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 LIMPOPO PROVINSIE  
 XIFUNDZANKULU XA LIMPOPO  
 PROFENSE YA LIMPOPO  
 VUNDU LA LIMPOPO  
 IPHROVINSI YELIMPOPO

**Provincial Gazette • Provinsiale Koerant • Gazete ya Xifundzankulu  
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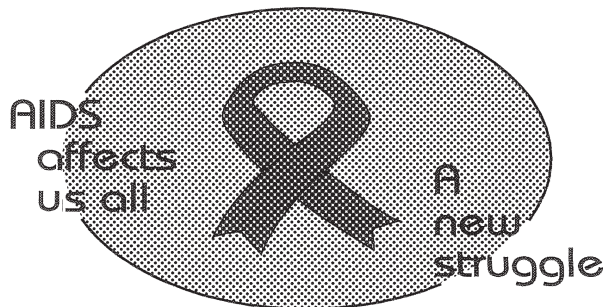
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No. 3010

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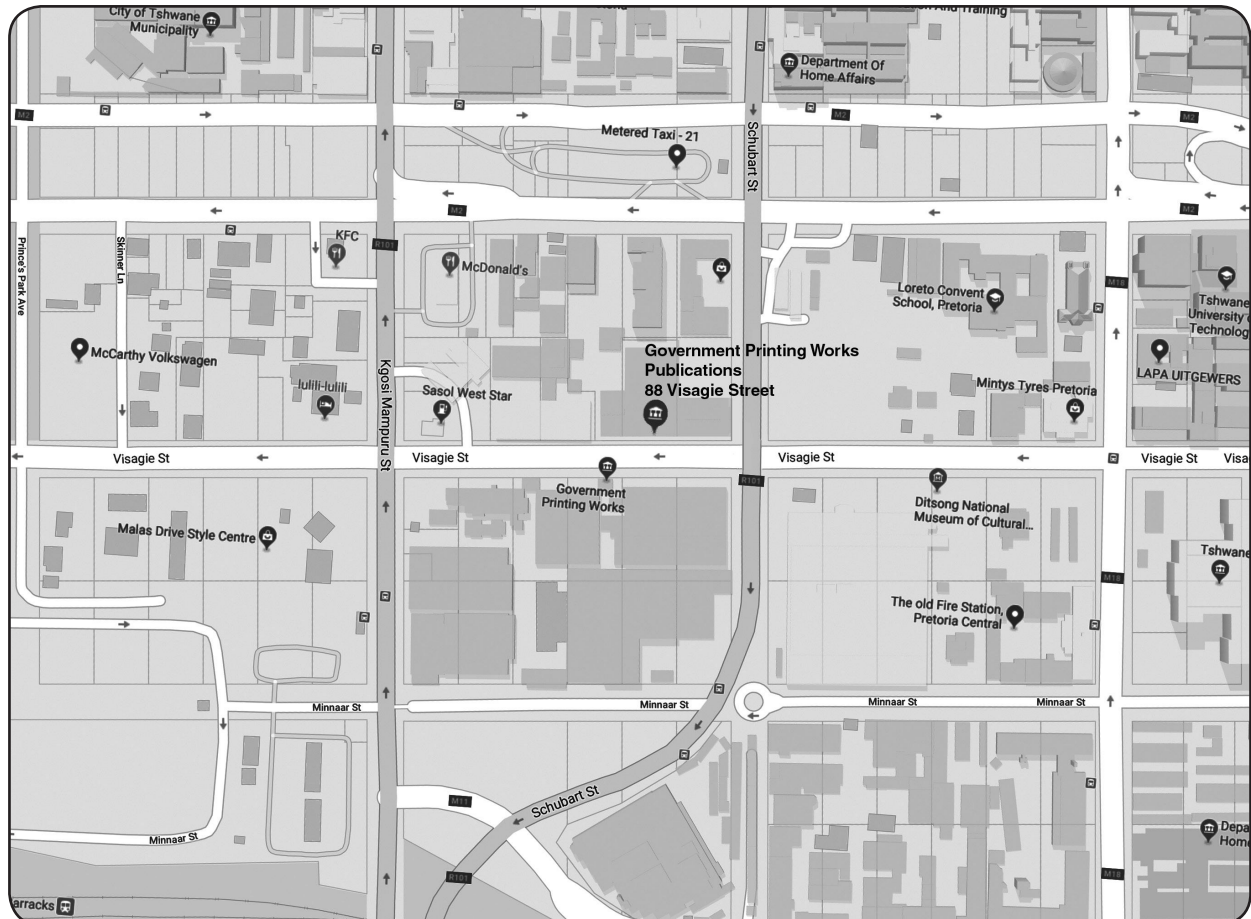
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LOCAL AUTHORITY NOTICES • PLAASLIKE OWERHEIDS KENNISGEWINGS

LOCAL AUTHORITY NOTICE 75 OF 2019

**BA-PHALABORWA MUNICIPALITY**



**APPROVAL DATE BY COUNCIL: 31 May 2019**

**CREDIT CONTROL & DEBT COLLECTION BY-LAW**

**2019/20**

## 1. Definitions

(1) In this By-law, unless the context indicates “

**arrangement**” means a written agreement entered into between the Municipal Manager and a debtor where specific terms and conditions for the payment of a debt are agreed to;

**“arrears”** means any amount due and payable to the Municipality and not paid by the due date; Municipal

**Manager**” means the person appointed by the Council as the municipal manager in terms of section 82 of the Local Government: Municipal Structures Act, No. 117 of 1998, and who also is the accounting officer in terms of the Local Government: Municipal Finance Management Act, No 56 of 2003, or any other official delegated by him or her;

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

**“Councillor”** means a member of the Council;”

**debt**” means any monies owing to the Municipality in respect of the rendering of municipal services, and includes monies owing in regard to property rates, housing, Regional Services Levies, motor vehicle registration and licensing, terminated leases, and any other outstanding amounts, inclusive of any interest thereon, owing to the Municipality;

**“debtor”** means any person who owes a debt to the Municipality;

**“due date”** means the final date on which a payment, as shown on the debtor's municipal account, is due and payable;

**“indigent debtor”** means a debtor who meets certain criteria, as determined by the Municipality from time to time;

**“interest”** means a rate of interest, charged on overdue accounts, which is one percent higher than the prime rate, which is obtainable from any commercial bank on request, unless determined otherwise by the Municipality, on capital, based on a full month and part of a month must be deemed to be a full month;

**“Municipality”** means the Municipality of Ba-Phalaborwa Local Municipality and includes any municipal entity established by such municipality;

**“municipal entity”** means any municipal entity as defined in section 1 of the Municipal Systems Act, No. 32 of 2000;

**“official”** means an “official” as defined in section 1 of the Local Government: Municipal Finance Management Act No. 56 of 2003;

**“policy”** means the Municipality's credit control and debt collection policy;

**“service”** means “municipal service” as defined in section 1 of the Systems Act, and includes a function listed in Schedules 4B and 5B of the Constitution of the Republic of South Africa, 1996 and any other service rendered by the Municipality;

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

**“third party debt collector”** means any person or persons authorised to collect monies or institute legal proceedings against debtors, on -behalf of the Municipality;

**“this By-law”** includes the Credit Control and Debt Collection Policy;

**“total household income”** or “household income” means the total formal and informal gross income of all people living permanently or temporarily on the property on which the account is based; and

**“user”** means a person who has applied for and entered into an agreement with the Municipality for the supply of a service.

## **2. Duty to collect debt**

All debt owing to the Municipality must be collected in accordance with this By-law and the policy.

## **3. Provision of services**

New applications for services and the provision of new services must be dealt with as prescribed in this By-law and the policy.

## **4. Service agreement**

Except as otherwise determined in terms of this By-law and the policy, no services may be supplied until an agreement has been entered into between the Municipality and the user for the supply of a service.

## **5. Deposits**

The Municipality may require the payment of deposits for the provision of new services and the reconnection of services, or may adjust the amount of any existing deposit, as prescribed in this By-law and the policy.

## **6. Interest charges**

The Municipality may charge and recover interest in respect of any arrear debt, as prescribed in this By-law and the policy.

## **7. Arrangements to pay arrears**

(1)The Municipal Manager may make arrangements with a debtor to pay any arrear debt under conditions as prescribed in terms of this By-law and the policy.(2)Should any dispute arise as to the amount of the arrear debt, the debtor must nevertheless continue to make regular payments, in terms of the arrangement, until such time as the dispute has been resolved.

## **8. Agreements with a debtor's employer**

The Municipal Manager may-(a)with the consent of a debtor, enter into an agreement with that person's employer to deduct from the salary or wages of that debtor-(i)any outstanding amounts due by the debtor to the Municipality; or(ii)regular amounts as may be agreed; and(b)provide

special incentives for-(i)employers to enter into such agreements; and(ii)debtors to consent to such agreements.

## **9. Power to restrict, disconnect or discontinue supply of service**

(1)The Municipal Manager may restrict, disconnect or discontinue the supply of any service to the premises of any user or debtor whenever such user or debtor of a service-(a)fails to make payment on the due date;(b)fails to comply with an arrangement;(c)fails to comply with a condition of supply imposed by the Municipality; or(d)tenders a negotiable instrument which is dishonoured by the bank, when presented for payment.(2)The Municipal Manager may reconnect and restore full levels of supply of any of the restricted, disconnected or discontinued services only-(a)after the arrear debt, including the costs of disconnection or reconnection, if any, have been paid in full and any other conditions has been complied with; or(b)after an arrangement with the debtor has been concluded.(3)The Municipal Manager may restrict, disconnect or discontinue the supply of any service to the premises of any debtor or user in respect of any arrear debt or any non-compliance with any service conditions or applicable legislation.

## **10. Recovery of debt**

(1)The Municipal Manager may restrict, disconnect or discontinue any service in respect of any arrear debt.(2)Irrespective of the Municipal Manager exercising any powers in sections 9 and 10(1), the Municipal Manager, must, with regards to rates, and may, with regards to other debt-(a)by legal action recover any debt from any person; and(b)recover debt from any organ of state with due consideration of the provisions of Chapter 3 of the Constitution of the Republic of South Africa, 1996, and may refer a debtor to third party debt collection agencies and have such debtor placed on the National Credit Rating list.(3)Notwithstanding subsections (1) and (2) the Municipal Manager may refer a debtor to third party debt collection agencies and have such debtor placed on the National Credit Rating list.

## **11. Recovery of costs**

The Municipal Manager may recover the following costs, in instances where such costs are incurred by or on behalf of the Municipality:(a)costs and administration fees where payments made to the Municipality by negotiable instruments are dishonoured by banks when presented for payment;(b)legal and administration costs, including attorney-and-client costs and tracing fees incurred in the recovery of debts;(c)restriction, disconnection and reconnection fees, where any service has been restricted or disconnected as a result of non-Compliance with this By-law;(d)any losses the Municipality may suffer as a result of tampering with municipal equipment or meters; and(e)any collection commission incurred.

## **12. Attachment**

The Municipal Manager may, in order to recover debt, and as a last resort, approach a competent court for an order to attach a debtor's movable or immovable property.

## **13. Claim on rental for outstanding debt**

The Municipal Manager may, in terms of section 28, of the Municipal Property Rates Act, No. 6 of 2004, attach any rent, due in respect of any rateable property, to cover in part or in full any amount in respect of outstanding rates after the due date.

## **14. Full and final settlement payments**

(1) Any amount tendered in defrayment of a debt, will be accepted at any cash receiving office of the Municipality. (2) No offer of payment in full and final settlement of a debt, when such amount is less than the outstanding amount, must be accepted, unless confirmed in writing by the Municipal Manager. (3) Notwithstanding subsection (2), the payment so offered must nevertheless be credited against the debtor's account, without prejudice to the Municipality's rights.

## **15. Consolidation of a debtor's accounts**

(1) The Municipal Manager may - (a) consolidate any separate accounts of a debtor; (b) credit a payment by a debtor against any account of that debtor; and (c) implement any of the measures provided for in this By-law and the policy, in relation to any arrears on any of the accounts of such debtor. (2) Subsection (1) does not apply where there is a dispute between the Municipality and a debtor referred to in that subsection concerning any specific amount claimed by the Municipality from that person.

## **16. Indigents**

A debtor, who can prove indigence, will be dealt with as prescribed in the policy.

## **17. Delegation**

The Municipal Manager may delegate any of his or her powers in terms of this By-law or the policy to any employee or official of the Municipality and to any board member of a municipal entity subject to applicable legislation.

## **18. Offences and penalties**

Any person who - (a) obstructs or hinders any councilor or official of the Municipality in the execution of his or her duties under this By-law or the policy; (b) unlawfully uses or interferes



with Municipal equipment or consumption of services supplied;(C)tampers with any Municipal equipment or breaks any seal on a meter;(d)contravenes or fails to comply with the provisions of this By-law or the policy; or(e)fails to comply with a notice served in terms of this By-law or the policy, is guilty of an offence and liable on conviction to a penalty.

### **19. Short title**

This By-law is called the Ba-Phalaborwa Local Municipality: Credit Control and Debt Collection By-law, 2019/20

## BA-PHALABORWA MUNICIPALITY



**APPROVAL DATE BY COUNCIL: 31 May 2019**

**2019/20**

The Municipality Manager of Ba-Phalaborwa Municipality hereby, in terms of Section 13 of the Local Government Municipal System Act, 32 of 2000 (as amended) publishes the **Electricity Supply By-laws** for the **Ba-Phalaborwa Municipality**, as approved by its council

**ELECTRICITY SUPPLY BY-LAWS FOR THE BA- PHALABORWA LOCAL MUNICIPALITY**

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## Electricity Supply By-laws

### Definitions –

1. In this by-law,

- (a) Words used in the masculine gender includes the feminine
- (b) The singular includes the plural and vice versa
- (c) Any word or expression has meaning assigned to it in the Municipal Structures Act of 1998
- (d) Reference to any legislation shall be reference to that legislation and regulations promulgated there-under
- (e) Any word or expression to which a meaning has been assigned in the Local Government: Municipal System Act no 32 of 2000 (as amended) shall have the corresponding meaning and unless the context indicates otherwise:-

**“Applicable standard specification”** means the standard specifications as listed in Schedule 1 attached to this by-law;

**"Certificate of compliance"** means a certificate issued in terms of the Regulations in respect of an electrical installation or part of an electrical installation by an registered person;

**"Civil work permit"** means a permit issued to an applicant for a wayleave granting that applicant consent for the civil work to be undertaken;

**"Consumer"** in relation to premises-

- (a) for supply agreements existing prior to the promulgation of this by-law means-
  - (i) any occupier thereof or any other person with whom the Service Provider has entered into an agreement to supply or is actually supplying electricity thereat;
  - (ii) if such premises are not occupied, any person who has a valid existing agreement with the Service Provider for the supply of electricity to such premises; or
  - (iii) if there is no such person or occupier, the owner of the premises;
- (b) for supply agreements entered into after the promulgation of this by-law means the owner of the premises or his or her designated proxy.

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

**“Director”** means the Director of the Service Provider, any other person lawfully acting in that capacity and any employee of the Service Provider duly authorized thereto by such Director or person so acting;

**“Effective date”** means the date on which the responsibility for the delivery of the electricity service is transferred to the Service Provider;

**"Electrical contractor"** means an electrical contractor as defined in the Regulations;

**"Electrical installation"** means an electrical installation as defined in the Regulations;

**“High voltage”** means the set of nominal voltage levels that are used in power systems for bulk transmission of electricity in the range of  $44\text{kV} < U_n \leq 220\text{ kV}$ . [SANS 1019];

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

**“Medium voltage”** means the set of nominal voltage levels that lie above low voltage and below high voltage in the range of  $1\text{ kV} < U_n \leq 44\text{ kV}$ . [SANS 1019]

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

**"Motor load, total connected"** means the sum total of the kW input ratings of all the individual motors connected to an installation;

**"Motor rating"** means the maximum continuous kW output of a motor as stated on the maker's rating plate;

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

**"Occupier"** in relation to any premises means-

- (a) any person in actual occupation of such premises;
- (b) any person legally entitled to occupy such premises;
- (c) in the case of such premises being subdivided and let to lodgers or various tenants, the person receiving the rent payable by such lodgers or tenants,

whether on his own account or as agent for any person entitled thereto or interested therein, or

- (d) any person in control of such premises or responsible for the management thereof, and includes the agent of any such person when he/she is absent from the Republic of South Africa or his/her whereabouts are unknown;

**"Owner"** in relation to premises, means the person in whom is vested the legal title thereto; provided that-

- (a) in the case of immovable property-

- (i) leased for a period of not less than 50 years, whether the lease is registered or not, the lessee thereof, or  
(ii) beneficially occupied under a servitude or right analogous thereto, the occupier thereof;

- (b) if the owner as hereinbefore defined-

- (i) is deceased or insolvent, has assigned his estate for the benefit of his creditors, has been placed under curatorship by order of court or is a company being wound up or under judicial management, the person in whom the administration of such property is vested as executor, administrator, trustee, assignee, curator, liquidator or judicial manager, as the case may be;  
(ii) is absent from the Republic of South Africa, or if his address is unknown to the Service Provider, any person who as agent or otherwise receives or is entitled to receive the rent in respect of such property; and  
(iii) if the Service Provider is unable to determine who such person is, the person who is entitled to the beneficial use of such property,

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

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

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

**"Point of supply"** means the point determined by the Service Provider or any duly authorised official of the Service Provider at which electricity is supplied to any premises by the Service Provider;



**"Premises"** means any land or any building or structure above or below ground level, or part thereof, and includes any vehicle, aircraft or vessel;

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

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

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

**"Retail wheeling"** means the process of moving third party electricity from a point of generation across the distribution systems of the Service Provider and selling it to a customer;

**"Safety standard"** means the Code of Practice for the Wiring of Premises SANS 10142-1 incorporated in the Regulations;

**"Service Authority"** means Ba-Phalaborwa Municipality established in terms of the law;

**"Service connection"** means all cables and equipment, including all metering equipment, load management equipment, all high, medium or low voltage switchgear and cables required to connect the supply mains to the electrical installation of the consumer at the point of supply;

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

**"Service Provider"** means the Service Authority and any entity duly authorized by the Service Authority to provide an electricity service within the jurisdiction of the Service Authority, in accordance with the provision of the Service Delivery Agreement concluded with the Service Authority;

**"Standby supply"** means an alternative electricity supply from the Service Provider not normally used by the consumer;

**"Supply mains"** means any part of the Service Provider's electricity distribution network;

**"Tariff"** means the Service Provider's tariff of charges for the supply of electricity and sundry fees, as approved by the Service Authority;

**"Temporary supply"** means an electricity supply required by a consumer for a period normally less than one year;

**"The law"** means any applicable law, proclamation, ordinance, act of parliament or enactment having force of law;

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

**"Voltage"** means the root-mean-square value of electrical potential between two conductors;

**"Wayleave"** means the set of documentation providing information on the location of the supply mains of the Service Provider within the physical area covered by an application to undertake civil work within the municipal area and stipulates the conditions applicable to the work to be done in the vicinity of the affected supply mains.

### **Other terms**

2. All other terms used in this by-law shall, unless the context otherwise requires, have the meaning assigned thereto in the Electricity Regulation Act, 2006 (Act 4 of 2006), as amended, or the Occupational Health and Safety Act, 1993 (Act 85 of 1993), as amended.

### **Headings and titles**

3. The headings and titles in this by-law shall not affect the construction thereof.

## **CHAPTER 2**

### **GENERAL TERMS AND CONDITIONS OF SUPPLY**

#### **Provision of Electricity Services**

4. (1) Only the Service Provider shall supply or contract for the supply of electricity within the jurisdiction of the Service Authority. A third party may supply or contract for the supply of electricity within the jurisdiction of the Service Authority, subject to the consent of the Service Authority and to the requirements of the Electricity Regulation Act.

(2) The Service Provider may permit the retail wheeling of electricity through its network by another electricity supplier that is licensed for the trading of electricity in terms of the Electricity Regulation Act to the customers of this electricity supplier.

#### **Supply by agreement**

5. (1) No person shall use or be entitled to use an electricity supply from the Service Provider unless or until a written agreement has been entered into with the Service Provider for such supply, and such agreement together with the provisions of this by-law shall in all respects govern such supply.

(2) If electricity is consumed without the existence of a supply agreement, the owner of the premises on which the electricity is being used shall be liable for the cost of electricity used as stated in section 44 of this by-law.

(3) Any consumer supply agreement concluded with the Service Authority or Eskom within the jurisdiction of the Service Authority prior to appointment of the Service Provider by the Service Authority will, subject to national legislation with effect from the effective date, together with all the assets and liabilities attached to the said supply agreement, vest with the Service Provider.

(4) Should the Service Authority appoint a different service provider at any date in the future, supply agreements with consumers of the Service Provider shall be deemed to be agreements with this new service provider.

### **Service of notices**

6. (1) Any notice or other document that is served on any person in terms of this by-law is regarded as having been served-

- (a) when it has been delivered to that person personally;
- (b) when it has been left at that person's place of residence or business in the Republic with a person apparently over the age of sixteen years;
- (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic and an acknowledgement of the posting thereof from the postal service is obtained;
- (d) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided by paragraphs (a), (b) or (c); or
- (e) if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the property or premises, if any, to which it relates.

(2) When any notice or other document must be 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 Service Provider when it is delivered to the Director or an employee in attendance at the office of the Director.

### **Compliance with notices**

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

### **Application for supply**

8. (1) Application for the supply of electricity shall be made in writing by the prospective consumer on the prescribed form obtainable at the office of the Service Provider, and the notified maximum demand, in kVA, required for the installation, shall be stated therein. Such application shall be made as early as possible before the supply of electricity is required in order to facilitate the work of the Service Provider.

(2) Applicants for the supply of electricity shall submit the following documents with their application:

- (a) An identity document or passport, and, in the case of a business, a letter of resolution delegating the authority to the applicant;
- (b) The consumer shall provide a Deed of Sale or other proof of ownership of the premises for which a supply of electricity is required.

(3) Applicants for a supply of electricity shall be subject to a credit clearance check as far as debt to the Service Authority is concerned.

(4) An application for a new temporary supply of electricity shall be considered at the discretion of the Director, who may specify any special conditions to be satisfied in such case.

### **Processing of requests for supply**

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

### **Servitudes on private property**

10. (1) The Service Provider may refuse to lay or erect a service connection above or below ground on any thoroughfare or land not vested in the Service Authority or on any private property, unless and until the prospective consumer shall have obtained and deposited with the Service Provider written permission granted by the owner of the said private property or by the person in whom is vested the legal title

to the land or thoroughfare as aforesaid exists, as the case may be, authorising the laying or erection of a service connection thereon.

(2) If such permission is withdrawn at any time or if the aforesaid private property or thoroughfare changes ownership and the new owner refuses to grant or continue such permission, the cost of any alteration required to be made to a service connection in order that the supply of electricity may be continued, and of any removal thereof which may become necessary in the circumstances, shall be borne by the consumer to whose premises the supply of electricity is required to be continued.

### **Statutory Servitude**

**11.** (1) Subject to the provisions of sub-section (3) the Service Provider may within the municipal area of the Service Authority:

- (a) provide, establish and maintain electricity services;
- (b) acquire, construct, lay, extend, enlarge, divert, maintain, repair, discontinue the use of, close up and destroy electricity supply mains;
- (c) construct, erect or lay any electricity supply main on, across, through, over or under any street or immovable property and the ownership of any such main shall vest in the Service Provider;
- (d) do any other thing necessary or desirable for or incidental, supplementary or ancillary to any matter contemplated by paragraphs (a) to (c).

(2) If the Service Provider constructs, erects or lays any electricity supply main on, across, through, over or under any street or immovable property not owned by the Service Authority or under the control of or management of the Service Authority, the Service Provider shall determine the restrictions to be imposed on the use of the property under a servitude agreement.

(3) The Service Authority and the owner of such street or property shall enter into a servitude agreement which may include an agreed amount for compensation, or, in the absence of agreement, as determined either by arbitration or a court of law.

(4) The Service Provider shall, before commencing any work other than repairs or maintenance on or in connection with any electricity supply main on immovable property not owned by the Service Authority or under the control or management of the Service Authority, give the owner or occupier of such property reasonable notice of the proposed work and the date on which it proposes to commence such work.

### **Right of admittance to inspect, test and/or do maintenance work**

**12.** (1) The Service Provider shall, through its employees, contractors and their assistants and advisers, have reasonable access to or over any property for the purposes of-

- (a) doing anything authorised or required to be done by the Service Provider under this by-law or any other law;
- (b) inspecting and examining any service mains and anything connected therewith;
- (c) enquiring into and investigating any possible source of electricity supply or the suitability of immovable property for any work, scheme or undertaking of the Service Provider and making any necessary survey in connection therewith;
- (d) ascertaining whether there is or has been a contravention of the provisions of this by-law or any other law, and
- (e) enforcing compliance with the provisions of this by-law or any other law,

(2) The Service Provider shall pay to any person suffering damage as a result of the exercise of the right of access contemplated by sub-section (1), except where the Service Provider is authorised to execute on the property concerned any work at the cost of such person or some other person or to execute on such property any work and recover the cost thereof from such person or some other person, compensation in such amount as may be agreed upon by the Service Provider and such person or, in the absence of agreement, as may be determined by arbitration or court of law.

(3) The Director may, by notice in writing served on the owner or occupier of any property, require such owner or occupier to provide, on the day and at the hour specified in such notice, access to such property to a person and for a purpose referred to in sub-section (1).

(4) The Service Provider may gain access to or over any property without notice and may take whatever action as may, in its opinion, be necessary or desirable in consequence of the existence of a state of war or the occurrence of any calamity, emergency or disaster.

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

**13.(1)** No person shall refuse or fail to give such information as may be reasonably required of him/her by any duly authorised official of the Service Provider or render any false information to any such official regarding any electrical installation work completed or contemplated.

(2) The Service Provider shall not make any information available concerning the supply or account details for any premises to any third party without the express written permission from the consumer who signed the supply agreement for the

supply to the premises concerned except to the owner of a property upon written request to the Service Provider.

### **Refusal of admittance**

**14.** No person shall willfully hinder, obstruct, interfere with or refuse admittance to any duly authorised official of the Service Provider in the performance of his/her duty under this by-law or of any duty connected therewith or relating thereto.

### **Improper use**

**15.(1)** If the consumer uses the electricity for any purpose or deals with the electricity in any manner which the Service Provider has reasonable grounds for believing interferes in an improper or unsafe manner or is calculated to interfere in an improper or unsafe manner with the efficient supply of electricity to any other consumer, the Service Provider may, with or without notice, disconnect the electricity supply but such supply shall be restored as soon as the cause for the disconnection has been permanently remedied or removed.

(2) The fee as prescribed by the Service Provider for the disconnection and reconnection shall be paid by the consumer before the electricity supply is restored, unless it can be shown that the consumer did not use or deal with the electricity in an improper or unsafe manner.\

### **Electricity tariffs and fees**

**16.** Copies of charges and fees may be obtained free of charge at the offices of the Service Provider.

### **Deposits**

**17.(1)**The Service Provider, in terms of a Tariff Policy approved by the Service Authority, reserves the right to require the consumer to deposit a sum of money as security in payment of any charges which are due or may become due to the Service Provider.

(2) The amount of the deposit in respect of each electricity installation shall be determined by the Director. Each such deposit may be increased if the Director deems the deposit held to be inadequate, or as a result of non-payment, or as a result of tampering, or as a result of unauthorized connections or unauthorized reconnections.

(3) Such deposit shall not be regarded as being in payment or part payment of any accounts due for the supply of electricity for the purpose of obtaining any discount provided for in the electricity tariff referred to in this by-law.

(4) On cessation of the supply of electricity, the amount of such deposit, free of any interest, less any payments due to the Service Provider and/or the Service Authority shall be refunded to the consumer.

(5) The payment of interest on deposits, held in terms of supply agreements by any previous supplier of electricity, shall cease on the date of transfer of such supplies to the Service Provider.

### **Payment of charges**

**18.(1)** The consumer shall be liable for all charges listed in the prescribed tariff for the electricity service as approved by the Service Authority. The consumer may also be required to pay all charges of other services supplied by the Service Authority to ensure a continued supply of electricity.

(2) All accounts shall be deemed to be payable when issued by the Service Provider and each account shall, on its face, reflect the due date and a warning indicating that the supply of electricity may be disconnected should the charges in respect of such supply remain unpaid after the due date.

(3) An error or omission in any account or failure to render an account shall not relieve the consumer of his obligation to pay the correct amount due for electricity supplied to the premises and the onus shall be on the consumer to satisfy himself/herself that the account rendered is in accordance with the prescribed tariff of charges in respect of electricity supplied to the premises.

(4) Where a duly authorised official of the Service Provider has visited the premises for the purpose of disconnecting the supply of electricity in terms of subsection (2) and he/she is obstructed or prevented from effecting such disconnection, the prescribed fee shall become payable for each visit necessary for the purpose of such disconnection.

(5) After disconnection for non-payment of an account, the prescribed fees and any amounts due for electricity consumed shall be paid, or suitable arrangements have been made in terms of the Service Authority's By-law or Policies, before the electricity supply is re-connected.

(6) Notwithstanding the fact that an occupier has an agreement for the supply of electricity, should the owner of immovable property apply for a clearance certificate, in terms of section 118, of the Local Government: Municipal Systems Act, 32 of 2000, then such owner will be liable for all charges due to the Service Provider, in respect of the said property, in order to obtain such certificate.

### **Interest on overdue accounts**

**19.** The Service Provider may charge interest on accounts which are not paid by the due date appearing on the account, in terms of an approved Credit Control and Debt Collection Policy and any related indigent support.



## **Principles for the resale of electricity**

**20.** (1) Resellers shall comply with the licensing and registration requirements set out in the Electricity Regulation Act and regulations issued under this act.

(2) Unless otherwise authorised by the Director, no person shall sell or supply electricity, supplied to his/her premises under an agreement with the Service Provider, to any other person or persons for use on any other premises, or permit or suffer such resale or supply to take place.

(3) If electricity is resold for use upon the same premises, the electricity resold shall be measured by a sub meter of a type which has been approved by the South African Bureau of Standards and supplied, installed and programmed in accordance with the standards of the Service Provider.

(4) The tariff, rates and charges at which and the conditions of sale under which electricity is thus resold shall not be less favourable to the purchaser than those that would have been payable and applicable had the purchaser been supplied directly with electricity by the Service Provider.

(5) Every reseller shall furnish the purchaser with monthly accounts that are at least as detailed as the relevant billing information details provided by the Service Provider to its electricity consumers.

## **Right to disconnect supply**

**21.**(1) The Service Provider shall have the right to disconnect the supply of electricity to any premises, after giving notice of disconnection under the following circumstances:

- (a) where the person liable to pay for such supply fails to pay any charge due to the Service Provider in connection with any supply of electricity which he/she may at any time have received from the Service Provider in respect of such premises; or
- (b) where the Service Authority has requested the Service Provider to disconnect the supply of electricity where there are outstanding municipal service fees, surcharges on fees, property rates and other municipal taxes, levies and duties; or
- (c) where in the opinion of the Service Provider there is a case of grave risk to person or property; or
- (d) where tampering with the service connection or supply mains has occurred; or

(e) for reasons of community safety and/or the safety of emergency personnel.

(2) For circumstances other than listed in sub-section (1) above, where any of the provisions of this by-law and/or the Regulations are being contravened, the Service Provider should give the person 7 (seven) days notice to remedy his/her default prior to disconnection.

(3) After disconnection the fee as prescribed by the Service Provider shall be paid.

(4) In the case where an installation has been illegally reconnected on a consumer's premises after having been previously legally disconnected by the Service Provider, or in the case where the Service Provider's electrical equipment has been tampered with to prevent the full registration of consumption by the meter, the electricity supply may be physically removed from those premises.

### **Non-liability of the Service Authority or Service Provider**

**22.** Neither the Service Authority nor the Service Provider shall be liable for any loss or damage, direct or consequential, suffered or sustained by a consumer as a result of or arising from the cessation, interruption or any other abnormality of the supply of electricity, unless caused by negligence on the part of the Service Authority or the Service Provider.

### **Leakage of electricity**

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

## **Failure of supply**

**24.(1)** The Service Provider does not undertake to attend to a failure of supply of electricity due to a fault in the electrical installation of the consumer, except when such failure is due to the operation of the service protective device of the Service Provider.

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

## **Seals of the Service Provider**

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

## **Tampering with service connection or supply mains**

**26.(1)** No person shall in any manner or for any reason whatsoever tamper with, interfere with, vandalize, fix advertising medium to, or deface any meter or metering equipment or service connection or service protective device or supply mains or any other equipment of the Service Provider or illegally connect into the electricity wiring of any other consumer.

(2) Where prima facie evidence exists of a consumer and/or any person having contravened sub-section(1), the Service Provider shall have the right to disconnect the supply of electricity immediately without prior notice to the consumer. The person shall be liable for all fees and charges levied by the Service Provider for such disconnection.

(3) Where interference or damage is caused by any individual, having contravened sub-section (1), legal action may be instituted against such individual. The electricity shall be disconnected pending the legal action and penalty charges shall be paid prior reconnection.

(4) Where a consumer and/or any person has contravened sub-section(1) and such contravention has resulted in the meter recording less than the true consumption, the Service Provider shall have the right to recover from the consumer the full cost of his estimated consumption.

(5) The determination by the Service Provider shall be prima facie evidence of such consumption.

### **Protection of Service Provider's supply mains**

**27.(1)** No person shall, without having in his possession on site a Wayleave and a Civil Work Permit issued by the Service Provider and subject to such conditions as may be imposed –

- (a) construct, erect or lay, or permit the construction, erection or laying of any building, structure or other object, or plant trees or vegetation over or in such a position or in such a manner as to interfere with or endanger the supply mains,
- (b) excavate, open up, remove the ground or alter the ground level, above, next to, under or near any part of the supply mains, or in any area falling under the jurisdiction of the Supply Authority,
- (c) damage, endanger, remove or destroy, or do any act likely to damage, endanger or destroy any part of the supply mains,
- (d) make any unauthorized connection to any part of the supply mains or divert or cause to be diverted any electricity there from.

(2) The owner or occupier shall limit the height of trees or length of projecting branches in the proximity of overhead lines or provide a means of protection which in the opinion of the Service Provider will adequately prevent the tree from interfering with the conductors should the tree or branch fall or be cut down.

(3) Should the owner fail to observe this provision the Service Provider shall have the right, after prior written notification, or at any time in an emergency, to cut or trim the trees or other vegetation in such a manner as to comply with this provision and shall be entitled to enter the property for this purpose.

(4) The Service Provider may subject to obtaining an order of court demolish, alter or other wise deal with any building, structure or other object constructed, erected or laid in contravention with this by-law.

(5) The Service Provider may in the case of an emergency or disaster remove anything damaging, obstructing or endangering or likely to damage, obstruct, endanger or destroy any part of the electrical distribution system.

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

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

### **Unauthorised connections**

**29.** No person other than a person specifically authorised thereto by the Director in writing shall directly or indirectly connect, attempt to connect or cause or permit to be connected any electrical installation or part thereof to the supply mains or service connection. The service provider shall perform frequent spot checks on illegal connection

### **Unauthorised reconnections**

**30.(1)** No person other than a person specifically authorised thereto by the Director in writing shall reconnect, attempt to reconnect or cause or permit to be reconnected to the supply mains or service connection any electrical installation or installations which has or have been disconnected by the Service Provider.

(2) Where the supply of electricity that has previously been disconnected is found to have been reconnected, the consumer using the supply of electricity shall be liable for all charges for electricity consumed between the date of disconnection and the date the electricity supply was found to be reconnected and any other charges raised in this regard.

(3) Furthermore, the Service Provider reserves the right to remove part or all of the supply equipment until such time as payment has been received in full. In addition, the consumer will be responsible for all the costs associated with the reinstatement of such supply equipment.

### **Temporary disconnection and reconnection**

**31.(1)** The Service Provider shall, at the request of the consumer, temporarily disconnect and reconnect the supply of electricity to the consumer's electrical installation upon payment of the fee as prescribed by the Service Provider for each such disconnection and subsequent reconnection.

(2) The Service Provider may inspect the service connection and/or require a Certificate of Compliance to be submitted before reconnecting the supply.

(3) In the event of the necessity arising for the Service Provider to effect a temporary disconnection and reconnection of the supply of electricity to a consumer's electrical installation and the consumer is in no way responsible for bringing about this necessity, the Service Provider shall waive payment of the fee hereinbefore referred to.

(4) The Service Provider may only under exceptional circumstances temporarily disconnect the supply of electricity to any premises without notice, for the purpose of effecting repairs or carrying out tests or for any other legitimate purpose and in all other instances adequate notice shall be given.

### **Temporary supplies**

**32.** It shall be a condition of the giving of any temporary supply of electricity, as defined in this by-law, that, if such supply is found to interfere with the efficient and economical supply of electricity to other consumers, the Service Provider shall have

the right, with notice, or under exceptional circumstances without notice, to terminate such temporary supply at any time and, neither the Service Authority nor the Service Provider shall be liable for any loss or damage occasioned by the consumer by such termination.

### **Temporary work**

**33.(1)** Electrical installations requiring a temporary supply of electricity shall not be connected directly or indirectly to the supply mains except with the special permission in writing of the Director.

(2) Full information as to the reasons for and nature of such temporary work shall accompany the application for the aforesaid permission, and the Director may refuse such permission or may grant the same upon such terms and conditions as it may appear desirable and necessary.

### **Load reduction**

**34.(1)** At times of peak load, or in an emergency, or when, in the opinion of the Director, it is necessary for any reason to reduce the load on the electricity supply system of the Service Provider, the Service Provider may without notice interrupt and, for such period as the Director may deem necessary, discontinue the electricity supply to any consumer's electrically operated thermal storage water heater or any specific appliance or the whole installation.

(2) Neither the Service Authority nor the Service Provider shall be liable for any loss or damage directly or consequentially due to or arising from such interruption and discontinuance of the electricity supply.

(3) The Service Provider may install upon the premises of the consumer such apparatus and equipment as may be necessary to give effect to the provisions of sub-section (1), and any duly authorised official of the Service Provider may at any reasonable time enter any premises for the purpose of installing, inspecting, testing adjusting and/or changing such apparatus and equipment.

(4) Notwithstanding the provisions of sub-section (3), the consumer or the owner, as the case may be, shall, when installing an electrically operated water storage heater, provide such necessary accommodation and wiring as the Service Provider may decide to facilitate the later installation of the apparatus and equipment referred to in sub-section (3).

### **High, medium and low voltage switchgear and equipment**

**35.(1)** In cases where a supply of electricity is given at either high, medium or low voltage, the supply and installation of the switchgear, cables and equipment forming part of the service connection shall, unless otherwise approved by the Director, be paid for by the consumer.

(2) All such equipment installed on the consumer's premises shall be compatible with the Service Provider's electrical performance standards.

(3) No person shall open, close, isolate, link or earth high or medium voltage switchgear or equipment without giving reasonable prior notice to the Service Provider's System Control Centre.

(4) In the case of a high or medium voltage supply of electricity, where the consumer has high or medium voltage switchgear installed, the Service Provider shall be advised of the competent person appointed by the consumer in terms of the Regulations, and of any changes made to such appointments.

(5) In the case of a low voltage supply of electricity, the consumer shall provide and install a low voltage main switch and/or any other equipment required by the Service Provider or any duly authorised official of the Service Provider.

### **Substation accommodation**

**36.(1)** The Service Provider may, on such conditions as may be deemed fit by the Director, require the owner to provide and maintain accommodation which shall constitute a substation and which shall consist of a separate room or rooms to be used exclusively for the purpose of housing high voltage cables and switchgear, medium voltage cables and switchgear, transformers, low voltage cables and switchgear and other equipment necessary for the supply of electricity requested by the applicant.

(2) The Service Provider shall have the right to supply its own networks from its own equipment installed in such accommodation, and if additional accommodation is required by the Service Provider, such additional accommodation shall be provided by the applicant at the cost of the Service Provider.

(3) The substation accommodation shall comply with specified requirements and dimensions determined by the Service Provider and shall incorporate adequate lighting, ventilation, fire prevention and fire extinguishing measures.

(4) The substation accommodation shall be situated on ground floor level at a point to which free, adequate and unrestricted access is available at all times for purposes connected with the operation and maintenance of the equipment.

(5) Vehicular access to the substation entrance door shall be provided from the adjacent road or driveway.

(6) Where in the opinion of the Director the position of the substation accommodation is no longer readily accessible or has become a danger to life or property or has for justifiable reasons become unsuitable, the consumer shall remove it to a new position to the satisfaction of the Director, and the cost of such removal, which shall be carried out with reasonable dispatch, shall be borne by the consumer.

### **Wiring diagram and specification**

**37.(1)** When more than one electrical installation or electricity supply from a common main or more than one distribution board or meter is required for any building or block of buildings, the wiring diagram of the circuits starting from the main switch and a specification shall on request be supplied to the Service Provider in duplicate for written consent before the work commences.

(2) Where an electrical installation is to be supplied from a substation on the same premises on which the current is transformed from high voltage, or from one of the substations of the Service Provider through mains separate from the general distribution system, a complete specification and drawings for the plant to be installed by the consumer shall, if so required, be forwarded to the Service Provider for written consent before any material in connection therewith is ordered.

### **Standby supply**

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

### **Consumer's electricity generation equipment**

**39.(1)** No electricity generation equipment provided by a consumer in terms of any Regulations or for his own operational requirements shall be connected to any installation without the prior written consent of the Director.

(2) Application for such consent shall be made in writing and shall include a full specification of the equipment and a wiring diagram.

(3) The electricity generation equipment shall be so designed and installed that it is impossible for the Service Provider's supply mains to be energized by means of a back-feed from such equipment.

(4) The position of the installed generating equipment shall not interfere with the supply mains the generating equipment must be installed entirely on the consumer's premises.

(5) The consumer shall be responsible for providing and installing all such protective equipment and for obtaining a Certificate of Compliance issued in terms of the Regulations for the work carried out.

(6) Where by special agreement with the Service Provider, the consumer's electricity generation equipment is permitted to be electrically coupled to, and run in parallel with the Service Provider's supply mains, the consumer shall be responsible for providing, installing and maintaining all the necessary synchronizing and protective equipment required for such safe parallel operation, to the satisfaction of the Director.



(7) Under normal operating conditions, any export of surplus energy from the consumer to the Service Provider's network shall be subject to special agreement with the Service Provider.

(8) In the event of a general power failure on the service provider's network protection equipment shall be installed by the consumer, subject to the Director's approval, so as to ensure that the consumer's installation is isolated from the Service Providers network until normal operating conditions are restored. The cost of any specialized metering equipment will be for the consumer's account.

### **Technical Standards**

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

## **CHAPTER 3**

### **RESPONSIBILITIES OF CONSUMERS**

#### **Consumer to erect and maintain electrical installation**

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

#### **Fault in electrical installation**

**42.(1)** If any fault develops in the electrical installation, which constitutes a hazard to persons, livestock or property, the consumer shall immediately disconnect the electricity supply.

(2) The consumer shall without delay give notice thereof to the Service Provider and shall immediately take steps to remedy the fault.

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

#### **Discontinuance of use of supply**

**43.** In the event of a consumer desiring to discontinue using the electricity supply, he/she shall give at least two full working days' notice in writing of such intended discontinuance to the Service Provider, failing which he/she shall remain liable for

all payments due in terms of the tariff for the supply of electricity until the expiration of two full working days after such notice has been given.

### **Change of consumer**

**44.** (1) Two full working days' notice in writing shall be given to the Service Provider of the intention to discontinue using the electricity supply, failing which the owner shall remain liable for such supply.

(2) If the person taking over occupation of the premises desires to continue using the electricity supply, the owner of such premises shall make application in accordance with the provisions of section 5 of this by-law, and if the owner fails to make application for an electricity supply within ten working days of the person taking occupation of the premises, the supply of electricity shall be disconnected, and the owner shall be liable to the Service Provider for the electricity supply from the date of occupation until such time as the supply is so disconnected.

(3) Where premises are fitted with pre-payment meters and there is no existing electricity supply agreement, until such time as an application is made by the owner for a supply of electricity, in terms of section 5 of this by-law, the owner shall be liable for all charges and fees owed to the Service Provider for that metering point as well as any outstanding charges and fees which have accrued to that metering point.

(4) The Director may impose conditions, which may include the withholding of the electricity supply to premises, in cases where the previous consumer's electricity account at that premises is in arrears.

### **Service apparatus**

**45.**(1) The consumer shall be liable for all costs to the Service Provider arising from damage to or loss of any metering equipment, service protective device, service connection or other apparatus on the premises, unless such damage or loss is shown to have been occasioned by an Act of God or an act or omission of an employee of the Service Provider or caused by an abnormality in the supply of electricity to the premises.

(2) If, during a period of disconnection of an installation from the supply mains, the service main, metering equipment or any other service apparatus, being the property of the Service Provider and having been previously used, have been removed without its permission or have been damaged so as to render reconnection dangerous, the owner or occupier of the premises, as the case may be, during such period shall bear the cost of overhauling and/or replacing such equipment.

(3) Where there is a common metering position, the liability detailed in sub-section (1) shall devolve on the owner of the premises.

(4) The amount due in terms of sub-section (1) shall be evidenced by a certificate from the Director which shall be final and binding.

## CHAPTER 4

### SPECIFIC CONDITIONS OF SUPPLY

#### Service connection

**46.** (1) The consumer shall bear the cost of the service connection, as approved by the Service Provider.

(2) Notwithstanding the fact that the consumer bears the cost of the service connection, ownership of the service connection shall vest in the Service Provider, the Service Provider shall be responsible for the maintenance of such service connection up to the point of supply.

(3) The consumer shall not be entitled to any compensation from the Service Provider in respect of such service connection.

(4) The work to be carried out by the Service Provider at the cost of the consumer for a service connection to the consumer's premises shall be determined by the Director.

(5) The consumer shall provide, fix and/or maintain on his premises such ducts, wireways, trenches, fastenings and clearance to overhead supply mains as may be required by the Director for the installation of the service connection.

(6) Unless otherwise approved by the Director each registered erf shall only be provided with one service connection.

(7) Where two or more premises belonging to one owner are situated on adjacent erven and the owner operates the properties in a consolidated manner, for safety considerations, only a single bulk supply of electricity shall be made available to such erven.

(8) Any covers of a wireway carrying the supply circuit from the point of supply to the metering equipment shall be made to accept the seals of the Service Provider.

(9) Within the meter box, the service conductor or cable, as the case may be, shall terminate in an unobscured position and the conductors shall be visible throughout their length when cover plates, if present, are removed.

(10) In the case of blocks of buildings occupied by a number of individual consumers, separate wireways and conductors or cables shall be laid from the common metering room or rooms to each individual consumer in the blocks of buildings. Alternatively, if trunking is used, the conductors of the individual circuits shall be clearly identified (tied together every 1,5m) throughout their length.

## **Metering accommodation**

**47.(1)** The consumer shall, if required by the Director, provide accommodation in an approved position, the meter board and adequate conductors for the Service Provider's metering equipment, service apparatus and protective devices.

(2) Such accommodation and protection shall be provided and maintained, to the satisfaction of the Director, at the cost of the consumer or the owner, as the circumstances may demand, and shall be situated, in the case of credit meters, at a point to which free and unrestricted access shall be had at all reasonable hours for the reading of meters but at all times for purposes connected with the operation and maintenance of the service equipment.

(3) Access at all reasonable hours shall be afforded for the inspection of prepayment meters.

(4) Where sub metering equipment is installed, accommodation separate from the Service Provider's metering equipment shall be provided.

(5) The consumer or, in the case of a common meter position, the owner of the premises shall provide a distribution board from which to supply adequate electric lighting and power in the space set aside for accommodating the metering equipment and service apparatus.

(6) Where in the opinion of the Director the position of the meter, service connection, protective devices or main distribution board is no longer readily accessible or becomes a danger to life or property or in any way becomes unsuitable, the consumer shall remove it to a new position, and the cost of such removal, which shall be carried out with reasonable dispatch, shall be borne by the consumer.

(7) The accommodation for the Service Provider's metering equipment and protective devices may, if approved, include the consumer's main switch and main protective devices.

(8) No apparatus other than that used in connection with the supply of electricity and use of electricity shall be installed or stored in such accommodation unless approved.

## **CHAPTER 5**

### **SYSTEMS OF SUPPLY**

#### **Nominal supply voltage**

**48.** The nominal supply voltage at which a supply is given shall be determined by the Service Provider as necessitated by technical considerations to ensure the efficient operation of the supply mains.

### **Load requirements**

**49.** Alternating current supplies shall be given as prescribed by the Electricity Regulation Act, 2006 (Act 4 of 2006), and in the absence of a quality of supply agreement, as set out in the applicable standard specification.

### **Load limitations**

**50.(1)** Where the estimated load, calculated in terms of the safety standard, does not exceed 15 kVA, the electrical installation shall be arranged for a two-wire single-phase supply of electricity, unless otherwise approved by the Director.

(2) Where a three-phase four-wire supply of electricity is provided, the load shall be approximately balanced over the three phases but the maximum out-of-balance load shall not exceed 15kVA, unless otherwise approved by the Director.

(3) No current-consuming appliance, inherently single phase in character, with a rating which exceeds 15kVA shall be connected to the electrical installation without the prior approval of the Director.

### **Interference with other persons' electrical equipment**

**51.(1)** No person shall operate electrical equipment having load characteristics which, singly or collectively, give rise to voltage variations, harmonic currents or voltages, or unbalanced phase currents which fall outside the applicable standard specification.

(2) The assessment of interference with other persons' electrical equipment shall be carried out by means of measurements taken at the point of common coupling.

(3) Should it be established that undue interference is in fact occurring, the consumer shall, at his/her own cost, install the necessary equipment to filter out the interference and prevent it reaching the supply mains.

### **Supplies to motors**

**52.** Unless otherwise approved by the Director the rating of motors shall be limited as follows:

- (a) Limited size for low voltage motors rating of a low voltage single-phase motor shall be limited to 2kW and/or the starting current shall not exceed

70 All motors exceeding these limits shall be wound for three phases at low voltage or such higher voltage as may be required.

- (b) Maximum starting and accelerating currents of three-phase alternating current motors.-

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

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

- (c) Consumers supplied at medium voltage –

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

### Power factor

**53.**(1) If required by the Director, the power factor of any load shall be maintained within the limits 0,85 lagging and 0,9 leading.

(2) Where, for the purpose of complying with sub-section (1), it is necessary to install power factor corrective devices, such corrective devices shall be connected to the individual appliance terminals unless the correction of the power factor is automatically controlled.

(3) The consumer shall, at his/her own cost, install such corrective devices.

### **Protection**

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

## **CHAPTER 6**

### **MEASUREMENT OF ELECTRICITY**

#### **Metering**

**55.**(1) The Service Provider shall, at the consumer's cost in the form of a direct charge or prescribed fee, provide, install and maintain appropriately rated metering equipment at the point of metering for measuring the electricity supplied.

(2) Except in the case of prepayment meters, the electricity used by a consumer during any metering period shall be ascertained by the reading of the appropriate meter or meters supplied and installed by the Service Provider and read at the end of such period except where the metering equipment is found to be defective, or the Service Provider invokes the provisions of section 59(2) of this by-law, in which case the consumption for the period shall be estimated.

(3) Where the electricity used by a consumer is charged at different tariff rates, the consumption shall be metered separately for each rate.

(4) The Service Provider reserves the right to meter the supply to blocks of shops and flats, tenement-houses and similar buildings for the buildings as a whole, or for individual units, or for groups of units.

(5) No alterations, repairs or additions or electrical connections of any description shall be made on the supply side of the point of metering unless specifically approved in writing by the Director.

#### **Accuracy of metering**

**56.**(1) A meter shall be conclusively presumed to be registering accurately if its error, when tested in the manner prescribed in sub-section (5) hereof, is found to be within the limits of error as provided for in the applicable standard specifications.

(2) The Service Provider shall have the right to test its metering equipment. If it is established by test or otherwise that such metering equipment is defective, the Service Provider shall -

- (i) in the case of a credit meter, adjust the account rendered;
  - (ii) in the case of prepayment meters, (a) render an account where the meter has been under-registering, or (b) issue a free token where the meter has been over-registering;
- in accordance with the provisions of sub-section (6).

(3) The consumer shall be entitled to have the metering equipment tested by the Service Provider on payment of the prescribed fee. If the metering equipment is found not to comply with the system accuracy requirements as provided for in the applicable standard specifications, an adjustment in accordance with the provisions of sub-sections (2) and (6) shall be made and the aforesaid fee shall be refunded.

(4) In case of a dispute, the consumer shall have the right at his own cost to have the metering equipment under dispute tested by an approved independent testing authority, and the result of such test shall be final and binding on both parties.

(5) Meters shall be tested in the manner as provided for in the applicable standard specifications.

(6) When an adjustment is made to the electricity consumption registered on a meter in terms of sub-section (2) or (3), such adjustment shall either be based on the percentage error of the meter as determined by the test referred to in sub-section (5) or upon a calculation by the Service Provider from consumption data in its possession. Where applicable, due allowance shall be made, where possible, for seasonal or other variations which may affect the consumption of electricity.

(7) When an adjustment is made as contemplated in sub-section (6), the adjustment may not exceed a period of three years preceding the date on which the metering equipment was found to be inaccurate. The application of this section does not bar a consumer from claiming back overpayment for any longer period where the consumer is able to prove the claim in the normal legal process.

(8) Where the actual load of a consumer differs from the initial estimated load provided for under section 8(1) to the extent that the Service Provider deems it necessary to alter or replace its metering equipment to match the load, the costs of such alteration or replacement shall be borne by the consumer.

(9) (a) Prior to the Service Provider making any upward adjustment to an account in terms of sub-section (6), the Service Provider shall -

- (i) notify the consumer in writing of the monetary value of the adjustment to be made and the reasons therefore;
- (ii) in such notification provide sufficient particulars to enable the consumer to submit representations thereon, and



- (iii) call upon the consumer in such notice to provide it with reasons in writing, if any, within 21 days or such longer period as the Director may permit why his/her account should not be adjusted as notified.
- (b) Should the consumer fail to make any representations during the period referred to in sub-section 9(a)(iii) the Service Provider shall be entitled to adjust the account as notified in sub-section 9(a)(i).
- (c) The Director shall consider any reasons provided by the consumer in terms of sub-section (9)(a) and shall, if satisfied that a case has been made out therefor, adjust the account appropriately.
- (d) If the Director decides after having considered the representation made by the consumer that such representations do not establish a case warranting an amendment to the monetary value established in terms of sub-section (6), the Service Provider shall be entitled to adjust the account as notified in terms of sub-section 9(a)(i), subject to the consumer's right to appeal the decision of the official in terms of section 62 of the Municipal Systems Act, 2000.

### **Reading of credit meters**

**57.(1)** Unless otherwise prescribed in the applicable standard specification, credit meters shall normally be read at intervals of one month and the fixed or minimum charges due in terms of the tariff shall be assessed accordingly. The Service Provider shall not be obliged to effect any adjustments to such charges.

(2) If for any reason the credit meter cannot be read, the Service Provider may render an estimated account. The electrical energy consumed shall be adjusted in a subsequent account in accordance with the electrical energy actually consumed.

(3) When a consumer vacates a property and a final reading of the meter is not possible, an estimation of the consumption may be made and the final account rendered accordingly.

(4) If a special reading of the meter is desired by a consumer, this may be obtained upon payment of the prescribed fee.

(5) If any calculating, reading or metering error is discovered in respect of any account rendered to a consumer, the error shall be corrected in subsequent accounts. Any such correction shall only apply in respect of accounts for a period of three years preceding the date on which the error in the accounts was discovered, and shall be based on the actual tariffs applicable during the period. The application of this section does not prevent a consumer from claiming back overpayment for any longer period where the consumer is able to prove the claim in the normal legal process.

### **Prepayment metering**

**58.(1)** No refund of the amount tendered for the purchase of electricity credit shall be given at the point of sale after initiation of the process by which the prepayment meter token is produced.

(2) Copies of previously issued tokens for the transfer of credit to the prepayment meter may be issued at the request of the consumer.

(3) When a consumer vacates any premises where a prepayment meter is installed, no refund for the credit remaining in the meter shall be made to the consumer by the Service Provider.

(4) The Service Provider shall not be liable for the reinstatement of credit in a prepayment meter lost due to tampering with, or the incorrect use or the abuse of, prepayment meters and/or tokens.

(5) Where a consumer is indebted to the Service Provider for electricity consumed or to the Service Authority for any other service supplied by the Service Authority (including rates) or for any charges previously raised against him/her in connection with any service rendered, the Service Provider may deduct a percentage from the amount tendered to offset the amount owing to the Service Authority and/or the Service Provider, as set out in the section 5 agreement for the supply of electricity.

(6) The Service Provider may, at its discretion, appoint vendors for the sale of credit for prepayment meters and shall not guarantee the continued operation of any vendor.

## CHAPTER 7

### ELECTRICAL CONTRACTORS

#### **Electrical contractors' responsibilities**

**59.** In addition to the requirements of the Regulations the following requirements shall apply:

- (a) Where an application for a new or increased supply of electricity has been made to the Service Provider, the Director may at his/her discretion accept notification of the completion of any part of an electrical installation, the circuit arrangements of which permit the electrical installation to be divided up into well-defined separate portions, and such part of the electrical installation may, at the discretion of the Director, be inspected, tested and connected to the supply mains as though it were a complete installation.
- (b) The examination, test and inspection that may be carried out at the discretion of the Director in no way relieves the electrical contractor/registered person or the user or lessor, as the case may be, from his responsibility for any defect in the installation. Such examination, test and inspection shall not be taken under any

circumstances (even where the electrical installation has been connected to the supply mains) as indicating or guaranteeing in any way that the electrical installation has been carried out efficiently with the most suitable materials for the purpose or that it is in accordance with this by-law or the safety standard, and neither the Service Authority nor the Service Provider shall be held responsible for any defect or fault in such electrical installation.

### **Work done by electrical contractors**

**60.** Neither the Service Authority nor the Service Provider shall be held responsible for the work done by the electrical contractor/registered person on a consumer's premises and shall not in any way be responsible for any loss or damage which may be occasioned by fire or by any accident arising from the state of the wiring on the premises.

## **CHAPTER 8**

### **COST OF WORK**

#### **Repair of damage**

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

## **CHAPTER 9**

### **LEGAL MATTERS**

#### **DOMICILIUM**

**62.(1)** The street, building or flat address of the point of supply would be deemed to be the place or domicilium citandi et executandi of the consumer for the purpose of serving of any document in accordance with section 115 of the Local Government: Municipal System Act of 2000 (as amended)

#### **63. OFFENSES AND PENALTIES**

(2) Any person who contravenes any of the provision of this by-laws shall be guilty of an offence.

(3) Persons convicted of offences under this by-law shall be tried by a court of law and sentenced to imprisonment alternatively fines not exceeding amounts stipulated in the schedule of charges and fees

(4) A court may order compensation on application for loss and or damages sustained by the services provider in addition to a fine or imprisonment.

## **CHAPTER 10**

### **REPEAL OF BY-LAWS**

**63.** Any by-law relating to the electricity supply by-laws adopted by the municipality or any municipality now comprising an administrative unit of the Municipality is repealed from the date of promulgation of these by-laws.

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## SCHEDULE 1

**“applicable standard specification”** means

SANS 1019 Standard voltages, currents and insulation levels for electricity supply

SANS 1607 Electromechanical watt-hour meters,

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

SANS IEC 60211 Maximum demand indicators, Class 1.0,

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

SANS 10142-1 Code of practice for the wiring of premises;

NRS 047 Electricity Supply - Quality of Service;

NRS 048 Electricity Supply - Quality of Supply, and

NRS 057 Electricity Metering: Minimum Requirements

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**HIRING OF COMMUNITY HALLS, BUILDINGS AND OTHER FACILITIES BY-LAW**

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**HIRING OF COMMUNITY HALLS, BUILDINGS AND OTHER FACILITIES BY-LAW**

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**HIRING OF COMMUNITY HALLS, BUILDINGS AND OTHER FACILITIES BY-LAW**

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**CHAPTER 1****HIRE AND USE OF COMMUNITY, ARTS AND CULTURE FACILITIES****1. Definitions**

(1) In this Chapter, unless the context otherwise indicates-

"**Art**" means all forms and traditions of dance, drama, music, music theatre, visual arts, crafts, design, written and oral literature, film, video, traditional and community art, all of which serve as means for individual and collective creativity and expression through performance, execution, presentation, exhibition, transmission and study and artistic has a corresponding meaning;

"**Artist**" means any person who is involved in the creation or production of art, music, dance, theatre, craft, films, video, traditional and community art, musical theatre and literature;

"**Appurtenance**" means any installation or appliance on or in the premises and includes, without derogating from the generality of the foregoing, any key, lock, window, toilet pan, basin, water tap and fitting;

"**Authorised Official**" means an official of the Council who has been authorized by it to administer, implement and enforce the provisions of this By-law;

"**Centre**" means a building or premises owned or operated by Ba-Phalaborwa Municipality, whether incorporating a community hall or not, at which group activities of an indoor sporting, cultural or recreational nature can be pursued;

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



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## **HIRING OF COMMUNITY HALLS, BUILDINGS AND OTHER FACILITIES BY-LAW**

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**"Culture"** means the dynamic totality of distinctive, spiritual, material, intellectual and emotional features which characterise a society or a social group and includes language and heritage conservation and further includes any museum, archive, library, historical site and monument and cultural has a corresponding meaning;

**"Cultural Activity"** means any cultural function, meeting, festival, flea market and exhibition and any other cultural activity;

**"Facility"** means any art and cultural facility under the administration and control of Municipality and includes all appurtenances;

**"Group Activity"** means -

(a) for the purposes of Chapter 1 of this By-Law, an activity or function of an artistic or cultural nature, in which several members of a group of persons having an interest in the nature of that activity, participate either together or in subgroups or serially; and

(b) for the purposes of Chapter 2 of this By-Law, an activity or function of an artistic, cultural or indoor sporting nature, in which several members of a group of persons having an interest in the nature of the activity, participate either together or in sub-groups, or serially, whether as individuals or in teams;

**"Hirer"** means any person who applies, pays and obtains approval for the use of premises or a facility;

**"Premises"** means any land, building or structure or any portion of land, building or structure on or in which art and cultural activities regulated by this By-law take place or on which a centre has been constructed and includes any facility in or on the premises;

**"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.

**"Property"** means the land on which any building or structure of the Council is situated;

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## **HIRING OF COMMUNITY HALLS, BUILDINGS AND OTHER FACILITIES BY-LAW**

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### **2. Rights and status of artists**

The Council must recognise the right of all artists to practice their respective forms of art and enjoy their right to freedom of expression through such medium, subject to the provision of any law.

### **3. Co-operation between Council departments**

(1) Every department of the Council having jurisdiction over or responsibility for any multi-purpose community premises must cooperate with any other such department in ensuring that -

(a) the premises is properly maintained in a state fit for the purposes for which it was designed and is used; and

(b) no part of the premises is made available to or hired out to more than one person at the same time.

(2) The Council's Department of Arts Culture and Heritage must coordinate the co-operation contemplated in subsection (1).

### **4. Application for hiring of premises**

(1) Any person wishing to apply for the hiring of premises must-

(a) submit an application on the form prescribed by the Council for this purpose; and

(b) submit such application form to the Corporate Services Office of the Council not less than 42 days prior to the date on which the premises are first required by the applicant.

(2) The Council may refuse to hire out any premises in terms of subsection (1), or cancel any hiring thereof if -

(a) the premises are to be, or being, used for any unlawful purpose; or

(b) the premises being applied for are required by the Council for municipal purposes during the same time.

(3) The Council may in its discretion refund all the prescribed fees that have already been paid to it in respect of the application concerned.

(4) The hirer is limited to the use of the premises specified in the application form.

(5) The premises so hired may not, except with the prior written permission of the Council, be used for any purpose other than the purpose indicated on the application form.

(6) No premises hired out by the Council may be used for the purpose of conducting any form of religious worship, unless the express written permission of the Council for such use has been given in writing: Provided that -

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## **HIRING OF COMMUNITY HALLS, BUILDINGS AND OTHER FACILITIES BY-LAW**

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(a) such use may be made of the premises only at the times specified in the agreement of hire or letter of approval; and

(b) the Council is entitled to refuse its approval unless it is satisfied that such use will not, by reason of singing, chanting, acclamation or other form of noise-producing worship, constitute an undue interference with the amenities normally enjoyed by other occupants of the building or occupants of any neighbouring building.

### **5. Prescribed fees**

A prescribed fee, as determined by the Council, is payable for premises, services and facilities provided by the Council in terms of this By-law.

### **6. Payment of fees**

No person is permitted to use any premises hired unless the prescribed fee has been fully paid: Provided that the Council may exempt any person or organisation, on good cause, from the payment of portion or the entire prescribed fee.

The Council shall determine an amount that should be paid as a deposit, in case there is damage to property the costs to repair the damages will be recovered from the deposit and if the deposit is too little, the hirer will be liable to pay the remaining amount.

### **7. Period of hire**

Notwithstanding any determination made by the Council regarding the dates and period for which the premises may be hired, the Council may allow the hirer reasonable access to the premises prior to the commencement date of the period of hire, to enable the hirer to make the necessary preparations and arrangements in or on the premises.

### **8. Adjustment of period of hire**

(1) Any person who makes an application for the hire of premises in terms section 4 may, subsequent to the approval of such application, apply for the postponement of such hiring to a later date, without penalty or forfeiture: Provided that the postponement may be refused if the premises have in the meantime been hired for use by another person or is required by the Council on the dates to which the postponement is sought.

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## **HIRING OF COMMUNITY HALLS, BUILDINGS AND OTHER FACILITIES BY-LAW**

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(2) Any person who has made an application for hiring of premises may cancel such application and if -

(a) an application is cancelled 30 days or longer prior to the commencement date of the period of hire, the hirer must receive a full refund of the prescribed fee already paid;

(b) an application is cancelled more than 15 days but less than 30 days prior to the commencement date of the period of hire, the hirer must receive a 50% refund of the prescribed fee already paid; or

(c) an application is cancelled 15 days or less prior to the commencement date of the period of hire, the hirer is not entitled to receive any refund of the prescribed fee already paid.

(3) Provided the premises concerned have not in the meantime been hired for use on the date concerned by any other person a person who has hired premises may extend the period of hire of that premises upon written application to the Council as contemplated in section 4, except that a period of 42 days' notice is not required.

### **9. Joint hire**

(1) The Council may let any premises or part thereof to different hirers for simultaneous use and in such a case, each hirer must use all the ancillary facilities which serve the different parts of the premises in common, jointly with the other users and in such manner that all the different hirers, their guests, customers and patrons, are able to enjoy the use of those facilities without infringing on the rights of use by other users.

(2) The provisions of this Chapter of this By-law, read with the necessary changes, apply to the joint users of the hired premises.

### **10. Sub-letting**

A hirer may not sub-let the hired premises, or any part thereof, to any other person nor may the hirer cede, pledge or renounce in favour of another person any of his rights or obligations under this By-law, nor allow any other person to occupy the premises, without the prior written permission of the Council.

### **11. Condition of premises**

(1) The hirer must inspect the hired premises, including any installation, appliance, fitting, accessory and furniture, on or in the premises before he commences to use such installation, appliance, fitting, accessory and furniture and if the hirer finds that any installation, appliance,

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## **HIRING OF COMMUNITY HALLS, BUILDINGS AND OTHER FACILITIES BY-LAW**

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fitting, accessory or furniture on the premises are not in a proper state of repair, the hirer must report this fact to the Council in writing.

(2) If the hirer fails either to inspect the premises or to report any defects found, in terms of subsection (1), it is deemed that upon commencement of occupation by the hirer, everything in the premises was in a proper state of repair.

### **12. Duties of the hirer**

A person hiring premises from the Council -

(a) must keep and maintain the premises hired out and return them to the Council in the same order and condition as when they were hired out;

(b) must take all reasonable steps to keep every sewerage pipe, water tap and drain within or serving the premises free from obstruction or blockage as a result of the hirer's activities;

(c) must at all times keep the premises in a clean, tidy and sanitary condition;

(d) may not affix or attach to the premises any notice or other matter without the prior written permission of the Council and must upon the termination of the hire, remove every such attachment;

(e) may not obscure any plate glass window by painting or otherwise;

(f) may not drive any screw or nail into a wall or partition or door of the premises;

(g) may not change or interfere with or overload any electrical installation in or on the premises;

(h) may not remove or take out from the premises any furniture or other articles whatsoever belonging to the Council;

(i) may not obstruct, interfere or tamper with any thermostat or air conditioning appliance in the premises or any building in which the premises are located;

(j) may not introduce or install any unsafe or heavy article, furniture, fitting, appliance or equipment which, in the opinion of an authorised official could damage the premises or any part thereof without the permission of that official and subject to any conditions imposed by that official, to ensure the safety of the premises and any person using them;

(k) may not install in the premises any air conditioning or ventilating unit or equipment without the prior written permission of the Council;

(l) may not permit the storage of any motor vehicle or other movable item of any description on any pavement outside an entrance hall, staircase or passage of the premises;

(m) may not do anything on the premises, nor allow anything to be done in non-compliance with any reasonable instruction given or issued by an authorised official; and

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## **HIRING OF COMMUNITY HALLS, BUILDINGS AND OTHER FACILITIES BY-LAW**

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(n) may not park any vehicle nor allow the parking of any vehicle by any of the hirer's employees, invitees, agents, directors or other representatives anywhere on the premises except in properly demarcated parking bays on the premises as pointed out by an authorised official.

### **13. Advertisements and decorations**

(1) No person who has applied for the hire of premises may publicly announce or advertise any function or event in respect of which an application for the hire of such premises in terms of section 4 has been made, before the Council has notified that person in writing that the application has been approved.

(2) Every hirer must, before vacating the hired premises or the termination of the period of hire for any reason whatsoever, remove every poster, notice, decoration, flag, emblem, sign and other form of advertisement or direction erected or affixed by him or her, and make good any damage caused by such removal

(3) No posters, decorations or any other wall hangings may be glued or nailed to the walls of the municipal property.

### **14. Admissions and sale of tickets**

The hirer is responsible for all arrangements in connection with the admission of the members of the public to any function or event on or in the hired premises, the provision of ushers and other persons necessary to control the admission of persons to the premises, and the sale of tickets.

### **15. Overcrowding**

(1) No overcrowding of the premises or facilities is allowed at any time during the hirer's function or event and the hirer must comply with the Council's requirements prescribing the maximum number of persons allowed on the premises during the function or event.

(2) Without detracting from the general requirements referred to in subsection (1), the hirer may not allow more persons admission to the premises than the number of available seats or, if seating is not provided, the maximum number of persons prescribed by notice on the premises or as stipulated in the agreement of hire.

### **16. Sale of refreshments**

(1) No person may sell refreshments or food stuffs on or in any hired premises during any function or event for which they have been hired, without the prior written permission of the Council.

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## **HIRING OF COMMUNITY HALLS, BUILDINGS AND OTHER FACILITIES BY-LAW**

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(2) The Council may permit the sale of refreshments or foodstuffs by any person as it may approve after it has received a written application to sell such items, and the Council may allocate sufficient accommodation to that approved person, wherein trading stock, furniture, equipment, installations and books necessarily required for trading may be accommodated.

(3) The provisions of subsections (1) and (2) do not apply if the supply and sale of refreshments or foodstuffs is an integral part of the function or event of the hirer.

### **17. Services**

(1) The nature of the municipal services to be provided to the hired premises by the Council is at the sole discretion of the Council.

(2) The Council may take such steps as it may consider necessary in its discretion for the proper maintenance and operation of any common areas in or on the hired premises.

(3) An authorised representative of the Council may attend the hirer's function or event to ensure compliance with any provision of this Chapter.

(4) A hirer is not entitled to the official services of any authorised official or other representative of the Council who attends the hirer's function or event in terms of subsection (3).

(5) A hirer is not entitled to receive gratuitous cleaning or other service from the Council in connection with the hirer's activities during the preparation for, or during, a function or event.

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**HIRING OF COMMUNITY HALLS, BUILDINGS AND OTHER FACILITIES BY-LAW**

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**18. Cancellation due to destruction of premises**

(1) The Council may cancel the hire of premises if-

(a) the premises are destroyed or are damaged to such an extent that they are substantially unusable;

(b) there is such damage to the premises that, although paragraph (a) does not apply, the premises have been rendered substantially unusable because of the absence of access or supply of any necessary municipal service or amenity; or

(c) there is destruction of damage to the premises or any part thereof or to any neighbouring building, whether or not the hired premises are involved, and the Council decides not to proceed with the hire of the premises in order to engage in reconstruction, renovation or rebuilding or for safety reasons.

(2) Any decision made in terms of subsection (1), must be communicated by written notice given by the Council to the hirer within a reasonable period after the event referred to in subsection (1) giving rise to the cancellation.

**19. Cancellation due to non-compliance**

(1) The Council may at any time cancel the hire of premises if the hirer contravenes or fails to comply with any provision of this Chapter.

(2) A cancellation in terms of subsection (1) is without prejudice to any right or claim which the Council may have against the hirer under any provision of this By- law or at common law.

**20. Termination of period of hire**

(1) Upon the termination of the period of hire for any reason, the hirer must return the premises and the facilities to the Council in good order and condition and must make good and repair or replace at his or her own cost on demand of the Council any damage or breakage or missing article or, in the alternative, reimburse the Council for the cost of repairing, making good or replacing any broken, damaged or missing article. (2) (a) Every hirer must vacate the hired premises after termination of the period of hire within the period specified in the application form or agreement of hire.

(b) If a hirer fails to comply with the provisions of paragraph (a), he or she is liable to pay a further prescribed fee, for the additional period during which the hirer remains in occupation of the premises after the termination of the period of hire.



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## **HIRING OF COMMUNITY HALLS, BUILDINGS AND OTHER FACILITIES BY-LAW**

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(c) The provisions of this subsection do not preclude the Council from taking lawful steps to procure the eviction of any such hirer from the premises.

(3) (a) A hirer must comply with every reasonable and lawful instruction of the Council or an authorized official in respect of the cleaning of the premises when the hirer vacates the premises.

(b) An authorised official may elect to undertake the cleaning of all crockery and cutlery used by the hirer.

(4) A hirer must comply with all reasonable and lawful instructions of the Council or an authorized official in respect of the vacation of the premises and the return of the facilities concerned.

### **21. Fire hazards and insurance**

(1) A hirer may not at any time bring or allow to be brought or kept on the premises, nor do or undertake nor permit to be done or undertaken in or on the premises, any matter, thing or activity whereby a fire or any other insurance policy relating to the building concerned may become or becomes void or voidable or whereby the premium for any such insurance may be or is increased.

(2) If the premiums for insurance contemplated in subsection (1), are increased as a result of any act or omission contemplated in that subsection, the Council may, in its discretion, allow the activity concerned to continue and recover from the hirer the amount due in respect of any additional insurance premiums and the hirer must pay such amount immediately on notification from the Council or the insurance company to the effect that such additional premiums have been charged.

(3) The Council may at any time in its discretion require the hirer to take up insurance of the premises hired with an insurance company approved by the Council, against loss or damage by fire or any other cause during or as a result of any function or event for which the premises are hired.

### **22. Storage facilities**

The Council is not responsible for providing facilities for the storage of the equipment of the hirer, or the hirer's employees, visitors, supporters or agents during any period prior to, during or after the function or event concerned.

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## **HIRING OF COMMUNITY HALLS, BUILDINGS AND OTHER FACILITIES BY-LAW**

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### **23. Equipment**

(1) A hirer who requests the Council to supply any equipment for use during a function or event, may use such equipment only with the permission of the Council and under the supervision of an authorized official.

(2) If a hirer causes damage to the equipment referred to in subsection (1), or removes or causes the equipment to be removed from the premises without permission or, having removed it with permission, fails to return it, the hirer is liable for the repair or replacement costs thereof.

### **24. Right of entry**

(1) Subject to the provisions of applicable national and provincial legislation, an authorized official or another authorised representative of the Council, or service provider may enter hired premises at any reasonable time-

(a) to inspect the premises and carry out any repairs, alterations, additions, modifications or improvements on or in the premises.

(b) in order to ensure that the conditions of hire of the premises and the provisions of this Chapter are being complied with.

(2) An authorised official, other authorised representative of the Council, or a service provider is entitled to erect scaffolding, hoardings and building equipment in, *at*, near or in front of hired premises as well as such other devices required by law or which the Council's architects may certify is necessary to carry out the activities contemplated in subsection (1)(a).

### **25. Inspection**

Upon the conclusion of all the hirer's activities at the termination of the period of hire or at the cancellation of the hire in terms of any provision in this Chapter, an authorised official and the hirer or his or her nominee must inspect the premises, for the purpose of assessing any damage or loss and compliance with the provisions of this Chapter.

### **26. Regulations**

A hirer must comply with the Council's security and fire protection regulations which may from time to time be in force in respect of the premises concerned.

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## **HIRING OF COMMUNITY HALLS, BUILDINGS AND OTHER FACILITIES BY-LAW**

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### **27. Nuisance**

(1) No person attending or intending to attend any function or event in or on hired premises, may conduct himself or herself in an unseemly or obnoxious manner or cause a nuisance or annoyance to any other person in or user of the premises, or to any occupier of any other part of the building or neighbouring building.

(2) An authorised official may, during any function or event of a hirer, instruct the hirer to remove from the premises any person who is in a state of intoxication or who is acting in contravention of subsection (1).

(3) An authorised official may, during any function or event of a hirer, direct the hirer to prevent the entry on or into the hired premises by any person who is in a state of intoxication or who is acting in contravention of subsection (1).

## **CHAPTER 2: COMMUNITY CENTRES**

### **28. Group activities**

(1) Every participant in a group activity must be a registered member of the centre at which such activity takes place.

(2) Notwithstanding the provisions of subsection (1), a member may introduce a guest participant and every guest must be registered with an authorised official upon arrival, and, if no authorised official is then present, the particulars of the guest must be entered in a register kept at the centre for that purpose.

(3) Unless permission to do otherwise has been granted by the authorized official in charge of a centre, a group activity may only take place under the supervision of an authorised official.

(4) A group activity may only take place at times allocated for that activity by the authorised official in charge of the centre.

### **29. Membership**

(1) Membership of a centre is valid for one calendar year, from January to December of each year, or for the remaining portion of such year after the date of approval of an application for membership.

(2) Membership may be renewed at the end of each year for the following year.

(3) Resignation from membership during the course of a year does not entitle a member to a refund of any portion of the prescribed membership fee.

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## **HIRING OF COMMUNITY HALLS, BUILDINGS AND OTHER FACILITIES BY-LAW**

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### **30. Membership fees**

(1) In determining prescribed fees for membership, the Council may differentiate between the prescribed fees payable by members of different centres and between classes of membership, which are dependent on the nature of the activity which a member wishes to pursue.

### **31. Use of centres for religious or personal purposes**

(1) The Council may determine, either specifically or generally, the times when and the conditions under which any portion of a centre may be set aside for exclusive use by **members of one sex only**, whether in accordance with religious observance or for any other reason.

(2) The Council may also determine which portions of a centre may be so set aside at such times.

### **32. Dress code**

Any member and his or her guest must at all times be suitably attired for participation in the activity they propose to pursue, and without derogating from the generality of this requirement, no participant may wear any shoes or other footwear which, in the opinion of the authorised official in charge of, or supervising, the activity may cause damage to any part of the floor of a centre.

### **33. Conduct of children**

Unless the group activity in which a child under the age of 14 years is participating is a session specially arranged for young participants, every such child must be accompanied to the centre and must at all times be under the control and supervision of a parent or other adult, and such parent or adult is responsible for the conduct of such child while present in the centre.

### **34. Application of certain sections of Chapter 1 to centres**

The provisions of sections 1 to 10, 12, 15 to 18, 20 to 23, 26 and 27 read with the necessary changes, apply to the hire, operation and use of centres.

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## **HIRING OF COMMUNITY HALLS, BUILDINGS AND OTHER FACILITIES BY-LAW**

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### **35. Application of certain sections of Chapter 3 to centres**

The provisions of sections 36 to 56 read with the necessary changes, apply to the operation and use of centres.

## **CHAPTER 3: SPORT FACILITIES**

### **36. Definitions**

(1) In this Chapter, any word or expression defined in section 20, bears that meaning and, unless the context otherwise indicates-

"**Group Activity**" means any sporting activity involving, or conducted by, an organised body of people which body can be joined by any member of the public who is eligible for membership, and "group" has a corresponding meaning;

"**Local Sport Facility**" means any sport facility which falls within the area of jurisdiction of the Council;

"**Notice**" means a clearly visible notice in the official languages determined by the Council as contemplated in section 21(2) of the Local Government: Municipal Systems Act, 2000, or any graphic icon depicting notification to members of the public;

"**Sporting Activity**" means any game or recreational activity pursued in a sport facility, and includes practice and training sessions;

"**Sport Facility**" means any area, building or structure which is designated or set aside for a sporting activity and which is owned, managed or controlled by the Council, including but not limited to a stadium, a tennis court or tennis court complex, a squash court or squash court complex, a swimming pool, a golf course or an ice rink, or any combination of such facilities, and the surrounding and ancillary facilities associated with any such sport facility;

### **37. Administration**

(1) Subject to the Council's statutory duty to use the resources of the Council in the best interest of the local community, as envisaged in Section 4(2)(a) of the Local Government: Municipal

## **HIRING OF COMMUNITY HALLS, BUILDINGS AND OTHER FACILITIES BY-LAW**

Systems Act, 2000, all local sport facilities must be administered by or on behalf of the Council in accordance with this Chapter: Provided that nothing in this Chapter may be interpreted so as to prevent the Council from disposing of any local sport facility or any rights thereto, in accordance with applicable legislation.

(2) The use and enjoyment of the local sport facilities by the local community or by any other person are subject to such terms and conditions as may be determined by the Council from time to time, and subject also to such terms and conditions, not inconsistent with this Chapter, which are contained in any agreement of hire or lease entered into between the Council and any individual or group.

(3) Despite the right of the local community to the use and enjoyment of the local sport facilities, the Council is entitled to hire out any local sport facility on a regularly recurring or specific basis for any purpose whatsoever.

### **38. Access conditions**

(1) No person, other than an authorised official or any other person duly authorised by such official, may enter or be admitted into any local sport facility or any part thereof otherwise than by an entrance designated for that purpose.

(2) The right of access to any local sport facility is reserved by the Council at all times and an authorised official may refuse admission to any person or instruct any person to leave a local sport facility forthwith if such person behaves or conducts him/herself in a manner which is considered by the authorised official to be prejudicial to good order or contrary to, or disruptive of, the generally accepted rules for the sporting activity concerned.

(3) In the event of a person contemplated in subsection (1), refusing to leave a sporting facility voluntarily when instructed to do so, the authorized official is entitled to eject such person forcibly from the local sport facility, with or without the assistance of security personnel or a member of the South African Police Services (SAPS) or a member of any other police force, if available.

(4) The Council has a discretion to determine the maximum capacity of any local sport facility, and an authorised official, or any other person designated by him or her, may, once the maximum capacity has been reached, refuse further access to that facility by closing every entrance to the facility and, if necessary, by the construction of barriers at any entrance thereto, and by displaying a notice prohibiting further access to the facility, once such maximum capacity has been reached.

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**HIRING OF COMMUNITY HALLS, BUILDINGS AND OTHER FACILITIES BY-LAW**

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(5) For the purpose of ensuring that law and order is observed and for the safety of persons patronising or using a local sport facility, an authorized official has the power to -

- (a) search any person wishing to enter that facility;
- (b) search any container of whatever kind which such person proposes to bring into or on to that facility;
- (c) search any motor vehicle which it is proposed to drive into or onto that facility;
- (d) seize any item or object being carried by any person or revealed by any such search which, in the opinion of the authorised official -
  - (i) is a substance the possession of which is prohibited by any law;
  - (ii) is or could become a dangerous weapon;
  - (iii) contains intoxicating liquor; or
  - (iv) might otherwise be used to disrupt the peaceful enjoyment of that facility by persons lawfully admitted thereto;

(6) With the exception of any substance referred to in subsection (5) (d)(i), any object seized in terms of paragraph (d), must be returned to the person concerned, upon request, at his or her departure from the local sport facility.

(7) (a) The Council may, display conspicuous notices at or near every entrance gate, indicate the hours during which a local sport facility is open to members of the public.

(b) The Council may at any time temporarily close a local sport facility to members of the public for purposes of repair, maintenance, hire to a group, or for any other reason, in the Council's discretion.

(c) No unauthorised person may enter or remain inside, a local sport facility, at any time other than during the hours when that sport facility is open to members of the public or during any period when that facility is closed in terms of paragraph (b).

### **39. Smoking**

Subject to any other law, and save for an open air local sport facility, such as an open air stadium or a golf course, no person may smoke in a local sport facility except in any portion thereof which has been designated for that purpose, as indicated by a notice to that effect.

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## **HIRING OF COMMUNITY HALLS, BUILDINGS AND OTHER FACILITIES BY-LAW**

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### **40. Alcoholic beverages**

(1) Subject to the terms and conditions stipulated in any agreement entered into between the Council and a hirer of a local sport facility, and subject to any other law, no person may -

(a) sell any alcoholic beverage on the premises of a sport facility without the prior written permission of the Council and proof of liquor license; or

(b) bring his or her own supply of alcoholic beverage on or into a local sport facility without the prior written permission of an authorized official.

(2) If the sale and consumption of alcohol on or in a local sport facility is permitted by the Council, such sale or consumption is on condition that -

(a) beer, cider and alcoholic cordials of all descriptions is served only in a can, keg, or plastic cup, and no alcoholic beverage may be served in a glass bottle; and

(b) no person who is under 18 years of age is served or allowed to consume any alcoholic beverage and the hirer of a sport facility or the person in charge thereof, as the case may be, is responsible for ensuring that this age limit restriction is observed.

### **41. Duties of hirer**

A hirer of a local sport facility is responsible for the maintenance of good order and socially acceptable behaviour within the sport facility and must ensure that the sport facility is left in the same condition it was in when he or she was given possession thereof, failing which the hirer is liable for the cost to the Council of repairing any damage to, or cleaning, that facility.

### **42. Dress code**

(1) Every person who participates in a sporting activity must wear appropriate clothing for that activity and an authorised official who is of the opinion that any person is not appropriately clothed, may instruct that any additional item of clothing be worn for a particular sporting activity by that person.

(2) No person may wear shoes or other footwear which may damage the surface of a local sport facility in any manner and an authorised official may instruct that they be removed forthwith and, if the person concerned refuses to comply with such instruction, may prohibit such person from participating in the activity concerned.

(3) If the conduct of a person not participating in a sporting activity is such that his or her shoes are likely to cause damage to a local sport facility while wearing such shoes an authorised official



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## **HIRING OF COMMUNITY HALLS, BUILDINGS AND OTHER FACILITIES BY-LAW**

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may eject the person concerned from the premises and debar him or her from re-entry until such shoes have been removed.

### **43. Hiring of sport facilities**

(1) The hiring of a local sport facility must be arranged by prior reservation with an authorised official and must be recorded in a register kept by an authorised official for that purpose and, depending on the length of the period for which the facility is to be hired, may be on a first-come-first-served basis.

(2) The purpose for which the local sport facility is to be hired must be disclosed to the authorised official with whom the reservation is made, who may refuse the reservation if such purpose is, in his or her opinion, illegal or contrary to the policy of the Council or is likely to result in violence or possible damage to that facility or to other property.

(3) The terms and conditions of the hiring of a local sport facility must be contained in a written agreement, which must be signed by both the hirer and the authorised official at least 7 days prior to the date of commencement of the proposed hiring, or such shorter period as may be agreed upon with the authorised official, against payment by the hirer of a prescribed fee as confirmation of the reservation.

(4) No agreement for the hiring of a local sport facility may be entered into with any minor, unless properly assisted by his or her parent, guardian or tutor, and the authorised official is, in his or her discretion, entitled to require any applicant for hire to produce proof of age.

(5) The agreement contemplated in section 40(1) constitutes proof of reservation and the hirer must produce it at any stage whilst making use of the local sport facility if he or she is required by an authorised official to do so.

(6) A hirer of a local sport facility on which any alcoholic beverage is served is responsible for ensuring that the age limit restriction contemplated in section 40(1) (b) is observed at all times.

(7) A hirer of a local sport facility must take out an insurance policy with an insurance company approved by the Council, in an amount likewise approved, to cover any structural damage which may occur to the sport facility whilst being used by the hirer, and may also be required by the Council to take out public liability insurance, likewise approved, in respect of the death of, or injury to, any person that may occur during or as a consequence of any activity taking place during the period of hire.

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## **HIRING OF COMMUNITY HALLS, BUILDINGS AND OTHER FACILITIES BY-LAW**

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### **44. Reservation of sport facilities by the Council**

- (1) Notwithstanding any other provision of this Chapter, the Council may -
- (a) for any period reserve any local sport facility for the holding of any specific sporting activity or competition and may during any such period or on any other day reserve to itself the right of admission to that facility and determine a fee for admission to that facility;
  - (b) reserve any local sport facility either permanently or for such period as it deems fit.
- (2) Except insofar as is provided otherwise in subsection (1), the provisions of this Chapter, read with the necessary changes, remain applicable to a local sport facility reserved in terms of subsection (1) and to any person visiting or using it while it is being used for the purpose for which it was reserved.

### **45. Group activities**

- (1) Each participant in a group activity must be registered as a member of the group concerned, or be a bona fide guest of the group, introduced as a member; and the Council may determine a prescribed fee for the hire of a sport facility if it is used by guests in addition to the registered members of a group.
- (2) (a) Each member of a group making use of a local sport facility must be issued with a membership card either by the group, or by the Council, if the Council elects to establish a club or group for any group activity on or in that sport facility.
- (b) Any member who fails to produce his or her membership card when requested to do so by an authorised official, may be refused admission.
- (c) The holder of membership card may not transfer it or allow it to be used by any other person.
- (3) If any membership card issued by the Council is lost, it will be replaced at the cost of the member.
- (4) A membership card must be renewed annually and, if issued by the Council, the prescribed fee therefore must be paid;
- (5) Any group activity may be organised and controlled by an authorized official, free lance instructor, volunteer or any other person, and an authorised official may be present in any instance where the activity is not controlled or organised such official.
- (6) Every group must strictly adhere to the specific period allocated to it by an authorised official for the use of a local sport facility or any part thereof, and if the use is extended beyond such period, an additional prescribed fee becomes payable.

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## **HIRING OF COMMUNITY HALLS, BUILDINGS AND OTHER FACILITIES BY-LAW**

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(7) If a local sport facility or any part thereof has been allocated to a group, either for a group activity or for any other purpose, that group must ensure that it or its members make regular use of its allocated period and that if any group is for any reason unable to use its allocated period, the authorised official who is in charge of the sport facility must be notified beforehand.

(8) If the use of a local sport facility has been allocated to a group for a specific activity, that group is prohibited from engaging in any other type of activity on or in the sport facility concerned during the allocated period unless prior permission to do so has been obtained from an authorized official in charge of the sport facility concerned.

(9) A group may not transfer its allocated period to any other group or person, and any alteration in the local sport facility programme must be negotiated and agreed with an authorised official in charge of the sport facility concerned.

(10) (a) A group may be instructed by an authorised official to cancel their regular activities on a particular day due to any circumstances, including repairs and maintenance, which may require temporary closure of the whole or part of a local sport facility.

(b) An authorised official must give prior written notice to an affected group of a proposed instruction in terms of paragraph (a).

(c) Notwithstanding the provision of paragraph (b), an authorised official may cancel at short notice any regular activity if, in his or her opinion, a situation of emergency has arisen which renders such cancellation necessary or desirable.

(11) Notwithstanding anything to the contrary contained in this Chapter, it is competent for an authorised official to suspend or terminate with immediate effect the use of a local sport facility by any person or group whose conduct or behaviour is, in the opinion of that official, prejudicial to good order or the generally accepted rules of the group activity concerned.

(12) Any person whose participation in a group activity or use of a local sport facility is suspended in terms of subsection (11), is barred from entering into the local sport facility concerned or participating in the group activity concerned until the suspension is raised by an authorised official.

### **46. Public decency**

(1) (a) No person may be present in or on any local sport facility, except in a change room or ablution facility specifically set aside for use by persons of the same sex, in a state of undress or any other state which is indecent or harmful in any way to the morals of any other person present in or on the sport facility at the time.

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**HIRING OF COMMUNITY HALLS, BUILDINGS AND OTHER FACILITIES BY-LAW**

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(b) An authorised official may instruct any person to refrain from contravening paragraph (a) and such person must comply with the reasonable requirements of that official so as to remove the cause of contravention, and failing such compliance, that person may be ejected from the sport facility and denied re-entry until the offending state of undress or other state contemplated in paragraph (a) has been remedied.

(2) No person may relieve him or herself in any part of a local sport facility other than in the ablution facilities specifically provided for that purpose and for use by members of his or her own sex.

(3) Any cubicle, change room and place of ablution set aside for persons of one sex may not be used by any person of the other sex and no person, other than a child not exceeding the age of five years, may enter any part of the premises which is reserved for the use of persons of the other sex.

(4) No person may occupy a change room for longer than is reasonably necessary to change into different attire.

(5) No person may use profane or indecent language or behave in an indecent manner or in any other manner which, constitutes a nuisance or hinders or interferes with the enjoyment of a local sport facility by other persons, and, if that person persists in such conduct after having been instructed by an authorised official to desist, he or she may be ejected forthwith from the sport facility by that official.

**47. Clothing and personal effects**

(1) Subject to the availability of an appropriate storage facility within the premises of a local sport facility, a person who has changed into appropriate attire in order to participate in a sporting activity may place his or her clothing, possessions and effects in a container provided for the purpose by an authorised official, and may deposit such container for safekeeping in the change room or any other place which an authorized official may direct.

(2) The authorised official must give a disc or other token bearing a number or other distinguishing mark, by means of which the container may be identified, to the person concerned.

(3) Notwithstanding the provisions of subsection (2), a scholar intending to participate in a group activity organised by his or her school or a voluntary schools association, may present his or her clothing, possessions and effects for deposit in terms of this section in a neat bundle only.

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## **HIRING OF COMMUNITY HALLS, BUILDINGS AND OTHER FACILITIES BY-LAW**

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(4) The authorised official must return a container or bundle referred to in subsection (1) or (3) with all its contents to the person surrendering the appropriate disc in exchange therefore.

### **48. Prescribed fees**

The person concerned must pay the appropriate prescribed fee for admission to, or hire or use of, any local sport facility and any other prescribed fee contemplated in this Chapter.

### **49. Generally prohibited conduct**

No person may -

(a) willfully or negligently destroy, damage or deface any part of a sport facility, including any feature, fixture, fitting or appliance contained therein or any article supplied by the Council for use in a local sport facility;

(b) throw, deposit or drop or cause to be thrown, deposited or dropped any refuse, glass, tin, paper, fruit, fruit peels, sharp object or any other object that is perishable, offensive or that may interfere with the cleanliness of a local sport facility or that may cause annoyance, danger, injury or accident to any other person inside a sport facility; other than inside a refuse bin or container provided by the Council for that purpose;

(c) remove or in any way interfere with any gravel, sand, sod, turf, mould or other substance covering the surface of a local sport facility;

(d) except where special provision therefore has been made by the Council, light any fire or do any act which may cause any substance or thing to catch fire inside a local sport facility;

(e) walk upon or recline in any flowerbed or lawn on the premises of a local sport facility or draw, drive or propel thereon any vehicle or machine of whatsoever nature in contravention of any prohibitory notice displayed in a conspicuous place therein or thereon;

(f) encroach upon or build any enclosure, make any hole, or erect or place any peg, spike, tent, booth, screen, stand, swing or any other building, erection or structure of on or within a local sport facility, without written authority from an authorised official;

(g) except in any place and at any time prescribed by these or any other By-laws or by a notice displayed at the entrance to a local sport facility, drive, draw or propel any vehicle within a local sport facility-

(a) other than a wheelchair, whether propelled by electrical power or not, or perambulator propelled by hand and used solely for the conveyance of an invalid or a child;

(ii) except in any place where access of vehicles is allowed; or

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**HIRING OF COMMUNITY HALLS, BUILDINGS AND OTHER FACILITIES BY-LAW**

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- (i) in excess of the speed limit indicated by a notice displayed in the local sport facility.
- (h) sell, hawk, advertise, place any advertisement, offer or expose any article for sale or hire or distribute any pamphlet, book, handbill or other written or printed matter inside a local sport facility without the prior written permission of an authorised official;
- (i) tamper with or in any way interfere with the action or function of any lock, cock, tap, valve, pipe or other appliance or any machine in a local sport facility.
- (j) otherwise do anything which may endanger the safety of others or constitute a nuisance, obstruction or annoyance to member of the public, either inside or outside a local sport facility.

**50. Animals**

Unless where otherwise allowed by a notice displayed in a conspicuous place at the entrance to a local sport facility, or the sport facility is designed or has been hired out for an activity that necessarily involves the presence of animals, no animal other than a guide dog may be brought into a local sport facility, without the prior written permission of an authorised official.

**51. REPEAL OF LAWS**

The provisions of any by-laws relating to Hiring of Community Halls, Buildings and other Facilities by the Municipality are hereby repealed insofar as they relate to matters provided for in this By-Law.

**52. SHORT TITLE & COMMENCEMENT**

This By-law is the Hiring of Community Halls, Buildings and other Facilities By-law of Ba-Phalaborwa Municipality and shall take effect on publication in the provincial government gazette

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## **HIRING OF COMMUNITY HALLS, BUILDINGS AND OTHER FACILITIES BY-LAW**

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### **51. Infectious diseases**

No person who is suffering from or is in quarantine for any infectious or contagious disease may enter or seek admission to any local sport facility.

### **52. Firearms and traditional weapons**

No firearm or traditional weapon may be brought into a local sport facility, unless, subject to the availability of a safe or other appropriate storage facility at the entrance to a local sport facility, it is surrendered to an authorised official for safe keeping and must be collected from that official when leaving the local sport facility.

### **53. Disturbance by sound systems**

No amplified music or sound relayed through a public address system is allowed in a local sport facility without the prior permission of an authorized official and then only in an area specified by that official and any sound system must be positioned in such a way that sound travels to the interior of the sport facility with volume at a moderate level so that it will not disturb the peace and quiet of the surrounding community.

### **54. Sale of food and refreshments**

No person may, without the prior written permission of the Council and, subject to compliance with any other law, prepare or sell food or refreshments within a local sport facility or in the immediate vicinity of an entrance thereto.

### **55. Filming and photographs**

(1) No person may without the prior written permission of an authorized official film or take a photograph for reward or anticipated profit, on or in a local sport facility.

(2) Written permission must be obtained from the Council for the filming of commercial material or documentaries, which is subject to payment of a prescribed fee.

### **56. Sport advisory forum**

The Council may establish a sport forum or sport council to assist and advise it in connection with the management of any or all of its local sport facilities, and sport representatives and members of groups may be elected to serve on such a body.

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**HIRING OF COMMUNITY HALLS, BUILDINGS AND OTHER FACILITIES BY-LAW**


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## Memorandum

Date of Booking made: \_\_\_\_ / \_\_\_\_ / \_\_\_\_

Control Sheet for the Lessee after booking a Ba-Phalaborwa Municipality Sport and Recreations Facility

This is to confirm that the under mentioned facility has been provisionally booked by this office subject to the receiving of deposit and signing of lease agreement:

Description of facility (ies): \_\_\_\_\_

Date of booking (s) is / are as follows - \_\_\_\_ / \_\_\_\_ / \_\_\_\_ (date) at \_\_\_\_ : \_\_\_\_ (time) until \_\_\_\_ / \_\_\_\_ / \_\_\_\_ (date) at \_\_\_\_ : \_\_\_\_ (time)

Organizing Organizations: \_\_\_\_\_

Event manager / Organizer: \_\_\_\_\_

Contact details –Work Tel nr (\_\_\_\_) \_\_\_\_\_

Work Fax nr (\_\_\_\_) \_\_\_\_\_

Cell Tel nr (\_\_\_\_) \_\_\_\_\_

E-Mail details: \_\_\_\_\_

Date of event (s) from \_\_\_\_ / \_\_\_\_ / \_\_\_\_ (date) \_\_\_\_ : \_\_\_\_ (time) until \_\_\_\_ / \_\_\_\_ / \_\_\_\_ (date) \_\_\_\_ : \_\_\_\_ (time)

Please complete the above required information and fax the page back to (015) 781 0726 for attention of Corporate Services.

Attached please find

Annexure 1 – the document with regard to costs involved to the lease of the mentioned facility and  
Annexure 2 – document that you must use in order to assist with the planning of your event that is to be hosted at the facilities of Ba-Phalaborwa Municipality.

Annexure 3 – the lease agreement to be signed by the lessee's or it's designated representative.

For more information please contact at Tel (015) 780 6300 (office tel), (fax) (015) 781 0726



**HIRING OF COMMUNITY HALLS, BUILDINGS AND OTHER FACILITIES BY-LAW**

**LEASE AGREEMENT**

**COMMUNITY HALLS / SPORTS FACILITIES**

Memorandum of agreement entered into between

**BA-PHALABORWA MUNICIPALITY**

Here in represented by ..... In his capacity as

Duly authorized thereto by Senior Manager Corporates Service on behalf of Ba-Phalaborwa Municipality.

(Hereinafter referred to as the LESSOR)

And

Herein represented by\_\_\_\_\_

In his / her capacity as \_\_\_\_\_of the mentioned

\_\_\_\_\_Duly authorized thereto by virtue of the decision of the\_\_\_\_\_ dated

\_\_\_\_\_

(Hereinafter referred to as the LESSEE)

**1.**

WHEREAS the LESSOR is the owner of a certain fixed properties known as \_\_\_\_\_.

**2.**

AND WHEREAS applications to hire the halls / other facilities are dealt with in sequence in which they are received.

**3.**

AND WHEREAS the LESSOR agreed to lease mentioned halls / other facilities to the LESSEE, and the lessee agreed to the lease thereof.

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**4.**

AND WHEREAS the lessee accepts responsibility in his / her personal capacity for any damage above amount upon the signature hereof.

**5.**

AND WHEREAS the LESSOR and the LESSEE concur on the conditions of the lease provided that the conditions are in writing.

**ADMINISTRATIVE FEE FOR CANCELLATION**

1. That all booking is subjected to the payment of the applicable deposit fee within 21 (twenty one) days after the booking is been made.
2. That the lease amount be paid within 14 (fourteen) days before the usage of the said facility.
3. That an administrative fee of 20% of the applicable
  - 3.1 Should the rental tariff increase prior to the LESSEE taking up the lease the LESSEE will be responsible for the difference in rental.
  - 3.2 The rental as set out above, shall be payable in advance and includes the customary cleaning of the cleaning of the building. No venue is reserved or booked before the rentals have not been paid in full and the application form (attached hereto as schedule A ) has been completed.
  - 3.3 The LESSEE shall not use the halls or any other facility in the hall before the monies have not been paid in full.

**4. CANCELLATION OF THE AGREEMENT OR REFUSAL TO LET THE HALL**

- 4.1 The LESSOR reserves the right to cancel hall bookings without paying damages, should the halls be needed for the purpose of which, in the opinion of the LESSOR, should receive preference or if such premises is required for public purposes; provide that deposits and rentals will be paid back to the LESSEE;
- 4.2 The LESSOR furthermore reserves the right to refuse letting the hall, for whatever purpose, without having to provide reasons.

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**5. POSTPONEMENT OF BOOKING**

Should the lessee be desirous to postpone the booking of a hall, the LESSOR must be notified by the LESSEE of such intention at least seven (7) day prior to such date, failing which all monies paid will be forfeited. However such postponement shall be subjected thereto that no other LESSEE is disadvantaged by such postponement and such postponement period does not exceed thirty (30) days.

**6. UTILISATION**

- 6.1 The halls which is being leased herewith shall only be used by the LESSEE for the purpose of \_\_\_\_\_
- 6.2 No posters, decoration or any other wall – hanging may be glued to the walls.
- 6.3 No chains, tables may be removed from the halls.
- 6.4 The lessee bears the risk for all lost, broken and damaged items in the halls and lessee must satisfy himself /herself that there is no damage to the halls before he or she accepts the halls.
- 6.5 Tables and chairs may not be moved in such a way so as to cause damage to the floor and no marks may be left on the floor
- 6.6 Fire hoses may not be used to water supply.
- 6.7 Should any of the items in the hall become defective prior to the function, the LESSEE must find a replacement.
- 6.8 In the event of a power failure, the lessee must provide back – up electricity supply.
- 6.9 Municipal labour will in no circumstance be provided to assist the lessee with preparations.
- 6.10 Under no circumstances may vehicles be parked in front of the civic hall not even after hours. No erection of tents in the yard.
- 6.11 The council and caretaker will not accept responsibility for any private equipment which is not removed directly after function.
- 6.12 All arrangements pertaining to entrance to the Halls must be made with the Caretaker at least seven (7) working days prior to the date of the function, which caretaker will be present during all functions being held in the Halls (per arrangement)

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**HIRING OF COMMUNITY HALLS, BUILDINGS AND OTHER FACILITIES BY-LAW**

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6.13 No clearing away will be done where any private plant decorations and / or decorations have not been removed before 10:00 the following day, the lessee forfeits his / her deposit.

6.14 No function will last longer than 24:00 on the day on which the function is being held, falling which the tariff for every hour or part thereof after 24:00 on the relevant day will be deducted from Lessee's deposit.

**7. SUB LEASE AND CESSION**

The LESSEE will not have the right to sub – lease the hall or any part thereof or have the right to transfer or cede this lease agreement, without prior written permission and on the conditions as stipulated by the LESSOR.

**8. HALL CARETAKER/FACILITY OFFICER**

8.1 The Caretaker will be presented per arrangement at the hall during normal office hours during any function taking place in the hall.

8.2 Only one person must be delegated to give orders to the Caretaker and to sign for the issuing of equipment. The caretaker will only react to the orders from the delegated person.

**9. NUISANCE**

- The lessee will see to it that his activities on the premises do not cause any offences, nuisance or annoyance of whatever nature.

**10. ALCOHOL BEVERAGES**

Should alcoholic beverages be provided by the LESSEE at the function to be held, a copy of the liquor license to sell alcohol on the premises must be handed in upon signature of his agreement?

If the alcoholic beverages are sold/ served on the premises, including the hall without the necessary permission of the LESSOR.

The LESSOR reserves the right to summons the relevant section of the SAPS to act accordingly against such LESSEE or organizer and that such person accepts responsibility for such action.

**11. COMPLIANCE WITH LAWS**

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**HIRING OF COMMUNITY HALLS, BUILDINGS AND OTHER FACILITIES BY-LAW**

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For the duration of this lease agreement the LESSEE shall at own cost, comply with all the laws, regulations and ordinances, as well as with requirements or the appointment of any qualified instance, which has relevance to the leased hall or use thereof for whatever purpose.

**12. GENERAL INDEMNITY AND THE RIGHT TO REFUSE ENTRANCE**

The LESSEE will have the right to refuse entry to the leased venue by any person whose behavior is offensive and the LESSEE will have the right to remove or have removed from the premises any person who is deemed to be offensive, but it is herewith stated as explicit condition and it agreed thereto as such, the last mentioned right of the LESSEE will under no circumstances be applied to the LESSOR to accept liability for any claim or damage or any other claim which such person may have and that the right is executed by the LESSEE at his own discretion and its own risk. The LESSEE herewith indemnifies the LESSOR against any claims which occur from any claim which is instituted against the LESSEE.

12.1 By any member of the public who attends any function as a visitor at the leased property:

12.2 By any other person or authorized instances, thereto that the incident resulting in the claim took place on the leased property or pertains to the use of the property by the LESSEE.

This indemnification also applies to any expense to the LESSOR which might result from such a claim.

**HIRING OF COMMUNITY HALLS, BUILDINGS AND OTHER FACILITIES BY-LAW**

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**LESSOR****LESSEE****PHYSICAL ADDRESS****POSTAL ADDRESS**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**TELEPHONE NUMBER:**

\_\_\_\_\_

**13. NOTICE**

Any notice to the LESSEE will be deemed as to be sufficient if addressed by the way of pre-paid registered post to abovementioned address or such other address as the LESSOR might from time to time indicate which indication must be in writing and may notice to be given to the LESSEE will be deemed as to be sufficient if addressed by way of pre-paid register post to the above address. The parties herewith furthermore agree to the jurisdiction of the Magistrate Court for any purpose or action which results from this agreement.

**THUS DONE AND SIGNED AT** \_\_\_\_\_ **THE** \_\_\_\_\_**DAY OF** \_\_\_\_\_ **20** \_\_\_\_\_**AS WITNESS:**

1. \_\_\_\_\_

2. \_\_\_\_\_

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**HIRING OF COMMUNITY HALLS, BUILDINGS AND OTHER FACILITIES BY-LAW**

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\_\_\_\_\_  
**LESSOR**

**AS WITNESS:**

1. \_\_\_\_\_

2. \_\_\_\_\_

\_\_\_\_\_  
**LESSEE**

**HIRING OF COMMUNITY HALLS, BUILDINGS AND OTHER FACILITIES BY-LAW**

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**RULES AND REGULATIONS FOR THE USE OF HALLS & OTHER FACILITIES**

- No posters, decorations or any other wall hangings may be glued or nailed to the halls.
- No chains, tables or any hall equipment may be removed from the halls.
- Tables and chairs may not be moved in such a way that will damage the floors.
- Fire hoses in and around the hall may not be used for water supply.
- Under no circumstances should vehicles be parked in front of the hall entrance.
- The lessee may not sublease the hall without any permission from the Municipality.
- No alcoholic beverages may be served / sold from any of the halls without the necessary permit for such.
- It is the responsibility of the lessee to ensure that the activities in the halls do not cause any nuisance, offences and annoyances of whatever nature.
- Only one person should be delegated to give instructions to the Caretaker / Facility Officer.



## **BA-PHALABORWA MUNICIPALITY**

### **BY-LAW RELATING TO IMPOUNDMENT OF ANIMALS**

Under the powers conferred by section 156 of Constitution, 1996, read with section 11(3) (m) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), the Ba-Phalaborwa Municipality enacts as follows:

#### **ARRANGEMENT OF SECTIONS**

1. Definitions
2. Application
3. Establishment of pound
4. Appointment of pound keeper
5. Trespassing or straying animals may be impounded
6. Animals too vicious, intractable or wild to be impounded
7. Release of animals before removal to pound
8. Care of trespassing animals
9. Pound to which animals must be taken
10. Information to be supplied to pound keeper
11. Acceptance at pound of animals to be impounded
12. Pound register
13. Notice to owners of animals
14. Care of impounded animals
15. Isolation of infected animals
16. Impounded animals not to be worked
17. Impounded animals that die or are stolen or injured
18. Copies of by-laws

19. Fees and costs payable
  20. Release of impounded animals
  21. Sale of impounded animals
  22. Pound keeper may not purchase impounded animals
  23. Animals unsuccessfully offered for sale
  24. Proceeds
  25. Action for recovery of damages
  26. Procedure to be followed in application to Court
  27. Indemnity
  28. Offences and penalties
  29. Schedules 1 and 2 form part of this by-law
  30. Repeal of by-laws
  31. Short title and commencement
- Schedule 1: Code of good practice
- Schedule 2: Pound register information

## Definitions

1. In these bylaws, unless inconsistent with the context –

“**animal**” includes a horse, bovine, donkey, sheep, goat, pig, ostrich, dog, cat or the hybrid of any such animal, and "animals" will have a corresponding meaning;

“**Court**” means a Magistrate’s Court as referred to in section 166(d) of the Constitution, 1996, having jurisdiction in the area in which the pound is situated;

“**Gazette**” means the official Provincial Gazette of the Province of the Limpopo Province;

“**municipality**” means the Ba-Phalaborwa Municipality established in terms of section 155(6) of the Constitution, 1996, and established by and under sections 11 and 12 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

**“owner”** includes an owner who is known, or whose identity, with the exercise of reasonable diligence, can be ascertained, and in relation to any –

(a) animal, includes the agent of the owner or other person having the lawful custody or possession of such animal; or

(b) land means rural or urban land and includes the owner, lessee or lawful occupier of such land or his or her agent;

**“pound”** means a pound established as contemplated in section 3;

**“pound keeper”** means the person appointed from time to time as contemplated in section 4 and includes any person acting for or on behalf of the appointed pound keeper;

**“public place”** means any place to which the public has access including, without limiting the generality of the foregoing any –

(a) square;

(b) park;

(c) recreation ground;

(d) sports ground;

(e) open space;

(f) shopping centre on municipal land;

(g) unused or vacant municipal land; or

(h) cemetery;

**“public road”** means a public road as contemplated in section 1 of the Road Traffic Act, 1996 (Act No. 93 of 1996); and

**“service delivery agreement”** means a service delivery agreement as defined in section 1 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000).

## 2. Application

This by-law apply to the area of jurisdiction of the Ba-Phalaborwa Municipality, provided that nothing prevents any animal detained in terms of this by-law from being impounded in a pound or any similar facility established by any other municipality, or other lawful authority.

## 3. Establishment of pound

(a) The Municipality may establish a pound at any convenient place within its area of jurisdiction, provided that the Municipality may enter into a service delivery agreement with an institution or person mentioned in section 76(b) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), to provide for the establishment and operation of a pound to service its area of jurisdiction.

(b) The Municipality must give notice of the establishment of a pound by publishing a notice in at least two newspapers circulating in the area of jurisdiction of the Municipality.

#### **4. Appointment of pound keeper**

The Municipality must, in terms of its human resource policy, appoint a suitably skilled and experienced person as a pound keeper, unless the pound is established and operated in terms of a service level agreement contemplated in section 3(a).

#### **5. Trespassing or straying animals may be impounded**

(1) The owner of land upon which any animal is found trespassing may seize such animal, provided that such animal may not be removed to a pound before notice is given to the owner of the animal, where the particulars of such owner are known, in writing no less than 24 hours prior to the removal to the pound.

(2) Any animal found straying unattended upon any public road or public place may be seized for impounding by –

(a) a member of the South African Police Services;

(b) a member of the South African National Defence Force;

(c) a member of the Provincial Road Traffic Inspectorate;

(d) a member of an Animal Protection Organisation;

(e) an authorised municipal official; or

(f) the owner of any land through or alongside which such road passes or which abuts on such public place.

(3) A person may not keep an animal, seized for purposes of impounding in terms of in subsections (1) and (2), for a period longer than six hours without supplying such animal with adequate food and water.

(4) Any person who has seized an animal for purposes of impounding must comply with the provisions of the Code of Good Practice on the Handling and Transportation of Impounded Animals contained in Schedule 1.

#### **6. Animals too vicious, injured, intractable or wild to be impounded**

If a veterinarian or official contemplated in section 5(2) (a) to (e) is satisfied that an animal found trespassing on any land, or straying unattended upon any public road or public place, is too dangerous, vicious, injured, intractable or wild to be impounded, he or she may authorise the humane destruction or other disposal of the animal, after giving written reasons and written notice thereof to the owner of the animal where the particulars of such owner are known.

## **7. Release of animals before removal to pound**

(1) The owner of an animal, seized in terms of section 5(1) may apply to the owner of land contemplated in section 5(2) for the release of such animal prior to its removal to the pound.

(2) The owner of land referred to in section 5(1) –

(a) may release such animal forthwith; or

(b) may refuse the release of the animal, whereupon he or she may apply to Court for authority to impound the animal or to claim any damages he or she may have suffered, in which event the Court may make any order, including an order as to costs that the Court deems just and equitable.

(3) The owner of an animal seized in terms of section 5(2) may apply for the release of such animal prior to its removal to the pound, in which event the person who seized the animal must release such animal forthwith.

## **8. Care of trespassing animals**

A person may not work, use or ill-treat an animal found trespassing on any land or whilst it is in the process of being removed to a pound.

## **9. Pound to which animals must be taken**

An animal seized for the purposes of impounding as contemplated in section 5, must be removed to the nearest accessible pound, by the shortest practical route, and within the shortest practical time: Provided that animals of different species must be separated at all times according to their species.

## **10. Information to be supplied to pound keeper**

A person sending animals to the pound must advise the pound keeper in writing of –

(a) the number and descriptions of the animals;

(b) the land upon which they were found trespassing; and

(c) the distance in kilometers, by the shortest practical route, between the place on such land where they were seized and the pound.

## **11. Acceptance at pound of animals to be impounded**

Subject to compliance with the provisions of section 5, the pound keeper may not refuse to accept an animal for impounding.

## **12. Pound register**

(1) The pound keeper must –

(a) maintain a pound register containing the information contemplated in Schedule 2, which must be available for public inspection at all reasonable times; and

(b) complete the pound register immediately upon the acceptance into the pound of any animal.

(2) If the pound keeper –

(a) neglects or refuses to comply with any of the provisions of subsection (1);

(b) knowingly makes a false entry in the pound register;

(c) fraudulently destroys or erases any previous entry in the pound register; or

(d) wilfully delivers a false copy or extract from the pound register to any person,

he or she commits an offence.

## **13. Notice to owners of animals**

(1) The owner of an animal contemplated in sections 5(1), 6, 14(2)(b), 15(1)(c), 17(b), 21(1) (b), and 23(a), must be notified by –

(a) addressing a written notice to him where his identity is known;

(b) placing a copy of the notice to the owner on the Municipal Notice Board; or

(c) publishing a copy of the notice in a newspaper that is generally in circulation in the municipality or where no such newspaper is generally in circulation, by posting a notice at the municipal offices in the town where the animal was found to be trespassing or straying.

(2) If the details of the owner of an animal are unknown, the pound keeper must report the impoundment of the animal at the nearest police station.

## **14. Care of impounded animals**

(1) The pound keeper –

- (a) is responsible for the proper care of all impounded animals;
- (b) must ensure that fresh water and sufficient food is available to impounded animals at all times; and
- (c) is liable to the owner of an impounded animal for any damage caused by his or her wilful or negligent acts or omissions.

(2) If the pound keeper is of the opinion that an impounded animal is dangerously vicious, permanently disabled or so diseased or severely injured or in such a physical condition that it ought to be destroyed, he or she must notify a police officer and request him to act in terms of section 5 of the Animals Protection Act, 1962 (Act 71 of 1962).

### **15. Isolation of infected animals**

If the pound keeper suspects, or is aware, that an impounded animal, or an animal to be impounded, is infected with any disease contemplated in the Animal Diseases Act, 1984 (Act No. 35 of 1984), he or she must –

- (a) provide separate accommodation for such animal;
- (b) immediately isolate the animal, and report the disease to the nearest State Veterinarian; and
- (c) immediately notify the owner of the animal of such disease in writing where the particulars of the owner are known to him or her.

### **16. Treatment of impounded animals**

The pound keeper –

- (a) may not work or in any way make use of an impounded animal or permit any such animal to be worked or made use of by any other person; and
- (b) must ensure that all impounded male animals are at all times kept apart from female animals.

### **17. Impounded animals that die or are stolen or injured**

If an impounded animal is injured, dies or is stolen, the pound keeper must –

- (a) record the injury, cause of death or theft in the pound register referred to in section 12;
- (b) notify the owner of the animal in writing of the injury, death or theft where the particulars are known to him or her; and
- (c) in the case of theft, report the theft to the nearest office of the SA Police Service.

## **18. Copies of by-law**

The pound keeper must ensure that copies of this by-law are available at the pound for inspection.

## **19. Fees and costs payable**

The pound keeper must –

(a) charge the owner of an impounded animal the fees as set by the Municipality from time to time as contemplated in section 75A of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000); and

(b) recover the cost of any dipping, medical treatment, inoculation or other treatment that may be necessary or required in terms of this by-law or in accordance with any other law.

## **20. Release of impounded animals**

(1) Subject to subsection (2), the pound keeper must immediately release an impounded animal, and give the owner a receipt, provided that the owner –

(a) provides sufficient and satisfactory proof of ownership of such animal; and

(b) pays the fees and costs contemplated in section 19.

(2) If an impounded animal is an animal that is required to bear an identification mark as set out in the Animal Identification Act, 6 of 2002, and if such animal does not display such mark, the municipality may report the matter to the South African Police Services and may refuse the release of such animal upon receipt of a written instruction by the South African Police Services that the animal should remain impounded.

(3) If the owner of an impounded animal is unable to pay the fees or costs contemplated in section 19, the pound keeper may retain such animal in order to recover such fees or costs as may be due and payable.

(4) Any risk attached to ownership of an animal will pass to the person who provided proof of ownership when the pound keeper expresses his satisfaction that sufficient proof of ownership had been provided.

## **21. Sale of impounded animals**

(1) The pound keeper must –

(a) whenever any impounded animal has not been released within seven days from the date of its impoundment, apply to the Court for authority to sell the animal; and



(b) in the application contemplated in paragraph (a), provide the Court with proof, where the particulars of the owner were known to him or her, that he or she lodged a statement as contemplated in sub-section (2) with the owner

(2) The statement contemplated in subsection (1)(b) must include –

(a) the fees and costs due in terms of this by-law; and

(b) the amount of any damages that the owner of the land on which the impounded animal trespassed, may have suffered.

(3) The Court, whether the amounts set forth in the statement contemplated in subsection

(1)(b) are disputed or not, must –

(a) summarily enquire into the matter;

(b) enquire whether notice was given to the owner of the animal by the pound keeper; and

(c) make such order as it considers just and equitable, including an order –

(i) as to costs; and

(ii) on the process to be followed by the pound keeper in the sale of the animal.

## **22. Pound keeper may not purchase impounded animals**

The pound keeper, or a family member, or a close associate of the pound keeper, or any municipal employee, may not purchase an animal offered for sale at a pound sale, either personally or through any other person, directly or indirectly.

## **23. Animals unsuccessfully offered for sale**

(1) In the event that any animal is not sold as contemplated in section 21 –

(a) the pound keeper must immediately advise the Court and the owner, where the particulars of such owner are known to him or her, of its estimated value and the fees and costs incurred; and

(b) the Court may make such order as it may deem just and equitable.

(2) If any animal that is not normally put up for sale at an auction is not claimed by its owner within 3 days of a written notice of such impoundment being served on the owner or within 3 days after the placement of an advertisement of such impoundment in terms of section 13, such animal may be put down and the costs for maintaining and putting such animal down may be recovered from the owner.

## **24. Proceeds**

All proceeds from the collection of fees and costs contemplated in section 19 must be paid into the municipal revenue fund, provided that in the event that any impounded animal is sold at a price in excess of –

- (a) the fees and costs incurred; and
- (b) any damages awarded in terms of section 21(3)(c),

such excess must be paid to the owner within 30 days of the sale, unless the identity of the owner has not been established, in which event the excess must be paid into the municipal revenue fund.

## **25. Action for recovery of damages**

Nothing in this by-law prevents the owner of land or any other person from instituting action against the owner of a trespassing animal, in any court with jurisdiction, for the recovery of damages suffered by reason of such trespassing animal.

## **26. Procedure to be followed in application to Court**

An application to Court for –

- (a) the impoundment of an animal in terms of this by-law, must comply with the procedure contemplated in Rule 55 of the Rules of Court; and
- (b) the sale of an impounded animal in terms of this by-law, must comply with the procedure contemplated in section 66 of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944), and Rule 41 of the Rules of Court, made by the Rules Board for Courts of Law in terms of section 6 of the Rules Board for Courts of Law Act, 1985 (Act No. 107 of 1985), and published under Government Notice No. R.1108 in Regulation Gazette No. 980 of 21 June 1968, as amended from time to time, read with the necessary changes.

## **27. Indemnity**

The Municipality, pound keeper and any officer, employee, or agent of the Municipality will not be liable for the death of, injury to or theft of any animal arising as a result of its detention, impounding or release, or arising during its impoundment.

## **28. Offences and penalties**

A person who –

- (a) releases an animal that was lawfully seized for the purpose of being impounded or which has been lawfully impounded;
- (b) unlawfully seizes an animal for the purpose of impounding it;
- (c) unlawfully impounds an animal;

- (d) intervenes with the pound keeper in the execution of his duties
- (e) releases any animal from his property into a public place or road; or
- (f) contravenes any provision of this by-law, is guilty of an offence and is liable on conviction to –
- (i) a fine or imprisonment, or either such fine or imprisonment, or to both such fine and such imprisonment; and
- (ii) in the case of a continuing offence, to an additional fine or an additional period of imprisonment, or to such additional imprisonment without the option of a fine, or to both such additional fine and imprisonment for each day on which such offence is continued; and
- (iii) a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as result of such contravention or failure.

## **29. Schedules 1 and 2 form part of this by-law**

Schedules 1 and 2 to this by-law form part of this by-law for all purposes.

## **30. Repeal of existing By-laws**

The following by-laws and any other provision in any other by-law that is inconsistent with the provisions of this by-law are hereby revoked:

## **31. Short title and commencement**

This by-law will be called the By-law relating to Impoundment of Animals and it will come into effect upon publication in the Provincial Gazette.

## **SCHEDULE 1**

Code of Good Practice on the Handling and Transportation of Impounded Animals

(Section 5(4))

PART I: Paddock requirements

1. Different species of animals must be kept in separate paddocks.
2. Animals may not be penned in overcrowded paddocks, and penning space provided for in each paddock must be sufficient to permit all animals to lie down at the same time and must not be less than 1,5 square metres of floor area for each animal.
3. Fractious animals may not be kept with other animals.

4. Young, weaned juvenile animals, may not be penned with adult animals, except in the case of mother and offspring.

5. Provision must be made in paddocks for –

(a) facilities such as racks, mangers or other suitable feed containers that are easy to clean, which will allow the feeding of an animal off the floor, and which can be serviced without disturbing the animals;

(b) water troughs with an adequate supply of suitable fresh water at all times;

(c) sufficient facilities for the adequate cleaning of paddocks; and

(d) facilities for the safe handling of animals.

6.(a) The paddocks must at all times be maintained in a good state of repair.

(b) Sharp points such as wire ends, broken boards, jagged ends or protruding hinges or bolts, which could cause injury to animals, must be removed or otherwise suitably covered.

7. The floor of the entire paddock, including the off-loading banks, races, and passages, must be so constructed as to provide adequate non-slip surfaces that can be efficiently and suitably cleaned and kept dry and in a condition fit for the holding of animals.

## PART II: Handling of animals

8. Animals must at all times be handled humanely and with patience and tolerance.

9. The following must be kept in mind when handling animals –

(a) animals respond more readily to being driven when the driver stands behind the animal but within its field of vision; and

(b) herd animals respond more readily to being driven when in a group rather than singly.

10. Animals may not be dragged by their legs, or carried by their head, ears or tail.

11. Young calves must be carried if they cannot walk with ease, by lifting the calf around the chest and hindquarters, alternatively they must be guided with one hand on the hindquarters and the other near shoulder or neck, and walked in the required direction at an appropriate and comfortable pace.

12. Only sticks with canvas or belting flaps may be used when driving animals and it is preferable to strike the ground behind the animal rather than to hit the animal.

13. Electric prodders, sticks or goads may not be used on young calves.

14. Electric prodders may not be used excessively or indiscriminately or applied to the face, anal or genital areas of animals.

#### PART III: Movement of animals

15. Animals driven on the hoof must at all times be under proper and competent supervision.

16. Animals on the hoof must be driven in a calm manner at a gait that is relaxed and comfortable, natural to that animal, and not faster than the pace of the slowest animal.

17. Animals may not be driven for periods in excess of 10 hours without being given rest of at least one hour and provided with sufficient suitable fresh water that is available to all the animals.

18. No animal on the hoof may be moved in excess of the following distances –

(a) during a journey of not more than one day's duration –

(i) 20 kilometres for sheep and goats; and

(ii) 30 kilometres for cattle; and

(b) during a journey of more than one day's duration –

(i) 20 kilometres during the first day and 15 kilometres during each subsequent day for sheep and goats; and

(ii) 25 kilometres during the first day and 20 kilometres during each subsequent day for cattle.

19. Animals must be watered and fed immediately on reaching their night camp or final destination, with sufficient food of a quality and of a type compatible with the species.

20. Animals may not be moved in the dark.

21. No sick, injured or disabled animal may be moved on the hoof.

#### PART IV: Vehicles used in transporting animals

22. Vehicles and all trailers used in the transport of hoofed animals must be suitable for the transport of such animals and in a roadworthy condition.

23. All vehicles and trailers referred to in item 22 must have –

(a) a suitable non-slip floor which may not impede the cleaning of the floor of the vehicle, with hinged or removable battens or steel grids being permissible;

(b) adequate ventilation and light whilst in motion as well as when stationary, with no vehicle being totally enclosed;

(c) adequate protection from exhaust gasses, as exposure to exhaust fumes could interfere with the animals' respiration or cause distress;

(d) sidewalls high enough to prevent animals from escaping or falling out of the vehicle:  
Provided that –

(i) the sides and partitions, when used in a vehicle to separate animals carried therein, must be of a height not lower than the shoulder joint of the largest animal being transported;

(ii) in the case of cattle other than calves, the minimum height must be 1 800 millimetres; and

(iii) the minimum height must be 750 millimetres in the case of any smaller animals;

(e) in multi-tier vehicles, heights between decks must be adequate, and in case of sheep and pigs not less than 1 000 millimetres, to enable the largest animals to stand naturally, freely and fully erect and to allow adequate space for the free flow of air above the animals;

(f) floors that are solid and impervious;

(g) loading and offloading openings at the rear of the vehicle that are the full width of the vehicle or, if at the sides, a width not less than 2 400 millimetres; and

(h) gates, with or without partitions –

(i) of a design and construction strong enough and suitable for the conveyance of the intended consignment; and

(ii) that open and close freely and are able to be well-secured.

24. The density of animals packed into any given space must be such as to ensure the safety and comfort of the animals during transport, and the recommended floor space per animal is

(a) 1,4 square metres per large animal; and

(b) 0,5 square metre per small animal.

PART V: Watering and feeding of live animals prior to loading

25. Animals must be provided with sufficient and suitable food and fresh water until the commencement of the journey.

## PART VI: Loading and off-loading procedure

26. Loading and off-loading into or out of a vehicle must be accomplished as quietly and calmly as possible, with patience and tolerance and without undue harassment, terrifying of the animals, bruising, injury, suffering or undue stress.

27. No animal may be loaded or off-loaded by lifting by the head, fleece, skin, ears, tails, horns or legs.

28. No animals may be loaded or off-loaded otherwise than –

(a) by means of a ramp with a non-slip surface, sturdy enough to support the weight of the species of animals being handled, with side panels or bars adequate to prevent animals escaping or falling off the ramp and of an incline not steeper than 25 degrees; or

(b) at a loading bank equal to the height of the floor of the vehicle or, at off-loading, not more than 310 millimetres below the level of the off-loading vehicle and with an incline not exceeding 25 degrees.

29. Where a truck is equipped with an on-board removable loading ramp it must have a non-slip surface and be of a sufficient length when lowered, that the inclination is no steeper than the inclines referred to in item 28, with the distance from the ground to the heel of the ramp not exceeding 120 millimetres.

30. Ramps must be correctly adjusted to the exact height of the vehicle's floor.

31. Journeys must commence as soon as possible after the live animals have been loaded and the animals must be promptly off-loaded upon arrival at the destination.

32. Unless adequate provision has been made for effective separation, different species of animals may not be loaded and transported in the same vehicle.

33. Animals of different ages, sizes and sexes may not be loaded and transported in the same vehicle unless adequate provision has been made for the effective separation of such animals.

34. Adult horned cattle may not be transported with polled cattle and they must also be penned separately.

35. When there is reason to believe that an animal is likely to give birth in the course of a proposed journey, the animal may not be loaded onto a vehicle.

36. In the case of an animal giving birth during transport, the necessary measures must be taken to ensure the protection of the mother and offspring from being trampled or otherwise injured or harassed by other animals.

37. In the event of –

(a) a breakdown of the transport vehicle;

- (b) an accident or collision in which the transport vehicle is involved; or
- (c) injury to, or death of, any animal in transit, the carrier must immediately report the details to, and request assistance from –
- (i) in the case of paragraph (a), a breakdown service;
- (ii) in the case of paragraph (b), the South African Police and the traffic authorities; or
- (iii) in the case of paragraph (c), a veterinarian.

#### PART VII: Restraining of animals during transportation

38. Where the transport of any animal may cause injury to itself or any other animal, it must be restrained in such a manner as to prevent such injury.

39. No animals may be kept in restraint for more than 4 hours in any 24-hour period.

40. No wire or bailing twine may be used for tying the animal's legs or feet.

41. To avoid strangulation or neck-break, a slipknot may not be used where animals are secured to the vehicle by horns or neck, and the rope must be attached to the vehicle at the level of the animal's knees so that in the event of the animal falling, the possibility of serious injury or death is reduced, with the rope being long enough to allow the animal to lie comfortably in a natural position with its head upright.

#### Pound register information

(Section 12)

A pound register must, at least, contain the following information –

1. Name of pound
2. Date of receipt of animal
3. Number and description of animals
4. Brands or markings on animal
5. Ear tag number assigned by the pound keeper
6. Name and address of person who seized the animal
7. Name and address of person who delivered the animal to the pound
8. Name and address of owner of land where animal was seized



9. Name and address of owner of animal
10. Name and address or description of place where animal was found
11. Distance between place where animal was seized and pound
12. Particulars of damage caused by the animal
13. Transport fees payable
14. Details of destruction or disposal of animal
15. Cause of death or injury of impounded animal
16. Description and amount of pound fees
17. Damages awarded by Court
18. Date of release of animal
19. Date of sale of animal
20. Proceeds of sale of animal
21. Name and address of purchaser
22. Excess amount (if any) paid to owner or municipality
23. Receipt number
24. Details of Order of Court with regard to animal not sold in execution

## **BA-PHALABORWA MUNICIPALITY**



**APPROVAL DATE BY COUNCIL: 31 May 2019**

**INDIGENT SUBSIDY BY-LAW**

**2019/20**

## **PURPOSE OF THIS BY-LAW**

The purpose of this by-law is to provide a framework for poverty alleviation within Ba-Phalaborwa Local Municipality in line with changing the needs of the Community. The by-law links the Council's Credit Control Policy, Tariff Policy and respective by-laws by providing a support programme for the subsidization of basic services to indigent households.

## **APPLICATION OF THE BY-LAW**

Where this by-law contradicts National Legislation such as conflicts immediately to the attention of the municipality once it becomes aware of such conflicts and will propose changes to the municipality's by-law to eliminate such conflict.

## **PROVISION OF INDIGENT SUPPORT SUBSIDIES**

Indigent Subsidies will be provided by the Council on the following basis:

- [a] Relief will only be provided to those indigent households who apply and qualify thereof;
- [b] The relief must be significant so as to relieve the recipient of an indigent support from the financial hardship of paying fully for services received from the Municipality for a specific period;
- [c] All registered indigents will be granted subsidies on services and property rates levied;
- [d] The indigent will receive a monthly account, which will reflect the amount due and payable;
- [e] The indigent will only be billed on the system;
- [f] The subsidised amount will be reflected against the indigent support vote.
- [g] Subject to annual resubmission by the applicant of the application to Council on the date as determined by Council.

## **APPLICATION AND AUDIT FORM**

An Application for Indigent Household Consumer Subsidy must be completed by all consumers who qualify in terms of this policy.

The account holder must apply in person and must present the following certified copies of documents upon application:

- (a) The latest Municipal account in his/her possession.
- (b) The accountholder's and spouses identity documents.
- (c) Written proof for child headed household consumers or properties inherited must be provided.
- (d) An application form indicating the names and identity numbers of all occupants/residents over the age of 18 years, who reside at the property.
- (e) Documentary proof of income or an affidavit of financial status.
- (f) Statement of monthly income and expenditure.
- (g) Bank statement for past three months of applicant and spouse where applicable.
- (h) Any other proof or confirmation/ evidencing the qualification as indigent.

Application forms must be read in conjunction with the approved Council's indigent policy. All applications must be verified by an official or municipal agent appointed by Council.

The relevant Ward Councillor should assist during the evaluation and verification process of the application together with the relevant officials and local community leaders or ward committee members and or any person appointed by Council in this regard.

The list of indigent household consumers can be made available at any time to the Information Trust Corporation (ITC) for the purpose of exchanging credit information.

If an application is favourably considered, a subsidy will only be granted during that municipal financial year. The onus will rest on the approved account holders to apply for relief on an annual basis.

For the purposes of transparency, on an annual basis, the following key information of the recipient's indigent support will be made available to the public for scrutiny:-

- ❑ Names of household consumers receiving relief for the prescribed period;
- ❑ Stand number where services are rendered to the recipients; and
- ❑ And any other information that the municipality see to be in the public interest.

Any resident may query the qualification of a recipient in writing, within 30 days from the date of publication, to the Council or verbally for further investigation by council

## **SPECIAL TARIFF FOR SERVICES**

The Council may determine the extent of the support for indigent households, subject to the availability of funds and compliance with prescribed criteria for municipal services and amenities.

## **RESPONSIBILITIES OF MUNICIPAL MANAGER**

It shall be the responsibility of the Municipal Manager:

- [a] To create, maintain and update a register of all debtors receiving indigent subsidies from the Council in terms of these by-laws;
- [b] To reflect the indigent status of debtors in the accounting records of the Municipality;
- [c] To advise and keep indigent debtors informed of the approval, amendment, suspension or withdrawal of an application for indigent support in terms of these by-laws and the conditions under which such support will be granted, including the renewal of indigent support applications;
- [d] To report any instances of misuse of the Council's Indigent Policy to the Council for its attention in terms of these bylaws;
- [e] To report at regular intervals as may be required by Council on the progress or otherwise of the implementation of the Council's Indigent Support Programme; and.
- [f] To publish a copy of these by-laws, policy and any amendments thereto on the official website of the municipality.

## **RESPONSIBILITY OF COMPLIANCE WITH THESE BY-LAWS**

The indigent debtor is responsible for ensuring compliance with these by-laws in respect of all or any matters relating to the indigent support granted. The indigent debtor is responsible for compliance with these by-laws and policy in respect of matter relating to the use of any water, electricity, sanitation installation and other services provided by Council.

## **APPEALS AGAINST DECISIONS OF THE COUNCIL**

An indigent household, whose application has been declined, may appeal against such decision which appeal procedure shall be laid down within the policy.

## **AVAILABILITY OF BY-LAWS**

[a] A copy of these by-laws shall be included in the municipalities Municipal Code as required in terms of section 15 of the Municipal Systems Act, No 32 of 2000 and shall be displayed on the official website of the municipality;

[b] A copy of these by-laws shall be available for inspection at the municipal offices at all reasonable times;

## **SHORT TITLE AND COMMENCEMENT**

This By-Law is called the Indigent Support By-law of the Ba-Phalaborwa Local Municipality and shall come to force and effect upon promulgation in the government gazette.

**BA-PHALABORWA MUNICIPALITY**

The Municipal Manager of Ba-Phalaborwa Municipality hereby, in terms of Section 13 of the Local Government Municipal Systems Act, 2000 (Act No. 32 of 2000) publishes the By-laws for the Ba-Phalaborwa Municipality, as approved by it's Council.

## **BA-PHALABORWA MUNICIPALITY**



**APPROVAL DATE BY COUNCIL: 31 May 2019**

**PROPERTY RATES BY-LAW**

**2019/20**

Ba-Phalaborwa Municipality, hereby, in terms of section 6 of Local Government: Municipal Property Rates Act, 2004, has by way of resolution adopted the Municipal Property's Rates By- Law set out hereunder.

## **BA-PHALABORWA MUNICIPALITY**

### **MUNICIPAL PROPERTY RATES BY-LAW(S)**

PREAMBLE Section 229(1) of the Constitution requires a municipality to impose rates on Property and surcharge on fees for services provided by or on behalf of the municipality.

AND WHEREAS section 13 of Municipal System Act read with section 162 of the Constitution require Municipality to promulgate municipal by-laws by publishing them in the gazette of relevant province.

AND WHEREAS Section 6 of Local Government: Municipal Property Rates of Act, 2004 require Municipality to adopt by-laws to give effect to the implementation of its Property rates policy: the by-laws may differentiate between different categories of properties and different categories of owners of properties of liable for payment of rated;

NOW THEREFORE BE ENECTED by the Council of Ba-Phalaborwa Municipality

Municipality as follows:

#### **1. DEFINITION**

In the by-laws, any word or expression to which a meaning has been assigned in the Local Government: Municipal Property Rates Act: 2004 (Act No. 6 of 2004), shall bear the same meaning unless the context state indicate otherwise.

**Municipality'** means the Ba-Phalaborwa Municipality

**Property Rates Act'** means the Local Government: Municipal Property Rates Act, 2004 (Act no 6 of 2004);

**Rates policy'** means the policy of levying of rates on rateable properties of the Ba-Phalaborwa Municipality contemplated in chapter 2 of Municipal Property Rates Act.

#### **2. OBJECTS**

The object of this by-laws is to give effect to implementation of Rates Policy as contemplated in Section 6 of Municipal Property Rates Act.

#### **3. ADOPTION AND IMPLEMENTATION OF RATES POLICY**

3.1. The Municipality shall adopt and implement its Rates Policy consistence with the Municipal Property Rates Act on the levying of rates on rateable property within the jurisdiction of the municipality; and



3.2. The municipality shall not be entitled to levy rates other than in terms of its Rates Policy.

#### 4. **CONTENT OF RATE POLICY**

The Rates Policy shall, *inter alia*

4.1. Apply to all levied Municipality pursuant to the adoption of its Annual Budget;

4.2. Comply with the requirements for:

4.2.1. The adoption and content of rates policy specified in the section 3 of the Act;

4.2.2. The process of community participation specified in section 4 of the Act; and

4.2.3. The annual review of a Rates Policy specified in section 5 of the Act.

4.3. Provide for principles, criteria and implementation measures that are consistent with Municipal Property Rates Act for the levying of rates which council may adopt.

4.4. Provide for enforcement mechanism that are consistent with the Municipal Property Rates Act and the Local Government; Municipal System Act of 2000 (Act No. 32 of 2000).

#### 5. **ENFORCEMENT OF THE RATES POLICY**

The municipality's Rates Policy shall be enforced through the credit control and Debt Collection Policy and any further enforcement mechanisms stipulated in the Act and the Municipality's Rates Policy.

#### 6. **SHORT TITLE AND COMMENCEMENT**

This by-law is called the Municipal Property Rates By-law, and takes effect on 1 July 2019

## **BA-PHALABORWA MUNICIPALITY**



**TARIFF BY-LAW**

**2019/20**

**APPROVAL DATE BY COUNCIL: 31 May 2019**

## TARIFF BY-LAW

To give effect to the implementation of the Ba-Phalaborwa Municipality's individual tariff policies and to provide for matters incidental thereto.

### Preamble

1. Section 229(1) of the Constitution of the Republic of South Africa authorizes a municipality to impose
  - a. Rates on property and surcharges on fees for services provided by or on behalf of the municipal, and
  - b. If authorized by national legislation, other taxes, levies and duties.
2. In terms of section 75A of the Systems Act, 32 of 2000, a municipality may:
  - a. Levy and recover fees, charges or tariffs in respect of any function or services of the municipality, and
  - b. Recover collection charges and interest on any outstanding debt.
3. In terms of section 74(1) of the Systems Act, 32 of 2000, a municipal council must adopt and implement a tariff policy on the levying of fees for a municipal service provided by the municipality or by way of services delivery agreements and which complies with the provisions of the systems act, the Local Government Municipal Finance Management Act, 53 of 2003 and any other applicable legislation.
4. In terms of section 75(1) of the Systems Act, 32 of 2000, a municipal council must adopt by-laws to give effect to the implementation and enforcement of its tariff policies.
5. In terms of section 75(2) of the Systems Act, 32 of 2000, by-laws adopted in terms of subsection 75(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.

### Definitions

In this By-Law any word or expression to which a meaning has been assigned in the Act, shall bear the same meaning in these By-laws, and unless the context indicates otherwise —

“**Council**” means the Council of the Ba-Phalaborwa Municipality;

“**Credit Control and Debt Collection By-law and policy**” means the Credit Control and Debt Collection Policy as required in terms of section 96(b) and 97 and 98 of the Local Government: Municipal Systems Act,

Act 32 of 2000;

“**Tariff**” means fees, charges or any other tariffs levied by the council in respect of any function or service provided by the Council, excluding rates levied by the council in terms of the Local Government Municipal: Property Rates Act; Act 6 of 2004;

“**Tariff policy**” means a tariff policy adopted by Council in terms of this By-law.

#### 1. Guiding principles in the determination of tariffs.

In the determination of tariffs the Council shall be guided by the following principles –

- i. Tariffs shall be equitable and affordable in that the amount due for municipal services should generally be in proportion to their use of that service;
- ii. Tariffs shall support national macro-economic policies and shall incorporate visions, strategies and economic policies of the Republic of South Africa
- iii. Tariffs shall be cost effective and cost reflective and should reflect the cost reasonably associated with rendering municipal services, including capital, operating, maintenance, administration, replacement costs and financing charges;
- iv. Tariffs shall promote the sustainability of the provision of municipal services.

#### 2. Application of By-Law

This by-law shall only apply to tariffs applicable to the Council and municipal entities in respect of which the municipality is the parent municipality for – Fees, surcharges on fees, charges and tariffs in respect of municipal services, such as –

- i. Provision of water;
- ii. Refuse removal;
- iii. Sewerage;
- iv. Electricity consumption;
- v. Municipal services provided through prepaid meters.
- vi. All other related costs for services rendered in terms of the service
- vii. Interest which has accrued or will accrue in respect of money due and payable to the Council;
- viii. Collection charges in those cases where the Council is responsible for
  - (aa) the rendering of municipal accounts in respect of any one or more of the municipal services;
  - (bb) the recovery of amounts due and payable in respect thereof, irrespective whether the municipal services, or any of them, are provided by the Council itself or by a service utility with which it has concluded a service provider agreement to provide a service on the municipality's behalf.

### **3. Adoption and implementation of Tariff Policy**

The council shall adopt and implement a tariff policy on the levying of fees for a municipal service provided by the council or by way of service delivery agreements which complies with the provisions of the Local Government: Municipal Systems Act, 32 of 2000, the Local Government Municipal Finance Management Act, 56 of 2003 and any other applicable legislation.

### **4. Enforcement of Tariff Policy**

The Council's tariff policy shall be enforced through the Credit Control and Debt Collection By-Law and policy and any further enforcement mechanism stipulated in the Council's tariff policy.

### **5. Short title and commencement**

This By-law is the Tariff By-law, and takes effect on 1 July 2019.

**BY-LAWS FOR THE BA-PHALABORWA LOCAL MUNICIPALITY****WASTE MANAGEMENT BY-LAWS****SCHEDULE****TABLE OF CONTENTS****CHAPTER 1****INTERPRETATION, PRINCIPLES AND OBJECTS**

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## CHAPTER 1

### INTERPRETATION, PRINCIPLES AND OBJECTS

#### 1. DEFINITIONS AND INTERPRETATIONS

(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 a .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;

**“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

- a) the Local Municipality of Ba—Phalaborwa established in terms of the Local Government: Municipal Structures Act, 1998, (Act 117 of 1998) as amended, exercising its legislative and executive authority through its Municipal Council; or
- b) its successor in title; or
- c) a structure or person exercising a delegated power or carrying out an instruction, where any power in these by—laws has been delegated or sub-delegated, or an instruction given, as contemplated in section 59 of the Local Government: Municipal systems Act, 2000 (Act No. 32 of 2000); or
- d) except for the purposes of Chapters 6 and 8, a service provider fulfilling a responsibility under these By—laws, assigned to it in terms of section 81(2) of the Systems Act, 2000, or any other law; as the case may be;

**“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;

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

**“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”**

it 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 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;

**"municipal manager"**

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

**“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 any, applicable legislation;

**“public place”**

includes any public building, public road, overhead bridge, subway, 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 5;; 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 pretreatment 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 F treatment, discarding or recycling and may be liquid or solid, may include products {3}; 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 legislation;

**“waste disposal facility”**

means any facility or site which receives waste for treatment or disposal thereof, and go 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 or

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/id, 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.

## 2. PRINCIPLES

(1) The Council has the responsibility to ensure that all waste generated within the municipal area is:

- (a) collected, disposed of or recycled in accordance with these By-laws; and
- (b) that such collection, disposal or recycling takes account of the waste management hierarchy set out in subsection

(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) recycling, reprocessing and treatment; and
- (d) disposal.

(3) Any authorised official must, as far as reasonably possible, take into account the hierarchy specified in subsection (2).

## 3. MAIN OBJECTS

(i) 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.

## **CHAPTER 2**

### **WASTE MANAGEMENT INFORMATION SYSTEM**

#### **4. Establishment of an information system**

- (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.

#### **5. Purpose of the information system**

- (1) The purpose of the information system referred to in section 4, 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 6(1);
  - (c) furnish information upon request or as required by law to the national government;
  - (d) gathering 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 3.

#### **6. Provision of information**

- (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 27(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.

## **CHAPTER 3**

### **MUNICIPAL SERVICE**

#### **Part 1: PROVIDING ACCESS TO MUNICIPAL SERVICES**

##### **7. Duty to provide access to municipal service**

(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 2(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

## 8. The provision of the municipal service

(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 on a regular basis and at a cost to end users determined 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.

(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 a
- (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 or 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 SERVICES**

### **9. Obligations of generators of domestic waste, business waste and dailies**

(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 8(4)(c), must place such 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 Ely—laws, is placed in an approved receptacle before suitable steps have been taken to avoid such damage or injury;

(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; . L.

- (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 in firm 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-r receptacles.

**(5)** The space provided in terms of subsection (4), must:

(a) be in a position Orr-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

(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.

#### **10. Liability to pay for municipal service**

(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**

#### **11. Provision of commercial services by licensees**

(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.

#### **12. Provision for Council co-ordination of waste disposal**

(1) The Council may by a notice published in the Free State Provincial Gazette, direct that a category of waste be disposed of at a particular waste disposal facility or waste 153 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**

### **13. Storage of business, industrial and recyclable waste**

(1) 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.

### **14. Collection and disposal of industrial, business and recyclable waste**

(c) that the service rendered by the licensees is only in respect of that- portion of the business, industrial or recyclable waste authorised in the licence concerned. .

(a) The owner or occupier of premises generating business, industrial or recyclable Waste must ensure that:

- (b) the container in which the waste is stored, is not kept in a public place except when so required for collection;
- (c) the waste is collected by a licensee within a reasonable time after the generation , thereof; and

(2) A licensee must dispose of business, industrial and recyclable waste at an appropriately permitted waste handling facility or waste disposal facility in compliance, U with the provisions of section 12(2) and 23.

## **Part 3: GARDEN WASTE AND BULKY WASTE**

### **15. Storage, collection and disposal of garden waste and bulky waste**

(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 alter 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 section 23.

(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 9, 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**

### **16. Generation of building waste**

(1) 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.

### **17. Storage of building waste**

(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.

**CONTINUES ON PAGE 130 - PART 2**





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 LIMPOPO PROVINSIE  
 XIFUNDZANKULU XA LIMPOPO  
 PROFENSE YA LIMPOPO  
 VUNDU LA LIMPOPO  
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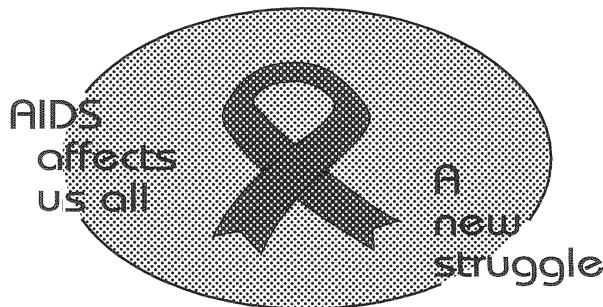
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## **18. Collection and disposal of building waste**

- (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 12, 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**

### **19. Generation of special industrial, hazardous or health care risk waste**

**(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.

### **20. Storage of special industrial hazardous or health care risk waste**

**(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 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, Limpopo provincial government or Council, before collection.

## **21. Collection and disposal of special industrial, hazardous or health care risk waste**

(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 waste disposal facility designated by the Council as a waste disposal facility and in accordance with the provisions of section 23;

## **CHAPTER 5**

### **TRANSPORTATION AND DISPOSAL OF WASTE**

#### **22. Transportation of waste**

(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 'i roadworthy condition at all times; f

(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 E1 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).

## 23. Disposal of waste

- (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 section 12(2) and with the provisions of 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 12 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 ton 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. i:

**(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 authorized 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, maybe 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 Local Municipality of Ba—Phalaborwa;

**(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**

#### **24. License requirements**

**(1)** Subject to the provisions of section 32, >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 cession 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(4) and 32(2).

## **25.Licence applications**

**(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 an 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.

## **26. Suspension and revocation of licenses**

**(1)** A license issued under this Chapter may be suspended or revoked by the Council on the grounds that the license 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; in
  - (c) has failed to comply with any license condition contemplated in section 25(4)(a); or
- (09 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 .fi 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.

## **27. Licence terms and conditions**

**(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, Limpopo provincial or Council, waste management policy.

(2) Any licence issued under this Chapter must:

- (a) specify the licence period contemplated in section 24(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.

## **28. Renewal of licences**

- (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 25(3) and in accordance with section 25(4).
- (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 4 sub-section(1), remains valid until a final decision has been made in respect of that application.

## **29. Display of licences**

- (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.



### **30. Prohibited conduct**

No licence holder may:

- (a) intentionally or negligently operate in contravention of any condition of the licence concerned; '
- (b) intentionally or negligently fail or refuse 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 2; 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 24(1), to be collected or \_ transported, as specified in the National Road Traffic Act, 1996.

### **31. Exemptions**

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 Limpopo 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. " '

### **32. Transitional provisions**

(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 25, 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**

#### **33. Accumulating waste**

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.

### **34. Duty to provide facilities for litter**

(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.

### **35. Prohibition a littering**

(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 lei": behind, remove such litter-or cause it to be removed from the premises concerned to prevent the litter from becoming a nuisance.

### **36. Prohibition of dumping and abandoning articles**

(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.

## **CHAPTER 8**

### **AUTHORISED OFFICIALS**

#### **37. Identification documents**

(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 if 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.

#### **38. Powers of authorised officials**

(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, may with the consent of the owner or person in charge of a vehicle or other mode of conveyance, 3:1

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 paths Act, 1963 (Act No. 16 of 1963).

(3) (a) if, in the opinion of an authorised official, 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 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 concerned may report the matter to the Local Municipality of Ba—Phalaborwa with a view to seizure of the vehicle concerned in terms of the Criminal Procedure Act, 1977 (Act No. 51 of 1977).

### **39. Powers to question**

(1) For the purposes of administering, implementing and enforcing the provisions of, these By-laws, an authorised official 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 may for the purposes of subsection (1) be accompanied by an interpreter and any other person reasonably required to assist that official or officer.

## **CHAPTERS**

### **MISCELLANEOUS**

#### **44. Ownership**

(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.

#### **45. Sewing of documents**

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.

#### **46. Offences and penalties**

Any person, who

- (a) contravenes or fails to comply with any provisions of these By-laws;
- (b) fails to comply with any notice 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 100 days and in the case of a continuing offence, to a further fine not exceeding or in default of payment, to imprisonment not exceeding 10 days 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.

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

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

#### **48. Short title**

These By-laws are called the Waste Management By-laws





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