or recycling and may be liquid or solid, may include products that contain a gaseous component and may originate from domestic, commercial, medical or industrial activities, but does not include any gas or gaseous product which may be regulated by national or Free State provincial legislation;

“**waste disposal facility**” means any facility or site which receives waste for treatment or disposal thereof, and which is operated in terms of a permit obtained from the National Department of Water Affairs and Forestry or any other competent authority or if such a facility is an incinerator, subject to registration or such permission as is required by law, and includes a garden waste handling facility;

“**waste generator**” means any person who generates or produces waste;

“**waste handling facility**” means any facility on or in which waste is accepted, accumulated, handled, recycled, sorted, stored or treated prior to its transfer for treatment by way of incineration or for final disposal;

“**waste stream**” means a type of waste, including building waste; business waste; bulky waste; dailies; domestic waste; garden waste; hazardous waste; health care risk waste; industrial waste; recyclable waste and special industrial waste;

“**workplace**” means any place within the municipal area on or in which or in connection with which, a person undertakes the municipal service or a commercial service;

“**wrapper**” means a plastic or other approved material covering that totally encloses bales or slugs of compacted waste.

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

#### Application of by-law

2. (1) This by-law applies to all waste management used by customers or persons which fall under the jurisdiction of Council.
- (2) This by-law is binding on the municipality as an organ of state.

#### Purpose of by-law

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

- (a) to ensure that the way in which the Council controls, manages and develops waste management is environmentally sustainable, and is in the long-term interests of the whole community of Matjhabeng including future generations; and
- (b) which clearly defines the rights and obligations of the public in relation to waste management.

### Principles

4. (1) The Council [has the responsibility to ensure that] shall monitor all waste generated within the municipal area [is] and ensure that waste is collected, disposed of or recycled in accordance with these by-laws; and that such collection, disposal or recycling takes account of the waste management hierarchy set out in subsection (2).
- (2) The underlying principle of these by-laws is to establish a waste management hierarchy in the following order of priority:
- (a) Avoidance, waste minimisation and waste reduction;
  - (b) re-use;
  - (c) disposal.
- (3) Any authorised official must, as far as reasonably possible, take into account the hierarchy specified in subsection (2).

### Main objects

- 5 (1) The main objects of these by-laws are:
- (a) the regulation of the collection, disposal, treatment and recycling of waste;
  - (b) the regulation of the provision of the municipal service by a service provider and commercial services by licensees; and
  - (c) enhancing sustainable development.
- (2) In pursuing the main objects of these by-laws, and in particular the object set out in subsection (1) (c), the Council must:
- (a) endeavour to minimise the consumption of natural resources;
  - (b) promote the re-use and recycling of waste;
  - (c) encourage waste separation to facilitate re-use and recycling;
  - (d) promote the effective resourcing, planning and delivery of the municipal service and commercial services;
  - (e) endeavour to achieve integrated waste planning and services on a local basis;
  - (f) promote and ensure an environmentally responsible municipal service and commercial service; and
  - (g) endeavour to ensure compliance with the provisions of these by-laws.

### Establishment of information system

6. (1) The Council must establish and maintain a waste management information system which records how waste is managed within the municipal area.
- (2) The information system may include any information relating to or connected with the management of waste within the municipal area.

**Purpose of information system**

7. (1) The purpose of the information system referred to in section 6, is for the Council to:
- (a) record data relating to the implementation of the local waste plan and the management of waste in the municipal area;
  - (b) record information held by the Council in relation to any of the matters referred to in section 8(1);
  - (c) furnish information upon request or as required by law to the Free State provincial or national government;
  - (d) gather information and undertake strategic planning regarding potential and actual waste generators, service providers and licensees; and
  - (e) provide information to waste generators, service providers, licensees and the local community in order to:
    - (i) facilitate monitoring of the performance of the Council, service providers and licensees, and, where applicable, waste generators;
    - (ii) stimulate research; and
    - (iii) assist the Council to achieve the main objects of these by-laws specified in section 5.

**Provision of information**

8. (1) The Council may, subject to the provisions of any other law including the common law, require any waste generator, licensee, service provider or person involved in or associated with the provision of the municipal service or any commercial service within the municipal area to furnish information to the Council which may reasonably be required for the information system, and which may concern:
- (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, waste treatment and waste disposal facilities;
  - (e) population and development profiles;
  - (f) reports on progress in achieving waste management targets;
  - (g) the management of radioactive waste;
  - (h) any information which has been compiled in accordance with section 29(2) (d);
  - (i) markets for waste by class of waste or category; and
  - (j) any other information required by legislation, regulations or guidelines.
- (2) The Council may determine when and how often information must be furnished.

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**CHAPTER 3****MUNICIPAL SERVICE****PART 1: PROVIDING ACCESS TO MUNICIPAL SERVICES****Duty to provide access to municipal service**

9. (1) The Council has a duty to the local community progressively to ensure efficient, affordable, economical and sustainable access to the municipal service.
- (2) The duty referred to in subsection (1) is subject to:-
- (a) the obligation of the members of the local community to pay the prescribed fee, for the provision of the municipal service, which must be in accordance with any nationally prescribed norms and standards for rates and tariffs; and
  - (b) the right of the Council to differentiate between categories of users and geographical areas when setting service standards and levels of service for the provision of the municipal service.
- (3) The Council must take the following factors into account in ensuring access to the municipal service:
- (a) The waste management hierarchy set out in section 4(2);
  - (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.

**The provision of municipal service**

10. (1) The Council must as far as reasonably possible and subject to the provisions of these by-laws, provide for the collection of domestic waste, business waste and dailies by notice to the public on a [regular basis] specified day determined by the Council and at a cost to end users determined by the Council in accordance with the prescribed fee.
- (2) In relation to the municipal service, the Council may determine:
- (a) the quantities of waste that will be collected;
  - (b) which residential or commercial premises require an increased frequency of the municipal service for reasons of health, safety or environmental protection;
  - (c) the maximum amount of waste that may be placed for collection without the provision of an additional service or payment of an additional prescribed fee; and
  - (d) requirements for the provision of waste storage areas and access to such areas in respect of premises which are constructed or reconstructed after the commencement of these by-laws.
- (3) The Council may provide, or instruct a generator of waste to provide, an approved receptacle for the storage of domestic waste, business waste and dailies pending collection or the Council may provide such receptacle which remains the property of the Council.



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- (4) In providing the municipal service, the Council may determine or designate-
- (a) collection schedules;
  - (b) locations for placing approved receptacles for collection;
  - (c) which types of waste generated by the occupier of any premises are separable for the purposes of recycling and the conditions for their separation, storage or collection; and
  - (d) which waste items are unsuitable for collection because they do not constitute domestic waste, and if waste is determined to be unsuitable for collection, a process for collection of such waste should be recommended to the owner of the waste.
- (5) The Council may require a generator of dailies or business waste to compact that portion of the waste that is compactable, if the quantity of dailies or business waste generated on premises requires daily removal of more than the equivalent of eight 240-litre bins and if, in the opinion of the Council, the major portion of such waste is compactable.
- (6) An occupier of premises may elect to compact any volume of waste referred to in subsection (5), and place it into an approved receptacle or wrapper, provided:
- (a) the capacity of the wrapper does not exceed 85 litres and the mass of the wrapper and contents does not exceed 35 kilograms; and
  - (b) after the waste has been compacted and put into the wrapper, it is placed in an approved receptacle and stored so as to prevent damage to the wrapper or any nuisance arising until it is collected.
- (7) Any approved receptacle used in terms of subsection (6) may be collected, emptied and returned to the premises by the Council at such intervals as it may consider necessary.
- (8) The Council may at any time review any decision taken by it in terms of subsection (4).
- (9) The Council must in writing notify every generator of domestic waste, business waste and dailies of any decision taken in terms of subsection (2) or (3) relating to his or her premises.
- (10) Non-receipt of a notice contemplated in subsection (9), does not affect the application of any provision of these by-laws nor the liability to pay any prescribed fee provided for in these by-laws.

## PART 2: USING MUNICIPAL SERVICE

### Obligations of generators of domestic waste, business waste and dailies

11. (1) Any person generating domestic waste, business waste and dailies, other than waste which has been designated by the Council as recyclable as contemplated in section 10(4)(c), must place waste, in an approved receptacle.
- (2) No person may allow an animal in his or her control to interfere with, overturn or damage a receptacle, which has been placed for collection.
- (3) The occupier of premises must ensure that:
- (a) no hot ash, unwrapped glass or other domestic waste, business waste or dailies which may cause damage to approved receptacles or which may cause injury to the Council's employees while carrying out their duties in terms of these by-laws, is placed in an approved receptacle before suitable steps have been taken to avoid such damage or injury, but the Council may, as far as reasonably possible, assist in the collection of such waste;

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- (b) no material, including any liquid, which by reason of its mass or other characteristics is likely to render an approved receptacle unreasonably difficult for employees of the Council to handle or carry, is placed in an approved receptacle;
  - (c) every approved receptacle on the premises is kept closed save when waste is being deposited in it or discharged from it, and every approved receptacle is kept in a clean and hygienic condition;
  - (d) no approved receptacle delivered by the Council is used for any purpose other than the storage of domestic waste, business waste and dailies and, in particular, that no fire is lit in such receptacle;
  - (e) an approved receptacle is placed outside the entrance to the premises before a time and on a day of the week specified by the Council by written notice to the owner or occupier of the premises, except where, on written application to the Council, the Council has indicated in writing that it is satisfied that a person is physically infirm or otherwise incapable of complying with the notice;
  - (f) an approved receptacle, placed in accordance with paragraph (e) is not damaged and properly closed so as to prevent the dispersal of its contents; and
  - (g) dailies are not placed in a receptacle or compactor where they are able to contaminate another waste stream.
- (4) The owner or occupier of premises must provide space and any other facility considered necessary by the Council on the premises for the storage of approved receptacles.
- (5) The space provided in terms of subsection (4), must:
- (a) be in a position on the premises which will allow the storage of any approved receptacle without it being visible from a public road or public place;
  - (b) if dailies are generated on premises:
    - (i) be in a position which will allow the collection and removal of that waste by the Council's employees without hindrance; and
    - (ii) not be more than 20 metres from the entrance to the premises used for the collection of waste by the Council;
  - (c) be so located as to permit convenient access to and egress from such space for the Council's waste collection vehicles;
  - (d) comply with any further requirements imposed by the Council by written notice to the owner or occupier of the premises; and
  - (e) be constructed in accordance with the requirements of any applicable legislation relating to buildings.
- (6) The occupier of premises must place or cause the approved receptacles to be placed in the space provided in terms of subsection (4) and must at all times keep them there.
- (7) Notwithstanding the provisions of subsection (6):
- (a) in the case of a building erected, or a building, the building plans of which have been approved, prior to the commencement of these by-laws; or
  - (b) in the event of the Council being unable to collect and remove waste from the space provided in terms of subsection (4), the Council may, having regard to the avoidance of a nuisance and the convenience of collection of waste, indicate a position within or outside the premises concerned where approved receptacles must be placed for the collection and removal of waste and such receptacles must then be placed in that position at such times and for such period as the Council may require.

**Liability to pay for municipal service**

12. (1) The owner of premises is liable to pay to the Council the prescribed fee for the provision of the municipal service, and is not entitled to exemption from, or reduction of the amount of such fee by reason of not making use, or of making a partial or limited use, of the municipal service.
- (2) (a) A prescribed fee becomes due and payable on the due date for payment stipulated in the account.
- (b) Non-receipt of an account does not relieve the person concerned of the liability to pay a prescribed fee before or on the due date.

**CHAPTER 4****COMMERCIAL SERVICES****PART 1: PROVISION OF COMMERCIAL SERVICES BY LICENSEES AND FLOW CONTROL****Provision of commercial services by licensees**

13. (1) Except in the case of garden waste, only a licensee may provide a commercial service.
- (2) Any person requiring a commercial service must satisfy himself that the contractor is licensed to collect and dispose of the category of waste that has been generated.

**Provision for Council co-ordination of waste disposal**

14. (1) The Council may by a notice published in the Provincial Gazette, direct that a category of waste be disposed of at a particular waste disposal facility or waste handling facility.
- (2) No person may dispose of a category of waste at a waste disposal facility or waste handling facility which is not designated for receipt of that category of waste in a notice in terms of subsection (1) or designated by the Council under other empowering legislation prior to the commencement of these by-laws.

**PART 2: BUSINESS, INDUSTRIAL AND RECYCLABLE WASTE****Storage of business, industrial and recyclable waste**

15. The owner or occupier of premises on which business, industrial or recyclable waste is generated, must ensure that until such time as such waste is collected by a licensee from the premises on which it was generated-
- (a) the waste is stored in a bulk container or other approved receptacle; and
- (b) no nuisance or health risk, including but not limited to dust, is caused by the waste in the course of generation, storage or collection.

**Collection and disposal of industrial, business and recyclable waste**

16. (1) The owner or occupier of premises generating business, industrial or recyclable waste must ensure that:
- (a) the container in which the waste is stored, is not kept in a public place except when so required for collection;
- (b) the waste is collected by a licensee within a reasonable time after the generation thereof; and
- (c) that the service rendered by the licensee is only in respect of that portion of the business, industrial or recyclable waste authorised in the licence concerned.

- (2) a licensee must dispose of business, industrial and recyclable waste at an appropriately permitted waste handling facility or waste disposal facility in compliance with the provisions of these by-laws.

### PART 3: GARDEN WASTE AND BULKY WASTE

#### Storage, collection and disposal of garden waste and bulky waste

17. (1) The owner or occupier of premises on which garden waste is generated may compost garden waste on the property, provided such composting does not cause a nuisance or health risk.
- (2) The occupier of the premises on which garden waste is generated and not composted or on which bulky waste is generated must ensure that such waste is collected and disposed within a reasonable time after the generation thereof.
- (3) Any person or licensee may remove garden waste and bulky waste, provided once such waste has been collected from the premises on which it was generated, it is deposited at a garden waste handling facility in accordance with the provisions of these by-laws.
- (4) (a) At the written request of the occupier of premises, the Council may deliver an approved receptacle to the premises for the purpose of storing garden waste in addition to any approved receptacle delivered to the premises for the storage of domestic waste.
- (b) The provisions of section 10, read with the necessary changes, apply to an approved receptacle delivered in terms of paragraph (a).
- (5) If, in the course of providing the municipal service, the Council is of the opinion that it would cause inconvenience to members of the public not, at the same time, to remove garden and bulky waste, the Council may remove such waste if such waste has been placed in an approved receptacle in the space designated for domestic waste, in which event the prescribed fee for domestic waste, read with the necessary changes, applies.

### PART 4: BUILDING WASTE

#### Generation of building waste

18. The owner or occupier of premises on which building waste is generated, 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 instruction from the Council any structure necessary to contain the building waste is constructed.

#### Storage of building waste

19. (1) The Council may, subject to the provisions of subsection (2), determine conditions to place a receptacle for the storage and removal of building waste on a verge.
- (2) Every receptacle used for the storage and removal of building waste must:
- (a) have clearly marked on it the name, address and telephone number of the person in control of that receptacle;

- (b) be fitted with reflecting chevrons or reflectors which must completely outline the front and the back thereof; 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.

#### **Collection and disposal of building waste**

20. (1) The owner or occupier of premises on which building waste is generated, must ensure that the waste is disposed of by a licensee.
- (2) All building waste must be disposed at a waste disposal facility designated for that purpose by the Council in terms of section 14, unless the Council has given written consent for the building waste to be used for the purpose of land reclamation or for recycling.

#### **PART 5: SPECIAL INDUSTRIAL, HAZARDOUS OR HEALTH CARE RISK WASTE**

##### **Generation of special industrial, hazardous or health care risk waste**

21. (1) No person may carry on an activity which will generate special industrial, hazardous or health care risk waste, without notifying the Council in writing, prior to the generation of such waste, of the composition of such waste, the estimated quantity to be generated, the method of storage, the proposed duration of storage, the manner in which it will be collected and disposed of, and the identity of the licensee who will remove such waste: Provided that if such waste is being generated as a result of activities which commenced prior to the commencement of these by-laws, the generator must notify the Council as contemplated in this subsection within 180 days of the commencement of these by-laws.
- (2) If so required by the Council, the notification referred to in subsection (1) must be substantiated by an analysis of the composition of the waste concerned, certified by an appropriately qualified industrial chemist.
- (3) The person referred to in subsection (1), must notify the Council in writing of any change occurring with respect to the generation, composition, quantity, method or location of disposal of the special industrial, hazardous, or health care risk waste.

##### **Storage of special industrial, hazardous or health care risk waste**

22. (1) Any person carrying on an activity which generates special industrial, hazardous or health care risk waste, must ensure that such waste generated on the premises is kept and stored thereon until it is collected from the premises.
- (2) Special industrial, hazardous or health care risk waste stored on premises, must be stored in such a manner that it does not become a nuisance or causes harm to human health or damage to the environment, and in accordance with the requirements of any applicable legislation relating to buildings.
- (3) Special industrial, hazardous or health care risk waste stored on premises, must be stored in an approved receptacle and for a period not exceeding 90 days or any other maximum period stipulated by the Department of Water and Environmental Affairs, Free State Provincial Government or Council, before collection.

##### **Collection and disposal of special industrial, hazardous or health care risk waste**

23. (1) Only a licensee may transport special industrial, hazardous and health care risk waste and must do so in accordance with the requirements of the conditions of the licence issued to him or her under Chapter 6 as well as in the relevant SANS codes, in respect of the type of vehicle, the markings and manner of construction of such vehicle, procedures for safety and cleanliness, and documentation relating to the source, transportation and disposal of such waste, and subject to the requirements of any other legislation.

- (2) A licensee licensed to collect and dispose of special industrial, hazardous or health care risk waste, must inform the Council at intervals stipulated in the licence issued under Chapter 6, of each removal of special industrial, hazardous or health care risk waste, the date of such removal, the quantity, the composition of the waste removed and the waste disposal facility at which the waste has been disposed of.
- (3) A licensee must dispose of special industrial, hazardous or health care risk waste at a waste disposal facility designated by the Council at a waste disposal facility and in accordance with the provisions of section 22.

## CHAPTER 5

### TRANSPORTATION AND DISPOSAL OF WASTE

#### Transportation of waste

24. (1) No person may:
  - (a) operate a vehicle for the conveyance of waste upon a public road unless the vehicle has a body of adequate size and construction for the type of waste being transported;
  - (b) fail to maintain a vehicle used for the conveyance of waste in a clean, sanitary and roadworthy condition at all times;
  - (c) fail to cover loose waste on an open vehicle with a tarpaulin or suitable net; and
  - (d) cause or permit any waste being transported in or through the municipal area to become detached, leak or fall from a vehicle transporting it, except at a waste disposal facility.
- (2) Subject to the provisions of subsection (1), all transportation of waste must comply with the National Road Traffic Act, 1996 (Act No. 93 of 1996).

#### Disposal of waste

25. (1) (a) Waste generated in the municipal area must be disposed of at a waste disposal facility where such disposal is permitted by the Council.
  - (b) In disposing of waste, a licensee must comply with the provisions of these by-laws and any other law regulating the disposal of waste.
- (2) No person may burn waste either in a public or private place, for the purpose of disposing of that waste.
- (3) No person may incinerate waste either in a public or private place, except in an incinerator at a place where the relevant national or Free State Provincial authorities permit such incineration, or at a place designated by the Council for that purpose.
- (4) Notwithstanding the provisions of subsection (1), a person may dispose of those forms of recyclable waste specified by the Council in a notice in terms of section 14 at a designated garden waste handling facility, but may do so only if all such waste is brought to the facility in a vehicle able to carry a maximum load of one tone or less.
- (5) The disposal of waste at any waste disposal facility is, in addition to any condition imposed by the National Department of Water Affairs and Forestry, subject to such conditions as the Council may impose, including the hours of opening and closing, the nature of the waste which may be disposed of, the position in any such waste disposal facility in which the waste may be placed and any other matter which the Council considers necessary to ensure the environmentally sound management of waste.

- (6) Every person who enters a waste disposal facility must:
- (a) enter a waste disposal facility at an access point determined by the person in charge of the waste disposal facility;
  - (b) at the request of the person in charge of a waste disposal facility, provide the Council or that person with any information regarding the composition of the waste disposed of or to be disposed of; and
  - (c) comply with any instruction by the person in charge of a waste disposal facility in regard to access to, the actual place where, and the manner in which, waste must be deposited.
- (7) No person may:
- (a) bring any liquor or intoxicating or narcotic substance onto a waste disposal facility or enter such facility under the influence of liquor or such substance;
  - (b) enter a waste disposal facility for any purpose other than the disposal of waste in terms of these By-laws, unless authorised to do so by the person in charge of the waste disposal facility or the Council and then only at such times and subject to such conditions as the Council or such person may impose;
  - (c) dispose of waste at a waste disposal facility where the disposal of the waste concerned is not permitted; or
  - (d) light a fire on a waste disposal facility without the prior written consent of the person in charge of that facility.
- (8) Any person who contravenes subsection (7) (c) is liable for all costs reasonably incurred by the Council in removing or otherwise dealing with the waste concerned.
- (9) The person in charge of a waste disposal facility may at any time require a vehicle or a container on a vehicle brought into the waste disposal facility for the purposes of disposing of waste, to be weighed at a weighbridge.
- (10) The person in charge of a waste disposal facility or an authorised official may, at a waste disposal facility, inspect the content and nature of waste to be disposed of or processed and may take samples and test any waste found on any vehicle to ascertain its composition.
- (11) Any person contravening any preceding provision of this section, may be refused entry or instructed by the person in charge to leave a waste disposal facility and if such person fails or refuses to comply with such instruction, he or she may be removed from such facility by a member of the Law Enforcement.
- (12) No person may store waste for more than 90 consecutive days, unless the person has a permit in respect of the premises concerned for a waste disposal facility from the Department of Water and Environmental Affairs in terms of section 20(1) of the Environment Conservation Act, 1989 (Act No. 73 of 1989).

## CHAPTER 6

### LICENSEES

#### Licence requirements

26. (1) Subject to the provisions of section 33, no person may collect or transport any of the following waste streams listed in subsection (2) without having obtained from the Council, and being in possession of a licence authorising such collection and transportation:
- (a) business (bulk containerised) waste;
  - (b) industrial waste;
  - (c) special industrial waste;
  - (d) hazardous waste;
  - (e) recyclable waste;
  - (f) health care risk waste; and

- (g) building waste.
- (2) A licence issued under this Chapter -
  - (a) is incapable of session or assignment without the prior written consent of the Council;
  - (b) is valid only for the category of waste specified therein; and
  - (c) expires one year after the date of issue subject to the provisions of sections 28 and 30.

#### **Licence applications**

- 27. (1) An application for a licence to provide a commercial service must be:
  - (a) made in writing on a form prescribed by the Council and accompanied by the documentation specified in that form; and
  - (b) accompanied by the prescribed fee.
- (2) The Council must consider each application, having regard to the following:
  - (a) The applicant's compliance, where relevant, with the National Road Traffic Act, 1996, and with these by-laws;
  - (b) the environmental, health and safety record of the applicant; and
  - (c) the nature of the commercial service to be provided.
- (3) Before considering the application made in terms of subsection (1), the Council may require the applicant to furnish such information as it may require.
- (4) After considering the application in terms of subsection (2), the Council must either -
  - (a) approve the application by issuing a licence subject to any condition it may impose; or
  - (b) reject the application.
- (5) If the Council fails to consider and grant or reject a licence application within 60 days of its receipt of the application, it must inform the applicant in writing that the period for consideration is extended and must inform the applicant of the date by which a decision will be made.

#### **Suspension and revocation of licences**

- 28. (1) A licence issued under this Chapter may be suspended or revoked by the Council on the grounds that the licence holder:
  - (a) has failed to comply with any provision of these by-laws;
  - (b) has failed to comply with any provision of any national or Free State provincial legislation which regulates the collection, transportation or disposal of waste;
  - (c) has failed to comply with any licence condition contemplated in section 27; or
  - (d) on any other ground which the Council considers relevant, which is fair and reasonable in the circumstances.
- (2) A licence may only be suspended or revoked after -
  - (a) the licence holder has been given written notice that the Council is considering the suspension or revocation of the licence; and



- (b) after the licence holder has been given a period of 30 days after service of the notice to make representations to the Council as to why the licence should not be suspended or revoked.
- (3) The Council must:
- (a) make a decision within 14 days of receipt of the representations contemplated in subsection (2) (b), if any, or within 14 days after the licence holder informed the Council that he or she does not wish to make representations, or if no representations are received, within 14 days of the expiry of the period referred to in subsection (2) (b); and
- (b) inform the licence holder of its decision in writing within seven days of making it.
- (4) Subject to the provisions of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000), the Council may not disclose any confidential commercial information submitted as part of a licence application procedure to any person other than a Council official requiring such information to perform his functions for the purposes of these by-laws.

#### **Licence terms and conditions**

29. (1) When issuing a licence under this Chapter, the Council may, subject to the provisions of subsection (2), impose any reasonably necessary condition in furthering national, Free State provincial or Council, waste management policy.
- (2) Any licence issued under this Chapter must:
- (a) specify the licence period contemplated in section 26(2)(c) and the procedure for renewal of the licence;
- (b) specify every category of waste which the licence holder may collect and transport;
- (c) contain a requirement that the licence holder must comply with, and ensure compliance by his or her employees, agents and sub-contractors, with these By-laws and applicable national and Free State provincial legislation; and
- (d) require the licence holder to keep monthly written records on a form prescribed by the Council of the quantities of each category of waste collected and transported during the licence period.

#### **Renewal of licences**

30. (1) A licence holder who wishes to renew his or her licence must apply to renew the licence concerned at least 90 days prior to the expiry of the existing licence.
- (2) The Council must consider and grant or reject a licence renewal application within 60 days of the receipt of the application subject to the provisions of section 27.
- (3) If the Council fails to consider and grant or reject a licence renewal application within 60 days, it must inform the applicant in writing that the period for consideration is extended and must inform the applicant of the date by which a decision will be made.
- (4) A licence in respect of which application for renewal has been made in terms of subsection (1) remains valid until a final decision has been made in respect of that application.

#### **Display of licences**

31. (1) Upon issuing a licence under this Chapter, the Council must issue to the licence holder a numbered sticker for each vehicle to be used for the purpose concerned confirming that the licence holder is authorised to collect and transport the category of waste specified on the sticker.
- (2) The stickers must vary in colour for each category of waste.
- (3) The licence holder must affix such sticker to each vehicle to be utilised to provide the service and display the sticker at all times.

- (4) Waste for processing or disposal at a waste disposal facility will be only be received at such facility from a contractor who is licensed and on whose vehicle a sticker required in terms of subsection (3), is displayed.

#### **Prohibited conduct**

32. (1) No licence holder may:
- (a) intentionally or negligently operate in contravention of any condition of the licence concerned;
  - (b) intentionally or negligently fail or effuse to give information, when required to do so in terms of these By-laws, or give false or misleading information;
  - (c) intentionally or negligently fail to take all reasonable steps to prevent a contravention of these By-laws, by any act or an omission of his or her employee acting in the course and scope of his or her duties, or
  - (d) collect or transport any waste except in a properly constructed, watertight vehicle or in a suitable container that prevents spillage of waste, the suitability of the vehicle to be dependant on the waste stream contemplated in section 26(1), to be collected or transported, as specified in the National Road Traffic Act, 1996.

#### **Exemptions**

33. The Council may, having regard to the main objects of these by-laws contemplated in section 3(1), and its local waste plan, by notice in the Free State Provincial Gazette, exempt any type of commercial service from any provision of this Chapter to the extent and subject to the terms specified in such notice.

#### **Transitional provisions**

34. (1) Any person who is at the commencement of these By-laws lawfully providing a commercial service for which a licence is required under this Chapter, must within 90 days of such commencement, make application for a licence in terms of section 27, failing which such person's right to provide such service lapses.
- (2) If an application is submitted in terms of subsection (1), the applicant may continue to provide the commercial service in respect of which the application has been made until a final decision has been taken in respect of that application.

### **CHAPTER 7**

#### **ACCUMULATING WASTE, LITTERING, DUMPING AND ABANDONED ARTICLES**

##### **Accumulating waste**

35. Every owner and occupier of premises must keep those premises clean and free from any waste which is likely to cause a nuisance, harm to human health or damage to the environment.

##### **Duty to provide facilities for litter**

36. (1) The Council or owner in the case of privately owned land, must take reasonable steps to ensure that a sufficient number of approved receptacles are provided for the discarding of litter by the public, on any premises to which the public has access.
- (2) The Council, or owner of privately owned land, must ensure that every receptacle provided in terms of subsection (1), is -
- (a) maintained in good condition;
  - (b) suitably weighted or anchored so that it cannot be inadvertently overturned;
  - (c) constructed in such a manner as to ensure that it is weatherproof and animal proof;
  - (d) of a suitable size so that the receptacles on the premises are capable of containing all litter likely to be generated on the premises;

- (e) placed in a location convenient for the use by users and occupants of the premises to discourage littering or the accumulation of waste; and
- (f) emptied and cleansed periodically to ensure that no receptacle or its contents become a nuisance.

#### **Prohibition of littering**

37. (1) No person may:
- (a) cause litter;
  - (b) sweep any waste into a gutter, onto a road reserve or onto any other public place;
  - (c) disturb anything in, or remove anything from any receptacle which has been placed for the purposes of collecting litter in such a manner as to cause any of the contents of the receptacle to spill from it; or
  - (d) allow any person under his or her control to do any of the acts referred to in paragraph (a), (b) or (c).
- (2) Notwithstanding the provisions of subsection (1), the Council, or the owner in the case of privately owned land to which the public has access, must within a reasonable time after any litter has been discarded, dumped or left behind, remove such litter or cause it to be removed from the premises concerned to prevent the litter from becoming a nuisance.

#### **Prohibition of dumping and abandoning articles**

38. (1) No person may deposit or permit the depositing of any waste, whether for gain or otherwise, upon any land or in any building of which he is the owner or occupier except if such deposit is made in accordance with the provisions of these by-laws.
- (2) Subject to any provision to the contrary contained in these by-laws, no person may leave any article or allow any article under his or her control to be left at a place with the intention of abandoning it.
- (3) No person may dump waste.
- (4) Any article, other than a motor vehicle deemed to have been abandoned as contemplated in regulation 320 of the National Road Traffic Regulations, 2000, made under the National Road Traffic Act, 1996, which, in the light of such factors as the place where it is found, the period it has been at such place and the nature and condition of such article, is reasonably considered by the Council as having been abandoned, may be removed and, subject to the provisions subsection (6), disposed of by the Council as it deems fit.
- (5) The Council may remove and, subject to the provisions of subsection (6), dispose of any article which is chained or fastened to any pole, parking meter or any other property of the Council as it deems fit.
- (6) If an article contemplated in subsection (4) or (5), is in the opinion of the Council, of significant financial value, the Council may not dispose of it unless it has published a notice in a newspaper circulated in the area where the article was found, describing the article, stating the Council's intention to dispose of it and inviting the owner, or person legally entitled thereto, to claim the article within 30 days of the date of publication of the notice and such article may only be disposed of if no valid claim is made during such period.
- (7) Notwithstanding the provisions of this section, the Council may, in a conspicuous manner and at a place clearly visible to members of the public, place a sign discouraging and forbidding dumping of waste.

### **CHAPTER 8**

#### **AUTHORISED OFFICIALS AND DESIGNATED OFFICERS**

##### **Identification documents**

39. (1) An authorised official must, upon appointment, be issued with an identification document by the Council which must state the name and powers and function of that official, and include a photograph of the official.

- (2) An authorised official, exercising his powers or performing his functions and duties for the purposes of these By-laws, must present an identification document issued in terms of subsection (1) on demand by a member of the local community.

#### **Powers of authorised officials and designated officers**

40. (1) In addition to the powers, functions and duties an authorised official or designated officer has by virtue of his appointment as such, an authorised official or designated officer, may with the consent of the owner or person in charge of a vehicle or other mode of conveyance, search that vehicle or other mode of conveyance found in any place other than on premises not belonging to the Council.
- (2) If consent is not obtained in terms of subsection (1), a vehicle or other mode of conveyance may be searched or stopped and searched, only pursuant to a warrant issued by a justice of the peace as contemplated in sections 3 and 4 of the Justices of the Peace and Commissioners of Oaths Act, 1963 (Act No. 16 of 1963).
- (3) (a) If, in the opinion of an authorised official or designated officer, any search of a vehicle or other mode of conveyance, in terms of subsection (1) or (2), gives rise to the reasonable apprehension that the presence of waste in or on such vehicle or other mode of conveyance is a serious and immediate danger to human health or to the environment, the authorised official or designated officer must instruct the owner or person in control of the vehicle concerned in writing to take the steps specified in that instruction which, in the opinion of such official or officer, are necessary to mitigate harm to human health or damage to the environment.
- (b) In the event of a refusal or failure to comply with an instruction given in terms of paragraph (a), the authorised official or designated officer concerned may report the matter to the South African Police Service with a view to seizure of the vehicle concerned in terms of the Criminal Procedure Act, 1977 (Act No. 51 of 1977).

#### **Powers to question**

41. (1) For the purposes of administering, implementing and enforcing the provisions of these by-laws, an authorised official or designated officer, may require a licensee or any other person to disclose information, either orally or in writing, and either alone or in the presence of a witnesses, on any matter to which these By-laws relate and require that the disclosure be made on oath or affirmation.
- (2) An authorised official or designated officer may for the purposes of subsection (1) be accompanied by an interpreter and any other person reasonably required to assist that official or officer.

#### **Observance of human rights**

42. The provisions of this section, apply to the exercise by an authorised official of any of the powers contemplated and/or delegated to him.

#### **Supervision of licensees**

43. (1) A designated officer must, inspect every workplace of a licensee not less than twice a year.
- (2) A licensee must allow a designated officer access for the purposes of an inspection in terms of subsection (1).
- (3) If a designated officer is, after an inspection in terms of subsection (1), of the opinion, that a licensee is complying with these By-laws, he must subject to the provisions of subsection (4), issue the licensee with a certificate confirming such compliance, in which must be stated :
- (a) the name and residential and postal address of the licensee;
- (b) the address of the premises inspected;
- (c) the time, date and scope of the inspection; and

- (d) any remarks which, in the opinion of the designated officer, may be relevant.
- (4) If a licensee fails to obtain a certificate confirming compliance at three consecutive inspections done at intervals of not less than 120 days, a designated officer may recommend that the Council review the licence concerned, and should there be reasonable grounds, the Council may suspend or revoke the licence concerned in terms of section 28.
- (5) A designated officer must keep a register recording each inspection which he or she has undertaken, in terms of subsection (1).

#### Compliance notices

- 44 If, in the opinion of an authorised official, a person is contravening any provision of these by-laws, that official may in writing issue a compliance notice and serve it on the person concerned.

#### Representations

45. (1) Any person on whom compliance notice as contemplated above, was served, may make representations to the Council, by submitting a sworn statement or affirmation to the Council, within 21 days of the service of the compliance notice.
- (2) Representations not lodged within 21 days must not be considered, except if the person concerned has shown good cause and the Council condones the late lodging of the representations.
- (3) (a) The Council must consider the representations and any response thereto by an authorised official, designated officer or any other person, if any, and may conduct any further investigation to verify the relevant facts.
- (b) If the Council conducts a further investigation, the results of such investigation must be made available to the person who made the representations, who must be given an opportunity to respond thereto and the Council must consider such response.
- (4) (a) After the Council, is satisfied that the requirements of subsection (3) have been satisfied, it must make an order in writing and serve a copy of thereof on the person concerned setting out its findings.
- (b) Such an order may:
- (i) confirm, alter or set aside in whole or in part, the compliance notice concerned; and
  - (ii) must, if relevant, specify the period within which the person concerned must comply with the order.
- (5) If a person makes representations in terms of subsection (1), any requirement to comply with the compliance notice concerned, is suspended until an order is made in terms of subsection (4)(b) unless, in the opinion of the Council, an environmental emergency has been caused in which event and without derogation from any right that the person concerned may have or acquire to any relief of whatever nature, the person concerned must immediately comply with such notice on being instructed, orally or in writing, by the Council to do so.
- (6) If a person, fails to comply with such an order in terms of subsection (5), the Council may itself cause the environmental emergency to be stopped, reversed or abated and recover any reasonable and necessary expenditure which it has incurred or may incur in taking those steps, from that person.

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**CHAPTER 9****MISCELLANEOUS****Ownership**

46. (1) The person holding a permit to operate a waste disposal facility becomes the owner of all waste upon disposal thereof at that facility.
- (2) A person who generates domestic waste is the owner thereof until it is collected by the Council which then becomes the owner thereof.
- (3) A person who abandons any article, is liable for any damage which that article may cause as well as for the cost of removing that article, notwithstanding the fact that such person may no longer be the owner thereof.

**Serving of documents**

47. A notice, instruction, order or other document which has to be served for the purposes of these by-laws, is regarded to have been properly served or delivered if:
- (a) it has been served on or delivered to the person concerned personally;
- (b) it has been sent by registered post or speed post to the person concerned at his or her last known address;
- (c) it has been served on a person apparently not less than 16 years of age and apparently in charge of the premises at the addressee's last known address.

**Offences and penalties**

48. Any person, who:
- (a) contravenes or fails to comply with any provisions of these by-laws;
- (b) fails to comply with any notice or order issued or condition imposed in terms of or for the purposes of these by-laws; or
- (c) fails to comply with any lawful instruction given in terms of or for the purposes of these by-laws, or
- (d) who obstructs or hinders any authorised representative or employee of the Council in the execution of his or her duties under these By-laws, is guilty of an offence and liable on conviction to a fine or in default of payment to imprisonment for a period not exceeding 6 months and in the case of a continuing offence, to a further fine not exceeding R50 or in default of payment, to imprisonment not exceeding one day for every day during the continuance of such offence after a written notice has been issued by the Council and served on the person concerned requiring the discontinuance of such offence.

**Provision for delegation**

49. Subject to the provisions of any other legislation, the Council may delegate or assign in writing any power, duty or function imposed by or under this by-law, to any person in its employ subject further to such conditions as it may deem necessary.

**Repeal of By-laws**

50. The Waste Management by-laws by the former Municipal Councils of Allanridge, Odendaalsrus, Welkom, Virginia, Hennenman and Ventersburg are hereby repealed.

**Short title and commencement**

51. This by-law is called the Waste Management By-Law No 31 of 2008 and shall come into operation upon date of publication in the *Provincial Gazette*.
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**PROVINCIAL GAZETTE**  
(Published every Friday)

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

**Subscription Rates (payable in advance)**

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

**SUBSCRIPTION: (POST)**

PRICE PER COPY	R 16.80
HALF-YEARLY	R420.10
YEARLY	R840.30

**SUBSCRIPTION: (OVER THE COUNTER / E-MAIL)**

PRICE PER COPY	R 10.70
HALF-YEARLY	R 266.20
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Stamps are not accepted

**Closing time for acceptance of copy**

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

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

**Advertisement Rates**

Notices required by Law to be inserted in the Provincial Gazette: R15.30 per centimeter or portion thereof, single column.

Advertisement fees are payable in advance to the Officer in charge of the Provincial Gazette, P.O. Box 517, Bloemfontein, 9300, Tel.: (051) 403 3139.

**NUMBERING OF PROVINCIAL GAZETTE**

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

**PROVINSIALE KOERANT**  
(Verskyn elke Vrydag)

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

**Intekengeld (vooruitbetaalbaar)**

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

**INTEKENGELD: (POS)**

PRYS PER EKSEMPLAAR	R 16.80
HALFJAARLIKS	R420.10
JAARLIKS	R840.30

**INTEKENGELD: (OOR DIE TOONBANK / E-POS)**

PRYS PER EKSEMPLAAR	R 10.70
HALFJAARLIKS	R 266.20
JAARLIKS	R 532.45

Seëls word nie aanvaar nie.

**Sluitingstyd vir die Aannee van Kopie**

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

'n "Laat Advertensie" sal nie sonder definitiewe instruksies van die Adverteerder as sodanige geplaas word nie.

**Advertensietariewe**

Kennisgewings wat volgens Wet in die Provinsiale Koerant geplaas moet word: R15.30 per sentimeter of deel daarvan, enkel-kolom.

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

**NOMMERING VAN PROVINSIALE KOERANT**

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