

PHOKWANE MUNICIPALITY



BY LAWS

STATUTORY REQUIREMENTS

Municipal code

According to section 15 of the Municipal Systems Act 32, 2000:

- 1) A municipality must compile and maintain in bound or loose-leaf form, and when feasible also in electronic format, a compilation of all its by-laws, including any provisions incorporated by reference as by-laws of the municipality.
- 2) This compilation, to be known as the municipal code, must be –
 - a) constantly updated and annotated; and
 - b) kept at the municipality's head office as the municipality's official record of all applicable by-laws.
- 3) The municipality, at the request of a member of the public, must provide that person with a copy of or an extract from its municipal code against payment of a reasonable fee determined by the municipal council.

Legislative procedures

Section 12 of the Municipal Systems Act 32, 2000:

- 1) Only a member or committee of a municipal council may introduce a draft by-law in the council.
- 2) A by-law must be made by a decision taken by a municipal council –
 - a) in accordance with the rules and orders of the council; and
 - b) with a supporting vote of a majority of its members.
- 3) No by-law may be passed by a municipal council unless –
 - a) all the members of the council have been given reasonable notice; and
 - b) the proposed by-law has been published for public comment in a manner that allows the public an opportunity to make representations with regard to the proposed by-law.
- 4) Subsections (1) to (3) also apply when a municipal council incorporates by reference, as by-laws made in terms of section 14.

Publication of by-laws

Section 13 of the Municipal Systems Act 32, 2000:

- 1) A by-law passed by a municipal council –
 - a) must be published promptly in the *Provincial Gazette* and, when feasible, also in local newspaper or in any other practical way to bring the contents of the by-law to the attention of the local community; and
 - b) takes effect when published or on a future date determined in or in terms of the by-law.

GUIDANCE TO THIS SET OF BY-LAWS

INSTITUTING THE BY-LAWS

- By-laws should be laid before the council and discussed and amended in the manner prescribed in section 12 of the Municipal Systems Act 32, 2000.
- Representatives should then present the by-laws to the magistrate and discuss suitable amounts for penalties of offences listed in the by-laws.
- The by-laws should then be laid open for public inspection.
- Upon finalisation of the by-laws, they can be published in the *Government Gazette*.

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ADVERTISING SIGNS BY-LAW

The Municipal Manager of the PHOKWANE Local Municipal Council in terms of subsection 156(2) of the Constitution of the Republic of South Africa Act 1996, (Act 108 of 1996) read with section 13 of the Local Government: Municipal Systems Act (Act 32 of 2000), publishes the by-law as set forth hereafter as by-law made by the Council.

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40. REPEAL OF BY-LAWS

1. DEFINITIONS

In this by-law, unless the context otherwise indicates means;

"advertisement" any advertising sign or device of any kind which is visible from any street or any public place and which purpose is to convey to the public certain information, with the exception of road traffic signs and street names;

"Advertising hoarding" any screen, fence, wall or other structure in a fixed position to be used, or intended to be used, for the purpose of posting, displaying or exhibiting any advertisement and includes a signboard;

"Animated sign" any sign on which the representation is changed intermittently by any alteration in colour, by the appearance or disappearance of the whole representation or any part thereof, or by any other intermittent alteration of the representation or its illumination;

"approved" approved by the Council and, "approval" has a corresponding meaning;

"arcade" a pedestrian thoroughfare whether or not located at ground level passing wholly or partly through a building or buildings and to which the public normally has regular and unrestricted access;

"Areas of maximum control" an area determined by Council for the purposes of section 9 of this by-law.

"Areas of partial and minimum control" an area determined by Council for the purposes of section 9 of this by-law.

"Block or neighborhood watch" a voluntary association operating under an approved constitution with the purpose to protect the property of the members.

"canopy" a structure in the nature of a roof projecting from the façade of a building and cantilevered from that building or anchored otherwise than by columns or posts;

"Central Business District" an area or areas determined by Council for the purposes of this by-law.

"charge determined by the Council" the appropriate charge either fixed or review and determined annually by the Council;

"Council" the PHOKWANE Local Municipal Council and includes the Mayor, Political Office Bearers, Political Structures, Municipal Manager and any other official who has delegated powers in terms of section 59 of the Local Government: Municipal Systems Act (Act 32 of 2000);

"Custom made billboard" a billboard between 8m and 81m which feature special effects such as internal illumination, specialist character cut-outs and three-dimensional presentations.

"Directional sign" a sign indicating the way to any place, undertaking or activity for the purpose of advertising or attracting public attention as contemplated in the definition of "advertisement"

"Manager: Engineering Services" an official appointed by Council to be in charge of the Directorate: Engineering Services and who report to the Municipal Manager or an official acting in his/her stead.

"Manager: Electrical Engineering Service" an official appointed by Council to be in charge of the Directorate: Electrical Engineering Services and who report to the Municipal Manager or an official acting in his/her stead.

"erf" any piece of land registered in a deed registry, an erf, lot, plot, stand or agricultural holding;

"Flashing sign" a sign in which a symbol, figure, message or illustration intermittently appears and/or disappears and/or is illuminated with light of varying color or intensity;

"Illuminated sign" a sign, the continuous or intermittent functioning of which depends upon it being illuminated;

"Moveable temporary sign" a sign not permanently fixed and not intended to remain fixed in one position, but does not include any moving part in a fixed permanent sign;

"poster" any placard announcing or attracting public attention to any meeting, event, function, activity or undertaking or to the candidature of any person nominated for election to parliament, the local government or similar body or to a referendum;

"Projected sign" any sign projected by a cinematograph or other apparatus, but does not include a sign projected onto the audience's side of a drive-in cinema screen during a performance;

"Projecting sign" a sign, whether stationery or actuated, attached to and protruding from the facade of a building;

"Public place" any road, street, thoroughfare, bridge, subway, foot pavement, footpath, sidewalk, lane, square, open space, garden, park or enclosed space vested in the PHOKWANE Local Municipal Council.

"Pylon sign" any sign whether stationery or actuated, displayed on or forming an integral part of a pylon, mast, tower or similar structure other than a building or an advertising hoarding;

"Residential purposes" the use of a building, as a dwelling house, two or more dwelling units, a hostel, a hotel, a boarding house and a residential club;

"Road traffic sign" any road traffic sign as defined in section 1 of the National Road Traffic Act, (Act 93 of 1993);

"Rotating sign" a sign which rotates about any axis;

"SAMOAC" is the South African Manual for Outdoor Advertising Control compiled and published by the Department of Environment Affairs and Tourism in conjunction with the Department of Transport, April 1998;

"sign" any advertisement and any object, structure or device which is in itself an advertisement, in, or view of any street, or which is used to display an advertisement, but does not include an advertising hoarding or a poster, or any motor vehicle, or animal drawn vehicle with an advertisement thereon;

"Sky sign" any sign erected or placed on or above any roof, parapet wall or the eaves of a building, but does not include a rotating sign referred to in section 16, or a sign painted on a roof of a building;

"story" that space in a building which is situated between one floor level and the next floor level above, or if there are no clearly defined stores, the height of a storey shall be taken as 4,5m;

"street" any street, road or thoroughfare shown on a general plan of a township, agricultural holding or any other division of land or in respect of which the public have acquired a prescriptive or other right of way and which vest in the PHOKWANE Local Municipal Council;

"Town planning scheme" a scheme approved in terms of "Schedule D" of the SPLUMAt, 2013.

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

2. APPLICATION FOR APPROVAL FOR SIGNS AND ADVERTISING HOARDINGS

- (1)** No person shall display or erect any sign or advertising hoarding or use any structure or device as a sign or advertising hoarding whether or not such sign is erected on private property without prior written approval from the Council: Provided that this section shall not apply to a sign contemplated in sections 4, 7, 8, 9, 10, 17, 18, 19, 22, 23, 24, 25 and 26.
- (2)** No sign displayed with the approval of the Council shall in any way be altered, moved, re-erected nor shall any alteration be made to the electric wiring system of such sign except

for the purpose of renovation or maintenance, without the further approval of the Council in terms of subsection 2(1).

- (3) An application in terms of subsection 2(1) shall be signed by the owner of the proposed sign or advertising hoarding and by the owner of the land or building on which the sign or advertising hoarding is to be erected or displayed, or on behalf of the owner and shall be accompanied by –
- (a) a block plan of the site in which the sign or advertising hoarding is to be erected or displayed, drawn to a scale of not less than 1:500 showing every building on the site and the dimensional position of the sign or advertising hoarding in relation to the boundaries of the site and the location of the streets abutting the site;
 - (b) drawings, drawn to a scale of not less than 1:20, showing the full text, lettering detail, colour, dimensions, material, construction and method of display, erection or placing of the sign or advertising sign or advertising hoarding;
 - (c) advertising hoarding and its relationship to any architectural and natural features as well as to any existing signs or advertising hoarding and/or a photograph of not less than 200mm x 250mm with the proposed sign or advertising hoarding superimposed thereon to scale.
 - (d) The Council may require the submission of an engineer certificate signed by an Engineer registered in terms of the Professional Engineers Act, (Act 81 of 1968), to take responsibility for the structure as a whole.
 - (e) The Council may require the submission of an electrical certificate signed by a licensed electrical engineer if relevant to the application.
 - (f) All relevant documentation regarding the application and approval of a sign or advertising hoarding shall be retained by the owner of the property on which such sign or advertising hoarding is displayed and shall present such documentation to the Council upon request thereof.
- (4) Council reserves the right to evaluate and approve all applications according to the guidelines provided in SAMOAC.

3. REFUSAL, WITHDRAWAL OR AMENDMENT OF APPROVAL AND APPEAL PROCEDURE

- (1) The Council may refuse, withdraw or amend at any time an approval if in the opinion of the Council-
- (a) it will be or becomes detrimental to the environment or the amenity of the neighborhood by reason of size, intensity of illumination, quality of design or materials or for any other reason;
 - (b) it will constitute or becomes a danger to any persons or property;
 - (c) it will obliterate or obliterates other signs, natural features, architectural features or visual lines of civic or historical interest.
 - (d) It will be in its content objectionable, indecent or suggestive of indecency or prejudicial to the public morals.

(e) It will be or becomes illegal as a result of the changing urban structure.

(2) Appeal procedures

(a) Any person may appeal to the relevant committee of the Council against any decision of the Council in terms of this by-law, given by an official of the Council under delegated powers, within 30 days of receipt of notice of such decision.

(b) Such an appeal shall be made by lodging a notice setting out the nature and grounds of the appeal within the period contemplated in subsection 3(2)(a) with the Council.

(c) The committee referred to in subsection 3(2)(a) shall hear the appeal including any oral or written submission from either party, and inform the applicant of its decision which shall be final, and the reasons therefor.

(3) The criteria for the final decision will be based on the guidelines and requirements and conditions in terms of SAMOAC.

4. EXEMPTED SIGNS

(1) The following sign shall be exempt from the provisions of section 2 but shall comply with all other provisions of this by-law save for signs contemplated in (a) to (n) which need not so comply;

(a) Any sign displayed in an arcade.

(b) Any sign displayed inside a building.

(c) Any sign displayed on an approved advertising hoarding.

(d) Any sign advertising a current event in a cinema, theatre or other place of public entertainment, displayed in a fixture on a building especially made for such display.

(e) Any sign not exceeding the sizes specified on the table hereunder, which is displayed on a site where a building, swimming pool, tennis court, paving, fencing or garden landscaping or any other structure is in the course of being constructed, erected, carried out or altered and which describes the building or structure being erected or other work or activity being carried out, and which displays the names of the contractors or consultants concerned in such work or activity and identifies the branches of the industry or the professions represented by them during the course of such construction, erection, carrying out or alteration, as the case may be: Provided that only one such sign, or set of signs shall be permitted per street frontage of a site which is placed on or affixed to the building concerned or attached parallel on the boundary fence of the erf on which the building is situated;

- Project boards giving the names of Architects, Consultants and Contractors: 3m wide x 3m high and with a maximum erected height of 6m.

- Individual Contractor's and subcontractor's Board: 1,5m wide x 1,0m high.

(f) Any sign, other than a sign provided for in subsection 4(1)(e), not exceeding 3m in width x 2m high which portrays or describes the type of development being carried out on a site and which gives details of the type of accommodation being provided, floor space available, the name, address, telephone number of the developer of his/her agent, erected during construction work or the carrying out of

alterations or additions as the case may be and remaining for a period not exceeding three months after the completion of such work.

- (g) A sign on a street frontage of a building occupied by shops, showrooms or other business uses as defined in the relevant Town-planning Scheme, other than a sign in an office park area, which is below the level of the ground floor ceiling and which is displayed on or fixed to the face of a building or suspended from the soffit of a canopy or veranda roof.
 - (h) A sign consisting of a 600mm x 400mm metal plate or board permitted in terms of sections 16 and 17.
 - (i) Any sign which forms an integral part of the design of a building on a business or industrial premises.
 - (j) Any flag hoisted on a suitable flagpole, which displays only a company name and motif.
 - (k) The residential use zones as per applicable Town-planning Schemes, a metal sign not exceeding 420mm x 300mm (A3 size), indicating the name, address and telephone number of a security company contracted to protect the property, provided that only one sign per stand or subdivision shall be permitted and such sign shall be firmly affixed to the boundary wall, fence or gates on the street frontage.
 - (l) One sign not exceeding 300mm long and 210mm high on each street boundary of an erf or portion of an erf which sign indicates the existence of a commercial security service, burglar alarm system or Block or Neighborhood Watch System.
 - (m) A sign not exceeding 420mm x 300mm (A3 size), indicating the existence of a Block or Neighborhood Watch Systems displayed on a boundary wall or fence or in a position approved by the Council.
- 2) The owner of the building or property on which a sign contemplated in subsection 4(1)(g) is displayed, shall indemnify the Council against any consequences flowing from the erection, display or mere presence of the sign.

5. PROHIBITED SIGNS

- (1) No person shall erect or display any of the following signs or causes or allow any such sign to be erected or displayed:
- (a) Any sign to be painted on the roof of a building or painted on, attached to, or fixed between the columns or posts of a veranda.
 - (b) Any sign to be suspended across a street.
 - (c) Any sign, which will obscure a road traffic sign or which may be mistaken for or cause confusion with or interfere with the functioning of a road traffic sign.
 - (d) Any sign which will obstruct any window or opening provided for the ventilation of a building or which obstructs any stairway or doorway or other means of exit from a building or which will prevent the movement of persons from one part of a roof to another part thereof.
 - (e) Any animated or flashing sign the frequency of the animations or flashes or other intermittent alterations of which disturbs the residents or occupants of any building or is a source of nuisance to the public.

- (f) Any illuminated sign the illumination of which disturbs the residents or occupants of any building or is a source of nuisance to the public.
- (g) Any swinging sign, which is a sign not rigidly and permanently fixed.
- (h) Any moveable or transit sign, or trailer advertising sign, whether stationary or not.
- (i) Subject to the provisions of sections 16 and 17, any sign displayed on land not in accordance with the relevant zoning or approved special consent use as per the applicable Town-planning Scheme.
- (j) Any advertisement or sign other than an exempted sign for which neither a permit nor approval has been obtained.
- (k) Any poster pasted otherwise than on a hoarding legally erected for the purpose of accommodating such poster.
- (l) Any sign painted on a boundary wall or fence.
- (m) Super billboards.
- (n) Sky signs.
- (o) The distribution of pamphlets at road intersections.

6. ADVERTISING HOARDING

- (1) (a) The highest point of any advertising hoarding shall not exceed the height zone of the property to be erected upon nor shall the area of the advertising face exceed 36m² unless otherwise approved.
- (b) The clear height of an advertising hoarding shall not be less than 2,4m to ground level.

7. SIGNS SUSPENDED UNDER VERANDAS OR CANOPIES

- (1) Every sign, which is suspended from a veranda or a canopy shall comply with the following requirements:
 - (a) Unless the Council otherwise permits, having regard to the design of the veranda or canopy and its associated building and to the position of the building in relation to the street boundary of the erf, the sign shall be fixed with its face at right angles to such boundary.
 - (b) No part of the sign shall project beyond the outer edge of the veranda or canopy from which it is suspended.
 - (c) No part of the sign shall be less than 2,4m above the surface of the sidewalk or ground level immediately below it, nor should the top of the sign be more than 1,0m below the canopy or veranda from which it is suspended nor shall any sign exceed 1 000mm in depth.
 - (d) Unless the Council in writing otherwise permits, the bottom edge of the sign when suspended shall be horizontal and the supports by means of which the sign is suspended, shall be an integral part of the design of the sign.
 - (e) No sign shall be located in the vicinity of a pavement hatchway giving access to a basement chamber containing equipment for a high voltage service connection without the prior written permission of the Town Electrical Engineer.

8. SIGNS ON VERANDA AND CANOPIES

- (1) Any sign on the face of a verandah or canopy shall be subject to the following requirements:
 - (a) No sign shall:
 - (i) protrude above or below any part of the face, fascia or parapet of a veranda or canopy;
 - (ii) exceed 600mm in height; or

- (iii) protrude horizontally by more than 230mm or such lesser distance as the Council may specify, from such face, fascia or parapet.
 - (b) Individual letters, either flat or three dimensional shall not exceed two thirds of the height of the canopy edge and all canopies carrying signs shall be painted for their full length or such lesser extent as required by the Council, with a background colour also to the satisfaction of the Council.
 - (c) If the canopy edge, face or parapet is in excess of 100mm in height and is in accordance with an approved building plan it shall be regarded as part of the face of the building to which it relates and the provisions of section 9 shall apply; and
 - (d) No illuminated sign or sign designed to reflect light, shall be attached to or displayed on any splayed or rounded corner of a veranda or canopy at a street intersection, unless the bottom of such sign is a minimum of 6m above the street immediately below.
- (2) No sign shall be erected on the top of a veranda or canopy except a sign or series of signs of uniform height, not exceeding 600mm in height, which shall be-
- (a) set parallels to and flush with the front edge of such veranda or canopy;
 - (b) fixed to the veranda or canopy so as to be self supporting without the aid of guys, stays or other similar devices; and
 - (c) mounted not more than 100mm above the top of the veranda or canopy.

9. SIGNS FLAT ON BUILDINGS

- (1) The total area of any locality bound flat sign placed flat on the front wall of a building facing a street shall not exceed 20% of a specific ground floor façade of such an enterprise in areas of maximum control and 30% in areas of partial and minimum control: provided that in the case of shopping centers, wall units on which flat signs are displayed shall not exceed 30% of a specific facade of the shopping centre (excluding office levels).
- (2) The total area of any non-locality bound flat sign shall not exceed 72m².
- (3) The maximum projection of a sign referred to in subsection 9(1) over the footway or ground level shall be 75mm where such sign is less than 2,4m above the sidewalk or ground level immediately below such sign and 300mm where such sign is more than 2,4m above such footway or ground level.
- (4) Signs placed flat on a wall of a building not being a wall contemplated in subsection 9(1), shall not exceed 36m² in total area.
- (5) An environmental impact assessment shall be required for any flat sign in excess of 36m².

10. PROJECTING SIGNS

- (1) For the purposes of subsections (2), (3), (4), (6) and (7) hereafter, the word "sign" shall include every means of support for a projecting sign.
- (2) Any means of support for a projecting sign shall subject to any other relevant provision of this by-law, be concealed.
- (3) The vertical dimension of every projecting sign, which shall be measured vertically between the highest point and the lower point of the sign, shall not be greater than 14m whether such sign is designed as a single unit or a series of units one above the other.

- (4) No part of a projecting sign shall project more than 1,5m from the face of the wall or building to which it is attached, or more than one half of the width of the sidewalk immediately below such sign, whichever is the lesser dimension.
- (5) The width of any projecting sign measured at right angles to the face of the wall or building from which it is designed to project shall not exceed 1,2m and where the sign projects more than 1,2m such sign shall be so fixed as to leave a continuous gap of uniform width between the face of the wall or building and the sign, of not less than 100mm, and not more than a quarter of the width of the sign so measured.
- (6) No part of a projecting sign shall extend above the level of the top of any parapet wall from which it projects or above the level of the underside of the eaves or gutter of the building from which such sign projects.
- (7) The vertical distance between the level of the sidewalk immediately below a projecting sign and the lowest part of such sign with a vertical dimension mentioned in column 1 of the following table shall not be less than the vertical distance specified opposite such dimension in column 2 of that table.

1 Vertical dimension of sign	2 Minimum vertical distance between sidewalk and sign
Not exceeding 3m	2,4m
Exceeding 3m but not exceeding 6m	3m
Exceeding 6m	4,8m

11. CUSTOM-MADE BILLBOARDS

- (1) No custom-made billboard shall exceed a maximum size of 81m² and a maximum height of 13m: provided that the clear height of the advertising structure shall not be less than 2,4m.
- (2) An environmental impact assessment may be required for any custom-made billboard in excess of 36m².
- (3) No more that one custom-made billboard shall be allowed on any site.
- (4) An advertisement sign consisting of a single board shall be displayed perpendicular to or at an angle of 30° to the direction of oncoming traffic.
- (5) Any permitted custom-made billboard shall be independently supported and for that purpose be properly secured to an adequate foundation in the ground and be entirely self-supporting without the aid of guys, stays, brackets or other restraining devices.

12. LARGE BILLBOARDS

- (1) Any large billboard permitted by Council shall not exceed a maximum size of 36sq.m. and a maximum height of 13m: provided that the clear height of the advertising structure shall not be less than 2,4m.
- (2) No more that one large billboard shall be allowed on any site.

- (3) An advertisement sign consisting of a single board shall be displayed perpendicular to or at an angle of 30 degrees to the direction of oncoming traffic.
- (4) At a road intersection, a maximum of only two billboards per intersection shall be permitted, no billboard shall be permitted within a radius of 100m from the centre of an intersection of an arterial road, and within 50m from the centre of an intersection on any lower order road.
- (5) Any permitted large billboard shall be independently supported and for that purpose be properly secured to an adequate foundation in the ground and be entirely self-supporting without the aid of guys, stays, brackets or other restraining devices.

13. SMALL BILLBOARDS AND TOWER STRUCTURES

- (1) Any small billboard permitted by Council shall not exceed a maximum size of 6m² and a maximum height of 3,5m and shall have a clear height of not less than 2,4m.
- (2) No panel or board on a tower structure shall exceed a maximum size of 4,5m²: provided that the clear height of a tower structure shall not be less than 2,4m, while the maximum height of such a structure shall not be more than 5m.

14. SIGNS INDICATING CERTAIN PROJECTS AND THE DEVELOPMENT OF A TOWNSHIP

- (1) No sign referring to the laying out or development of any land as a township or to the disposal of any erven in a township, shall exceed 3m wide by 2m high and any approval granted in respect of such sign in terms of section 2, shall lapse after the expiry of one year after the date of such approval: provided that further extension for a period of 12 months be allowed, after Council has approved an application with proper motivation for extension.
- (2) Project boards giving the names of Architects, Consultants and Contractors, shall only be allowed to be displayed until such time that an occupation certificate has been issued.

15. SIGNS ON BUILDINGS HIGHER THAN 3 STOREYS IN THE CENTRAL BUSINESS DISTRICT

- (1) For the purpose of this section, the word "building" means a building in Height Zones 1 and 2 in terms of Council's Town Planning Scheme, where the height of buildings is restricted to a maximum height of respectively 10 and 6 stories.
- (2) Advertising signs on the side of a building as described in subsection (1) above, that are to be erected above the 3-storey level, be limited to the owner/s of the building.
- (3) Individual tenants be permitted to advertise on coordinated advertising boards for the whole building for which drawings must be submitted to the Council for approval before erection thereof can commence.

16. ROTATING SIGNS ON OR ABOVE THE ROOF OF A BUILDING

- (1) The supporting structure of any rotating sign shall be secured to the building and shall be self-supporting without the aid of guys, stays or other similar devices.
- (2) If the number of stories contained in that part of the building which is directly below a rotating sign as specified in column 1 of the following table, the maximum dimension

either vertical or horizontal, of the rotating part of the sign shall not exceed the dimension specified opposite such number in column 2 of that table, and the vertical distance between the surface of the roof of the building and the highest point reached by any part of the sign when rotating shall not exceed the distance so specified in column 3 of that table:

1 Number of stories below sign	2 Dimension of rotating portion	3 Vertical distance between the roof and the highest point reached by the sign
One or two stories	1,5m	2,5m
Three or four stories	2m	4m
Five or six stories	3m	5m
Seven or eight stories	4m	6m
Nine or more stories	5m	9m

17. SIGNS ON BUILDINGS USED FOR RESIDENTIAL PURPOSES OTHER THAN DWELLING-HOUSES

- (1) A sign containing the name only of any building used for residential purposes other than dwelling-house, and a sign consisting of a 1,5m x 1,5m-size brass or other metal plate displaying the name of the company owning or managing such building, its logo and telephone number, may be displayed.
- (2) Any sign contemplated in subsection 17(1) shall
 - (a) be fixed to or built into one or more walls of the building or a free-standing wall or boundary wall of the property;
 - (b) be limited to one of each of the signs referred to per street frontage of the property concerned.
- (3) A sign consisting of a 420mm x 300mm (A3-size) metal plate or board indicating the name and profession or occupation of the occupant may be affixed to the boundary wall or fence, of the entrance door of a dwelling unit, or to a wall in the entrance hall of a building used for residential purposes. Only one sign per erf shall be permitted.
- (4) A sign consisting of a 1,5m x 1,5m-size board indicating the name of a guest house in a residential area may be affixed to the boundary wall or fence, on the entrance door of a dwelling unit, or to a wall in the entrance hall of a building used for a guest house within a residential area. Only one sign per erf shall be permitted.
- (5) A sign consisting of a 420mm x 300mm (A3-size) board indicating the name of a day mother or play group may be affixed to the boundary wall or fence, on the entrance door of a dwelling unit, or to a wall in the entrance hall of a building used for residential purposes. Only one sign per erf shall be permitted.
- (6) A sign consisting of a 1,5m x 1,5m-size board indicating the name of a Pre-school may be affixed to the boundary wall or fence, of the entrance door on a dwelling unit, or to a wall in the entrance hall of a building used for a pre-school within a residential area. Only one sign per erf shall be permitted.

18. SIGNS ON BUILDINGS USED FOR RESIDENTIAL AND BUSINESS PURPOSES

In the case of a building used for residential and business purposes within the Central Business District a sign may be displayed on that part of the building which is used for business purposes unless in conflict with subsection 3(1).

19. SIGNS ON AWNINGS

A sign containing only the name of a hotel, shop or restaurant may be displayed on an awning of approved material.

20. ADVERTISEMENT ON TEMPORARY BANNERS OR SIMILAR ITEMS

- (1) Subject to the provisions of section 4, no advertisement shall be displayed on any banner, streamer, flag, paper, paper mâché, plastic sheet or other similar pliable material or on calico or other woven material, without the written permission of the Council, subject to such conditions as the Council may deem expedient.
- (2) The Council may, without notice, remove any advertisement contemplated in subsection 20(1) which is displayed in contravention of this section.
- (3) Every person to whom permission has been granted in terms of subsection 20(1) shall ensure that the following requirements are complied with:
 - (a) Not more than four (4) banners per identified road intersection shall be displayed in respect of one function or event;
 - (b) Not more than one banner per corner of the intersection shall be displayed;
 - (c) Every banner shall be attached to or suspended between poles or other supports on the site on which the function or event is to be held or on such other site as the Council may allow;
 - (d) Every banner shall be so attached so as no to interfere with or constitute a danger to passing vehicular or pedestrian traffic; and
 - (e) No banner shall be displayed for more than two weeks before the date of the function or event advertised nor shall any such advertisement be permitted to remain in position for more than three days after the conclusion of such function or event;
 - (f) No banner shall exceed a maximum size of 6m² and a maximum height of 1,5m.
- (4) Banners may be permitted with the written consent of the Council at the following intersections: (*Local Street names to be inserted here*)
- (5) Further intersections may be identified by means of a written application for approval by Council.
- (6) An "intersection" means all four comers of the intersection excluding the median.
- (7) No banner shall be permitted without the Council's sticker of approval appearing on such banner.

21. AERIAL SIGNS

- (1) The Council may, for the purposed of considering an application for approval in terms of section 2 of a sign to be displayed on a tethered balloon, have regard to:
 - (a) The period for which the balloon will be so used;
 - (b) The size of the balloon;
 - (c) The type of gas with which the balloon is to be filled;
 - (d) The strength of the anchorage and of the anchoring cable;

- (e) The provision of a device by means of which the balloon will automatically so deflate as to sink slowly to the ground in the event of the failure or severance of the anchorage or anchoring cable;
 - (f) The possibility of interference with traffic;
 - (g) Any requirement or condition prescribed by the Department of Civil Aviation, including the maximum permissible height to which the balloon must be restricted, and written permission with regard to subsections (a), (b), (c), (d) and (e) of section 21.
- (2) With the exception of moored airships, aerial signs shall be displayed in daylight hours only.
 - (3) No sign shall be displayed for a period exceeding two weeks in any calendar year.

22. TEMPORARY DIRECTION INDICATORS FOR SHOW HOUSES AND AUCTIONS

- (1) Temporary direction indicators to show houses, where the public and the prospective buyers are allowed to view a house and garden, will only be permitted over weekends.
- (2) Temporary direction indicators may only be displayed from 10:00 on Fridays and must be removed before 10:00 the following Monday morning.
- (3) Indicators can however, be displayed at the intersections in residential areas, 5m from such intersection, 2m from the edge of the curb, with a maximum height of 1m: provided that only one indicator (per direction) per estate agency be permitted.
- (4) If any temporary indicators are to be displayed during times other than those mentioned in subsection (2) above, a written application must be submitted to Council for consideration.
- (5) The authorization to allow the display of such indicators is delegated to the Director: Engineering Services or anyone who acts in this capacity.
- (6) The Council may, without prior notice to anybody, remove any temporary advertisement in respect of the sale or letting of movable property, or the execution of work or the rendering of services which is erected in contravention of this by-law, and the person who displayed the advertisement or permitted or allowed it to be displayed, will be responsible for the costs of removal.
- (7) Maximum size of temporary direction indicators shall be 600mm x 600mm.

23. TEMPORARY SIGNS FOR THE SALE OR LEASE OF SITES OR BUILDINGS

No person shall, without the written consent of the Council, display any temporary sign on any pavement for the sale or lease of sites or buildings, or permit such sign to be displayed. Such signs may be displayed within the site boundaries or in front of the stand. For this section a "temporary sign" shall:

- (a) not be longer than 600mm x 600mm and at its highest point shall not be higher than 2,5m above ground level within residential areas;
- (b) not be larger than 3,4m x 2,6m within business and industrial areas;
- (c) letters, figures or symbols to the specification of the advertiser.

24. TEMPORARY ADVERTISEMENTS (POSTERS)

- (1) A temporary advertisement may only be displayed on the structures erected in town for advertising purposes.
- (2) The name and address of the organization, authority, or person advertising on behalf of such organization, gathering or exhibition, must be clearly marked on such advertisement.
- (3) Temporary advertisements, which have the same meaning, may be displayed simultaneously on these structures specified by the Council from time to time.
- (4) A temporary advertisement as mentioned above must:
 - (a) not be larger than 600mm x 1m
 - (b) be placed in such a position that it would not obstruct the view of traffic or the movement of pedestrians;
 - (c) be removed within one (1) day after the intended time;
 - (d) not be fastened to trees with wire or nails;
 - (e) not be attached to any road traffic sign, substation or any structure belonging to the Council, excluding approved advertising structures;
 - (f) be attached to hard cardboard and may in no way be affixed to any object along the street, excluding approved advertising structures;
 - (g) anyone displaying an advertisement must pay a deposit to the Council. Should the advertiser not conform to the above, the deposit would be used to enable the Council to remove the advertisement. If the owner concerned removes the advertisements as prescribed, deposits would be refunded.
- (5) No temporary advertisements or posters shall be permitted without the approved Council's sticker appearing on such advertisements or posters.

25. ELECTION ADVERTISEMENT (PLACARD/POSTERS)

- (1) The prescribed deposit must be paid and would only be refunded after advertisements have been removed.
- (2) There is no restriction in respect of the number of posters and posters that may be displayed at any location in the municipal area, except as mentioned in subsections (3) and (4).
- (3) Election posters may be displayed as from nomination date to midnight of the second day after election day.
- (4) No posters shall be permitted on traffic signs.
- (5) Should the advertiser not remove the advertisements after the expiry date, the deposit would be used to enable the Council to remove the advertisements. If the party concerned removes the advertisements as prescribed, deposits would be refunded.

26. PAMPHLETS

- (1) The name, telephone number and address of the distributing company must appear on the pamphlet.

- (2) No one may distribute, place or display pamphlets on a street or permit such pamphlets to be placed, distributed or displayed without the explicit authorization of the Council and unless the prescribed fees are paid, the Council will remove such pamphlets.
- (3) Pamphlets mentioned in subsection 26(2) may only be distributed in post boxes at residential dwelling units and parked vehicles.

27. SIGNS ON OR OVER STREETS

- (1) Every person owning, displaying or causing to be displayed a sign, which, or any part of which, overhangs, or is placed on any street shall, on being instructed by the Council to do so, remove it within 24 hours from the time of such longer period specified by the relevant official of the Council without any compensation.
- (2) No signs shall be positioned on a road island or road median with the exception of pole mounted, double-sided, internally illuminated sign that bear both the street name and advertising panels in the urban environment: provided that only a maximum of 4 (four) such street name advertisements may be displayed at intersections.
- (3) No signs shall be erected with in or suspended above a road reserve, with the following exceptions:
 - (i) Signs relating to the sponsoring of projects specifically intended for road users and involving the provision of road services, the promotion of road safety or the management and conservation of road side environment;
 - (ii) Guide and information signs that have a distinctive white and brown or green colour and use symbols to a large extent: provided that:
 - (a) only one such sign be erected at the nearest significant intersection with a major arterial road;
 - (b) a further two such signs be erected at any two significant intersections nearest to the facility or institution;
 - (c) such signs shall comply with the specifications in terms of the Road Traffic Signs Manual and the National Road Traffic Act, (Act 93 of 1996);
 - (d) such signs shall be erected by the Traffic Department of the Council at the cost of the applicant.
 - (iii) Advertisements on self driven vehicles which are normally moving on land or water, including taxis, trains and delivery vehicles, but excluding aircraft, may be allowed within all road reserves: provided that such vehicle not be stationary for the purpose of advertising at one single location.
 - (iv) Project boards/signs that concern road construction may be allowed within all road reserves.
 - (v) Project boards that advertise contractors and consultant's involvement on a site where construction works are taking place may be allowed: provided within all road services other than arterial roads that such signs only be erected next to the actual development and only if sufficient space is not available on such a site;
 - (vi) Road Traffic Signs permitted in terms of sections 56 and 57 of the National Road Traffic Act (Act 93 of 1996).
- (4) Poster signs and advertisements on street furniture shall not exceed 2,2m² in area, provided that where poster signs or street furniture face in more than one direction, the total area shall not exceed 4,4m².
- (5) Poster structures and street furniture carrying advertisements shall not exceed a maximum height of 3m.

- (6) No signs, excluding signs permitted under section 22, are permitted within the sight triangle at intersections and the following dimensions shall be applicable:

ROAD CLASS	DIMENSION	LOCAL DITRIBUTOR	RESIDENTIAL ACCESS COLLECTOR	ALL OTHER ACCESS STREETS
Sight triangle (m) where lower order roads enter higher order roads	From stop road mark	4,5m	2,4m	2,4m
	From center of lower order road (sight line)	80-90m	45m	35m

28. MATERIALS FOR SIGNS, ADVERTISING HOARDING, SCREENS AND SUPPORTING STRUCTURES.

- (1) All iron or steel used in any sign, advertising hoarding and screen referred to in section 14 or as means of support for such sign, hoarding or screen shall be painted or otherwise effectively protected against corrosion.
- (2) No water-soluble adhesive tape or other similar material shall be used to display or secure any sign elsewhere than on an advertising hoarding.

29. DRAINAGE OF SIGNS

Measures shall be taken to prevent the entry of water into and the accumulation of water or moisture on or in any sign or any part of its supporting framework, brackets or other members.

30. POWER CABLES AND CONDUITS TO SIGNS

- (1) Every power cable and conduit containing electrical conductors for the operation of a sign shall be so positioned and fixed that it is not unsightly.
- (2) All electrical work referred to in this by-law shall comply with the Electricity Code of Practice SABS (0142)
- (3) No sign or advertising hoarding shall be connected to any electricity supply without the prior written permission of the Director; Electrical Engineering Services.

31. ERECTION AND MAINTENANCE OF SIGNS AND ADVERTISING HOARDINGS

- (1) The provisions of the National Building Regulations made in terms of the National Building Regulations and Building Standards Act, (Act 103 of 1977), shall apply mutatis mutandis to every sign, advertising hoarding and its supporting structure.
- (2) The owner of any land or building on which a sign is displayed or on which any sign or advertising hoarding is erected or to which a sign is attached and the owner of any such sign or hoarding shall be jointly and severally responsible for the maintenance in a safe and proper condition and for the cleaning and the repainting of any such sign or hoarding.
- (3) If, in the opinion of the Council, any sign or advertising hoarding;
- (a) is in a dangerous or unsafe condition or in a state of disrepair;
 - (b) is detrimental to the environment or the amenity of the neighborhood;

- (c) obliterates other signs, natural features, architectural features or visual lines of historical interest;

The Council will serve a notice on an owner referred to in subsection 31(2) requiring him/her at his/her own cost, to remove the sign or hoarding or do other work specified in the notice within a period so specified.

- (4) The Council will, if in its opinion an emergency exists, instead of serving the notice in terms of subsection 31(3) or if such notice has not been complied with within the period specified therein, itself carry out or appoint someone to carry out the removal of the sign or advertising hoarding or do other work which it may deem necessary and may recover the cost thereof from the owner or owners referred to in subsection 31(2) jointly and severally.

32. MEASUREMENT OF SIGNS

Whenever the maximum permissible area of any sign is specified in this by-law, such area shall be deemed to be the area of the smallest notional rectangle within which such sign can be contained.

33. CHARGES

Every person who applies to the Council or authorized body for its approval or permission shall on making the application pay to the Council or authorized body the charge determined therefor and no application shall be considered until such charge has been paid.

34. DAMAGES TO PROPERTY OF THE COUNCIL

No person shall intentionally, in the course of erecting or removing any sign, advertising hoarding, poster or banner cause any damage to any tree, electric standard or service or other Council installation or property.

35. ENTRY AND INSPECTION

The Council shall be entitled, through its duly authorized officers, to enter into and upon any premises, at any reasonable time for the purpose of carrying out any inspection necessary for the proper administration and enforcement of the provisions of this by-law.

36. OFFENCES

- (1) Any person who;
 - (a) contravenes or fails to comply with any provision of this by-law;
 - (b) contravenes or fails to comply with any requirement set out in a notice issued and served on him/her in terms of this by-law;
 - (c) contravenes or fails to comply with any condition imposed in terms of this by-law;

shall be guilty of an offence and shall on conviction be liable to a fine not exceeding R_3000.00, in default of payment to imprisonment for a period not exceeding _6 months and in the case of a continuing offence to a fine not exceeding R1000.00 for every day during the continuing of such offence, and for a second or subsequent offence he/she shall be liable on conviction to a fine not exceeding R 10 000.00 or in default of payment, to imprisonment for a period not exceeding _18 months.

37. RESPONSIBLE PERSONS

- (1) If any person charged with an offence referred to in section 36, relating to any sign advertising hoarding or poster;
 - (a) It shall be deemed that such person either displayed such sign, advertising hoarding or poster or caused or allowed it to be displayed;
 - (b) The owner of any land or building on which any sign, advertising hoarding or poster was displayed, shall be deemed to have displayed such sign, advertising hoarding or poster, or caused or allowed it to be displayed;
 - (c) Any person who was either alone or jointly, with any other person responsible for organizing, or was in control of any meeting, function or event to which a sign or poster relates, shall be deemed to have displayed every sign or poster displayed in connection with such meeting, function or even to have caused or allowed it to be displayed;
 - (d) Any person whose name appears on a sign, advertising hoarding or poster shall be deemed to have displayed such sign, advertising hoarding or poster or to have displayed, unless the contrary is proved.

38. REMOVAL OF SIGNS OR ADVERTISING HOARDINGS

- (1) If any sign or advertising hoarding is displayed so that in the opinion of the Council it is detrimental to the environment or to the amenities of the neighborhood, or otherwise in contravention of this by-law, the Council may serve a notice on or may instruct the owner of the sign or advertising hoarding to remove such sign or advertising hoarding or carry out such alteration thereto or do such other work as may be specified by the relevant official of the Council within a specified time.
- (2) If a person fails to comply with a request referred to in subsection 38(1), the Council will remove such a sign or advertising hoarding.
- (3) The Council shall in removing a sign or hoarding contemplated in subsection 38(1), not be required to compensate any person in respect of such sign or advertising hoarding, in any way for loss or damage resulting from this removal.
- (4) Any costs incurred by the Council in removing a sign or advertising hoarding, in terms of subsection 38(2) or in doing alterations or other works in terms of this section will be recovered from the person on whom the notice/instruction contemplated in subsection 38(1) was served. Or if a deposit has been paid in respect of such sign or hoarding the costs may be deducted from the deposit.
- (5) Notwithstanding the provisions of subsections (1), (2), (3) and (4) above, the Council itself shall, without serving any notice, carry out the removal of such sign or advertising hoarding.
- (6) Council shall charge poundage for such signs that were removed in terms of subsection 38(2).
- (7) Council shall destroy such signs that were removed in terms of subsection 38(2), within one week after such removal, should the owner of such sign failed to claim such sign or pay the poundage in terms of subsection 38(6).

39. SERVING OF NOTICES

Where any notice or other document is required by this by-law to be served on any person, it shall be deemed to have been properly served personally on him/her or on any

member of his/her household apparently over the age of sixteen years or at his/her place of residence or on any person employed by him/her at his/her place of business, or if sent by registered post to such person's residential or business address as it appears in the records of the Council, or if such person is a company, if served on an officer of that company at its registered office or sent by registered post to such office.

40. REPEAL OF BY-LAWS

The by-laws relating to matters contained in this by-law by the former Municipal Councils of Jan kerplop, Hartswater and Pampierstad, are hereby repealed.

BY-LAW RELATING TO THE COUNCIL'S CARAVAN PARKS

The Municipal Manager of the PHOKWANE Local Municipal Council in terms of subsection 156(2) of the Constitution of the Republic of South Africa Act 1996, (Act 108 of 1996) read with section 13 of the Local Government: Municipal Systems Act (Act 32 of 2000), publishes the by-law as set forth hereafter as by-law made by the Council.

1. DEFINITIONS

In this by-law –

“caravan” means any vehicle permanently fitted out for use by persons for living and sleeping purposes, whether or not such vehicle is a trailer;

“Caravan Park” means the land used or intended to be used for the accommodation of caravans;

“caretaker” means an officer appointed by the Council to collect the charges payable for the use of the caravan park and to supervise and control the caravan park;

“Council” means the PHOKWANE Local Municipal Council and includes the Mayor, Political Office Bearers, Political Structures, Municipal Manager and any other official who has delegated powers in terms of section 59 of the Local Government: Municipal Systems Act (Act 32 of 2000);

“site” means the land set aside within the caravan park for the parking of a caravan and its towing vehicle, if any.

2. No person shall use the Caravan Park unless he/she has notified the caretaker in advance of his/her intention to do so.
3. No person shall damage or climb over or through any wire fences or any other fences within or enclosing the Caravan Park.
4. No public meetings and/or public religious services of any kind shall be held in the caravan park.
5. No fires shall be kindled in the caravan park except in the grates provided for the purpose.
6. No person shall create any disturbance, nuisance, impediment or hindrance, which may give offence to any other person within the caravan park.
7. No pet or other animal shall be allowed in the caravan park except dogs and then only on condition that they are kept on a leash at all times.
8. No person shall park a caravan or its towing vehicle elsewhere in the caravan park than on a demarcated site.
9. No person shall wash or hang out to dry any article elsewhere in the caravan park than in the area provided therefor.
10. No person shall dispose of refuse elsewhere in the caravan park than in the refuse bins provided for such purpose.
11. No person shall remove from the caravan park any flora, fauna, nests, objects of historical, archaeological or scientific interest or any property therein belonging to the Council.

12. No person shall damage, destroy or deface in any manner any natural object or any property belonging to the Council within the caravan park.
13. No person shall damage, injure or destroy any flora, fauna or nests within the caravan park.
14. The charges for the use of the caravan park shall be determined by the Council. Such charges shall be payable to the caretaker in advance, and a receipt therefor shall be issued by him/her.
15. Any person desiring to stay at the caravan park for a period of more than 30 days, shall apply in writing to the Council for permission to do so.
16. Any person who contravenes any of the provisions of this by-law shall be guilty of an offence and liable on conviction to a fine not exceeding R3000.00 or imprisonment not exceeding 6 months or both such fine and imprisonment.
17. The by-laws relating to caravan parks of the former Municipal Councils of Jan kempdorpe, Hartswater and Pampierstad are hereby repealed.

BY-LAW RELATING TO ANTENNA SYSTEMS FOR CITIZEN BAND RADIOS.

The Municipal Manager of the PHOKWANE Local Municipal Council in terms of subsection 156(2) of the Constitution of the Republic of South Africa Act 1996, (Act 108 of 1996) read with section 13 of the Local Government: Municipal Systems Act (Act 32 of 2000), publishes the by-law as set forth hereafter as by-law made by the Council.

Definition

1. In this by-law, unless the context proves otherwise-

“Council means the PHOKWANE Local Municipal Council and includes the Mayor, Political Office-bearers, Political Structures, Municipal Manager and any other official who has delegated powers in terms of section 59 of the Local Government: Municipal Systems Act (Act 32 of 2000);

Council's approval

2. All CB-radio antennae installations for base stations or fixed stations must be approved by the Council in advance.

Comply with requirements

3. All antennae must comply with requirements specified by the Department of Posts and Telecommunications.

Sketch plans

4. Minor work permits issued by the Council which require only sketch plans the scrutiny and approval of which is subject to a fee as fixed by the Council and in respect of which the consent of adjoining owners is not required, must be obtained from the Council in respect of the following radio masts and antennae –
 - (a) where the mast is a maximum height of 3m above the top fixing bracket, i.e., 3m maximum unsupported length;
 - (b) vertical array (with radials – i.e., ground plane antenna or similar) which has a 3m maximum height above the mast (total maximum height 6 m);
 - (c) where the mast has a maximum height of 3 m;
 - (d) antenna comprising a long wire, folded dipole or doublet, or similar antennae, supported on poles with a maximum height of 3 m, and
 - (e) antenna comprising a long wire affixed to a chimney, tree, or similar object.

Adjoining owner's consent to be determined

5. Minor works permit required in respect of vertical array (with radials – i.e., ground plane antenna or similar) which has a 6m maximum height above mast (total maximum height 9m) and in respect of which the Electro technical Engineer of the Council must determine whether or not the consent of adjacent owners is required.

Detailed plans

6. Detailed plans must be submitted and the adjoining owners' consent is required in respect of

—

- (a) free standing towers,
- (b) towers in excess of 3m in height which are erected on roofs of buildings, and
- (c) antenna comprising a long wire, folded dipole or doublet, or similar antennae, supported on poles exceeding 3m in height.

Council not responsible

7. The Council does not accept any responsibility for any damage or injury, which may be caused by any mast or antenna system.

BY-LAW RELATING TO THE PARKING OF HEAVY VEHICLES AND CARAVANS

The Municipal Manager of the PHOKWANE Local Municipal Council in terms of subsection 156(2) of the Constitution of the Republic of South Africa Act 1996, (Act 108 of 1996) read with section 13 of the Local Government: Municipal Systems Act (Act 32 of 2000), publishes the by-law as set forth hereafter as by-law made by the Council.

1. The words and expressions used in this by-law shall have the meanings assigned thereto in section 1 of the National Road Traffic Act, (Act 93 of 1996).
2. (1) No person shall park a vehicle with a gross vehicle mass exceeding 9 000kg, or any trailer with a gross mass exceeding 1 000kg, on a public road for a period in excess of two hours.

(2) No person shall park a caravan on a public road for period in excess of 24 hours.
3. Any person who contravenes any provision of this by-law shall be guilty of an offence and on conviction be liable to a penalty not exceeding R 3000.00.
4. The by-laws relating to the parking of heavy vehicles and caravans of the former Municipal Councils of Jan kempdorp, Hartswater and Pampierstad are hereby repealed.

CEMETERY BY-LAW

The Municipal Manager of the PHOKWANE Local Municipal Council in terms of subsection 156(2) of the Constitution of the Republic of South Africa Act 1996, (Act 108 of 1996) read with section 13 of the Local Government: Municipal Systems Act (Act 32 of 2000), publishes the by-law as set forth hereafter as by-law made by the Council.

CHAPTER 1

Definitions

1. In this by-law, unless the context otherwise indicates –

“adult” means a deceased person over the age of 12 years, and any deceased person the dimensions of whose coffin cannot be accommodated in an excavation of 1,40m in length and 400mm in width;

“Anatomy subject” means a body delivered to an authorized school of anatomy in terms of the Human Tissue Act, 1983 (Act 65 of 1983);

“berm” means a concrete base laid by the Council at the head of any grave, in a landscape section or a lawn section;

“body” means the remains of any deceased person;

“cemetery” means any land or part thereof within the municipality duly set aside by the Council as cemetery;

“child” means a deceased person who is not an adult;

“Council” means the PHOKWANE Local Municipal Council and includes the Mayor, Political Office Bearers, Political Structures, Municipal Manager and any other official who has delegated powers in terms of section 59 of the Local Government: Municipal Systems Act (Act 32 of 2000);

“Holder of private rights” means any person who has become entitled to the exclusive right to enter in a grave or plot in terms of section 7 or 9;

“Landscape section” means a cemetery or section of a cemetery set aside by the Council where memorial work is restricted in size as contemplated by section 30;

“Memorial section” means a cemetery or section of a cemetery which is not a landscape section or a lawn section;

“Memorial work” means any headstone, monument, plaque or other similar work erected or intended to be erected in any cemetery commemorating a deceased person and includes a kern demarcating any grave and a slab covering any grave;

“municipality” means the area under the control and jurisdiction of the Council;

“Officer-in-charge” means any person authorized by the Council to be in control of any cemetery;

“plot” means any area laid out in any cemetery for not less than two and not more than ten graves adjoining each other, in respect of which the exclusive right to inter has been acquired in terms of this by-law;

“Public grave” means any grave in a cemetery which is not a private grave;

“Private grave” means a grave in respect of which the exclusive right to inter therein has been acquired in terms of this by-law;

“Private rights” means the exclusive right to inter which has been granted in terms of subsection 7(1) of this by-law;

“Registrar of deaths” means any person appointed as registrar or assistant registrar of deaths in terms of the Birth and Death Registration Act, 1992;

“Tariff of charges” means any charges determined by Council.

CHAPTER II

INTRODUCTORY

Disposal of a Body

2. (a) No person shall, save with the prior written consent of the Council, dispose of or attempt to dispose of a body, other than by interment in a cemetery.
- (b) The Council reserves the right to provide for the separate burial of individuals in separate cemeteries or in separate areas of a cemetery, due to the existence of different religious and cultural groups.

Cemeteries exempted from provisions of this by-law

3. (1) The provisions of this by-law, other than that of subsection (2) and sections 2 and 17(a), shall not apply to any cemetery or section of a cemetery which –
 - (a) has been set aside by the Council for the interment of deceased persons who were members of the Hindu, Jewish or Moslem faith; and
 - (b) is operated and controlled by authorities of the Hindu, Jewish or Moslem faith.
- (2) The authorities operating and controlling a cemetery as contemplated in subsection (1)(b), shall be liable to pay to the Council the appropriate charges prescribed.

CHAPTER III

INTERMENTS

Permission of Interments

4. (1) No person shall inter a body in any cemetery or cause it to be so interred without the permission of the officer-in-charge or without arranging a date and time for the interment with such officer.
- (2) Such permission shall not be granted unless –

- (a) a burial order in terms of Births and Death Registration Act, 1992, has been issued and produced to the officer-in-charge;
 - (b) all appropriate charges prescribed have been paid; and
 - (c) an application in terms of section 5 has been submitted.
- (3) In considering the granting or refusal of the permission referred to in subsection (1), the officer-in-charge shall have regard to the customs of the people making use of the cemetery.

Application for Interment

- 5.(1) Any person desiring to have a body interred shall in accordance with the provisions of subsections (2) and (3), submit to the officer-in-charge an application completed in the form prescribed by Council, signed by the nearest surviving relative of the deceased person or person authorised by such relative, or if the officer-in-charge is satisfied that the signature of such relative or person authorised cannot be obtained timeously, any other person who satisfies the officer-in-charge as to his/her identity and interest in the interment concerned.
- (2) Subject to the provisions of subsection (3) and subsection 10(2), every application for interment shall be submitted at least four working hours before such interment.
- (3) Notice of any postponement or cancellation of any interment shall be given to the officer-in-charge not later than one hour before the interment was to have taken place.

Interment Only in Allotted Grave

6. Subject to the provisions of this by-law, no interment shall take place in any grave not allotted by the officer-in-charge.

Conversion of Public Grave to Private Grave

7. (1) Subject to the provision of this section, the Council may on submission to the officer-in-charge of an application completed in the form as prescribed by Council and on payment of the appropriate charge prescribed, grant to any applicant contemplated in subsection 5(1) the exclusive right to inter in any public grave and such grave shall thereupon become private grave.
- (2) No exclusive right to inter as contemplated in subsection (1) shall be granted prior to the first interment in the grave concerned or more than ten years thereafter, provided that in the case of a plot, such right may be granted after application in terms of section 5 for the first interment in any grave forming part of such plot has been made.

Plots

8. The graves constituting a plot shall be converted into private graves not later than the time of the first interment in any grave forming part of such plot.

Transfer or Disposal of Rights

9. (1) Any holder of private rights may in writing transfer his/her rights in respect of a private grave to any person: Provided that no such transfer shall be valid unless –
- (a) a copy of the document effecting the transfer has been furnished to the officer-in-charge; and
 - (b) the appropriate charge prescribed, has been paid.
- (2) If by reason of the death or permanent absence from the Republic of South Africa of an applicant contemplated in subsection 5(1) or the holder of private rights or for other good cause, the Council is satisfied that such person will not exercise his/her rights to have a public grave converted into a private grave or that he/she will not exercise his/her rights in respect of any private grave, the Council may dispose of such private rights to any other person upon payment by such person of the appropriate charge prescribed.

Subsequent Interment

10. (1) Not more than two interments may be made in any private grave: Provided that a third interment may be made in such grave with the consent of the officer-in-charge if the grave has been deepened as contemplated in subsection 12(1)(b).
- (2) Any holder of private rights desiring to have a body interred in a private grave as a second or third interment in such grave shall –
- (a) remove all memorial work on such grave at his/her own expense and comply with any requirement of the officer-in-charge in respect of such removal;
 - (b) after compliance with paragraph (a), give at least 24 hours' written notice to the officer-in-charge in the form prescribed by Council of such interment, which period shall be calculated exclusive of any Saturday, Sunday and public holiday.
- (3) The notice referred to in subsection (2) shall be accompanied by written proof of the title of the holder of private rights to the grave concerned and by the appropriate charges prescribed.

Dimensions of graves

11. Subject to the provisions of section 12 –
- (a) in any cemetery existing at, and the planning and layout of which have been completed prior to the commencement of this by-law –
- (i) an adult's grave shall –
 - (aa) measure 2 300mm in length and 900mm in width, at ground level; and
 - (bb) have an excavation of 2 200mm in length, 1 800mm in depth and 770mm in width;
 - (ii) a child's grave shall –
 - (aa) measure 1 500mm in length and 600mm in width, at ground level; and
 - (bb) have an excavation of 1 400 mm in length, 1 500mm in depth and 400 mm in width;

- (b) in any cemetery existing at the coming into operation of this by-law but in respect of which the planning or the layout has not been completed, and in any cemetery established after such commencement of operation, an adult's grave in a memorial section shall –
 - (i) (aa) measure 2 500mm in length and 1 500mm in width, at ground level;
(bb) have an excavation as set out in paragraph (a)(i) (bb);
 - (ii) an adult's grave in a lawn section or a landscape section shall -
 - (aa) measure 2 500mm in length and 1 200mm in width, at ground level; and
 - (bb) have an excavation as set out in paragraph (a)(i) (bb);
 - (iii) a child's grave in a memorial section shall –
 - (aa) measure 1 500mm in length and 1 000mm in width, at ground level; and
 - (bb) have an excavation as set out in paragraph (a)(ii) (bb);
 - (iv) a child's grave in a lawn section or a landscape section shall –
 - (aa) measure 1 500mm in length and 700mm in width, at ground level; and
 - (bb) have an excavation as set out in paragraph (a)(ii) (bb);

Enlargement of Excavation

- 12. (1) Notwithstanding the provisions of section 11 –
 - (a) if a coffin is too large to be accommodated within the excavation of an adult's grave, such excavation may be enlarged to a size which will accommodate such coffin;
 - (b) a private grave may be deepened at the request of an applicant contemplated in section 5 so as to permit the interment in such grave of a third body.
- (2) If the excavation of a grave is to be enlarged, or deepened as contemplated in subsection (1), the officer-in-charge shall be notified accordingly, at least 24 hours before the interment, which period shall be calculated exclusive of any Saturday, Sunday and public holiday, and such notice shall be accompanied by payment of the appropriate charge prescribed.

Covering of Coffins

- 13. (1) There shall be at least 1 200mm of soil between any adult's coffin and the surface of the ground, and at least 900mm of soil in the case of a child's coffin.
- (2) At least 300mm of soil shall be placed over any coffin immediately after interment.

Construction of coffins

- 14. No coffin intended to be placed in a grave shall be constructed of any material other than natural timber or other decomposable material.

CHAPTER IV

FUNERALS

Religious or Memorial Services

15. Subject to the directions of the officer-in-charge, a religious ceremony or memorial service may be conducted in any cemetery.

Control of Hearses

16. No person shall within any cemetery, drive a hearse or cause any hearse to be driven elsewhere than on a roadway, or leave or detain any hearse in such roadway after removal of the coffin from such hearse.

Conveying of Bodies

17. No person shall in any street, cemetery or public place –
- (a) convey a body in an unseemly manner;
 - (b) expose any part of such body;
 - (c) remove any lid or slide of a coffin in which a body has been placed.

Conveyance of Coffins

18. Every person who in terms of this by-law applies to have a body interred shall be responsible for ensuring that the coffin is conveyed to the grave.

Compliance with Directions at Funerals

19. Any person taking part in a funeral, procession or ceremony within any cemetery shall comply with any reasonable direction of the officer-in-charge.

Duration of Services

20. No person shall occupy for more than 30 minutes any chapel in a cemetery for the purpose of a service or ceremony without the consent of the officer-in-charge.

Funeral hours

21. No funeral shall take place before 9h00 or after 17h00.

CHAPTER V

REOPENING OF GRAVES AND EXHUMATIONS

Conditions of Exhumation

22. (1) No person shall –
- (a) exhume or cause to be exhumed any body without the prior written consent of the Council and the approval in terms of the national and provincial legislation.
 - (b) exhume or cause to be exhumed any body during any period when the cemetery is open to the public.

- (2) If remains are to be exhumed from any grave, the officer-in-charge shall cause the grave to be excavated for such exhumation but shall not, except as provided by section 23, remove any body from the grave.
- (3) If a grave is required to be excavated for exhumation, the officer-in-charge shall be given at least 48 hours written notice of the proposed exhumation and such notice shall be accompanied by the appropriate charge prescribed.
- (4) The grave from which any body is to be exhumed shall be effectively screened from view during the exhumation, and a suitable receptacle for the body shall be provided by the person carrying out such exhumation.
- (5) The person carrying out such exhumation shall ensure that the body and grave are properly disinfected and deodorised.

Re-interment by the Council

23. If, in the opinion of the Council, the exhumation of any body is advisable or necessary, or if a body has been interred in a grave in contravention of this by-law, the Council may, subject to the provisions of the national and provincial legislation, cause such body to be exhumed and re-interred in another grave: Provided that whenever possible a relative of the deceased person shall be notified of the intended re-interment and such relative shall be entitled to attend such re-interment.

CHAPTER VI

Care of Graves

Gardening of Graves and Objects on Graves

- 24(1) No person other than the Council shall garden any grave.
- (2) (a) No person shall erect, place or leave upon a grave any object or decoration, except during the first twenty-eight days following the interment therein.
 - (b) Notwithstanding the provisions of paragraph (a) natural or artificial flowers and the receptacles in which they are contained may be placed on a grave at any time: Provided that on a grave with a berm, natural or artificial flowers may only be placed in a receptacle placed in the socket provided in the berm or headstone as contemplated in subsection 30(f).
 - (c) The officer-in-charge or any member of his/her staff may remove natural or artificial flowers and any receptacle placed on a grave, when they become withered, faded or damaged.
- (3) (a) The Council may, upon payment of the appropriate charge, garden any private grave in a memorial section.
 - (b) The area so gardened shall be approximately 0,6m² on an adult's grave and approximately 0,4m² on a child's grave.

Chapter VII

Memorial Work

Erection or re-erection of Memorial Work

- 25 (1) No memorial work shall be erected on any public grave.
- (2) No person shall, without the prior written consent of the officer-in-charge, erect any memorial work in any cemetery for the purpose of erecting any memorial work.
 - (3) Application for consent in terms of subsection (2) shall be made at least five working days before the proposed date of the erection to the officer-in-charge in the form prescribed by Council and shall be accompanied by the appropriate charge.
 - (4) If memorial work is removed for additional inscriptions or other alterations thereto, the provisions of subsection (2) shall mutatis mutandis apply.
 - (5) Save with the permission of the officer-in-charge, no work on any memorial work shall be performed on a Saturday, Sunday or public holiday, or at any time between the hours 17h00 and 09h00.
 - (6) No person shall erect or re-erect any memorial work at any time when the ground upon which such memorial work is to be erected or re-erected is, in the opinion of the officer-in-charge, in an unsuitable condition.
 - (7) The person in charge of the erection or re-erection of any memorial work shall produce the written consent referred to in subsection (2), at the request of the officer-in-charge.
 - (8) No memorial work or material for use in connection therewith shall be conveyed in any cemetery in such manner as may damage the paths or grounds.
 - (9) Any surplus material, rubbish or rubble resulting from the erection or re-erection of any memorial work, shall be removed forthwith by the person responsible for such erection.
 - (10) No memorial work extending beyond 765 mm measured from the head and along the length of the grave in a memorial section shall be erected unless all the appropriate charges have been paid.

Inferior Memorial Work

- 26 The Council may prohibit the erection or re-erection of any proposed memorial work, which in its opinion is of inferior workmanship or quality or which is in any way likely to disfigure any cemetery.

Inscriptions on memorial work

- 27(1) Any memorial work shall, when erected, display the number assigned to the grave concerned by the officer-in-charge, in permanent and visible markings on the side of the base of the memorial work, or in the case of a tablet erected on any grave in a landscape section, on the upper surface in the lower left-hand corner of such tablet.

- (2) The only particulars of the maker of memorial work, which may appear thereon shall be his/her name, which shall be placed at the base of the memorial work.

Dismantling of memorial work

- 28(1) Subject to the provisions of this section, no person other than the holder of private rights or a person authorised in writing by such holder shall dismantle, alter or disturb any memorial work on a grave and such holder or person shall only do so with the prior permission of the officer-in-charge.

- (2) Dismantled memorial work shall not be left in any part of the cemetery except on the grave on which such memorial work had been erected: Provided that this officer-in-charge may in the case of a second or subsequent interment in such grave permit such memorial work to be left elsewhere in the cemetery for a period not exceeding 30 days after such interment.

- (3) If a holder or person referred to in subsection (1), fails to re-erect dismantled memorial work within six months after it has been dismantled or if such memorial work is left within the cemetery in contravention of subsection (2), the Council may give 30 days written notice to such holder or person requiring him at his/her own expense to re-erect such memorial work or to remove such memorial work from the cemetery together with all rubble connected therewith.

- (4) If, in the opinion of the Council, any memorial work has become a danger to the public or has been erected in contravention of this by-law, or has become damaged, the Council may give written notice to the holder or person referred to in subsection (1), requiring him at his/her own expense, to render such memorial work safe or to alter such memorial work so that it complies with the provisions of this by-law or to dismantle and remove such material work from the cemetery together with all rubble connected therewith within a period specified in such notice.

- (5) If such holder or person fails to comply with a notice in terms of subsection (3) or (4), the Council may, without incurring any liability to pay compensation:

- (a) re-erect the memorial work concerned; or
- (b) dismantle and dispose of the memorial work concerned and remove any rubble connected therewith; or
- (c) render the memorial work concerned safe; and such holder or person shall be liable for any costs incurred by the Council in doing any act in terms of this subsection.

- (6) If, in the opinion of the Council, any memorial work has become so dangerous to the public that immediate steps to safeguard to the public that immediate steps to safeguard the public are essential, the Council may without giving any notice to the holder or person referred to in subsection (1), and without incurring any liability to pay compensation:

- (a) dismantle the memorial work concerned and remove it and any rubble connected therewith; or
- (b) render the memorial work concerned safe.

- (7) If the Council has acted in terms of subsection (6), it shall immediately, in writing, notify the holder or person referred to in subsection (1), of the work that it has done and if memorial work was dismantled in terms of subsection (6)(a), that unless such person reclaims and removes the memorial work from the cemetery within a reasonable period stipulated in the notice, the Council will dispose thereof.

- (8) Such holder or person shall be liable for any costs incurred by the Council in doing any act in terms of subsection (6).
- (9) If the holder or person referred to in subsection (1) fails to pay to costs referred to in subsection (8) or to reclaim and remove memorial work dismantled by the Council in terms of subsection (6)(a), the Council may dispose of such memorial work in any manner it deems fit and if any proceeds are derived from such disposal, they shall be offset against the cost of the dismantling, removing, storing and disposing of such memorial work and rubble connected therewith.

General requirements of memorial work

- 29 Any person who erects or re-erects memorial work shall ensure that:
- (a) whenever any part of such memorial work is to be joined to any other part, it shall be so joined by the use of copper or galvanised iron clamps, pins or dowels of approved thickness and of a length sufficient to fit holes which shall not, without the prior written permission of the officer-in-charge, be less than 50 mm deep;
 - (b) a foundation which is adequate to support the proposed memorial work is provided for such memorial work;
 - (c) all curbstones are squared and laid in accordance with the instructions of the officer-in-charge so as to ensure that when the ground surrounding such curbstones has been leveled, such curbstones do not exceed a height of 230 mm above the ground level; and
 - (d) if loose stone chips are placed on a grave, the level of such stone chips shall not be higher than 10 mm below the level of the surrounding curbstone.

Requirements for memorial work in lawn section

- 30 The following provisions shall apply to memorial work and graves in a lawn section:
- a)
 - i) The dimensions of the base of any headstone on an adult's grave shall not exceed 915 mm length and 255 mm in width, but if the base of the headstone is erected over two adjoining graves, such base shall not exceed 1 800 mm in length and 255 mm in width.
 - ii) the dimensions of the base of any headstone on a child's grave shall not exceed 610 mm in length and 255 mm in width, but if the base of the headstone is erected over two adjoining graves, such base shall not exceed 1 200 mm in length and 255 mm in width.
 - b) no portion of any headstone shall extend beyond the horizontal dimensions of its base;
 - c) headstones shall only be erected on the berms provided by the Council;
 - d) no part of any memorial works other than the headstone shall exceed 1 070 mm in height above the berm;
 - e) any headstone shall be so positioned that the front edge of the base of the headstone is at least 130 mm from the front edge of the berm;
 - f) no object other than a headstone which may incorporate not more than two sockets for receptacles for flowers shall be placed on any grave: Provided that a vase in which natural or artificial flowers and foliage may be kept may be placed in a socket provided in

a berm for such vase and such vase shall not exceed 300 mm in height and its horizontal dimensions shall not be more than 60 mm greater than its base;

- g) no kerb demarcating any grave and no slab covering any grave shall be permitted.

Requirements for memorial work in memorial section

31(1) In a cemetery existing at the coming into operation of this by-law, the maximum horizontal measurements of any memorial work erected on a grave in a memorial section shall be:

- (a) in the case of an adult's grave, 2 500 mm in length and 1 050 mm in width;
- (b) in the case of a child's grave, 1 500 mm in length and 600 mm in width.

(2) In a cemetery established after the coming into operation of this by-law, the maximum horizontal measurements of any memorial work erected on a grave in a memorial section shall be:

- (a) in the case of an adult's grave, set out in subsection (1)(a);
- (b) in the case of a child's grave 1 500 mm in length and 1 000 mm in width, with a kerb width of 150 mm.

Requirements for memorial work in landscape section

32 Any memorial work erected on a grave in a landscape section shall not exceed 230 mm in length, 305 mm in width and 30 mm in height and shall be mounted on a berm.

Supervision of work

33 Any person engaged upon memorial work in a cemetery shall affect such work under the supervision, and to the satisfaction of the officer-in-charge.

Chapter VIII

General

Prohibited acts

34(1) No person:

- (a) under 12 years of age shall enter any cemetery except in the care of a person over the age of 16 years;
- (b) shall enter or leave any cemetery except by the gateways provided.

(2) No person shall, within any cemetery

- (a) enter any office or any enclosed place where entry is prohibited by means of a notice displayed in a conspicuous position, except on business connected with such cemetery;
- (b) solicit any business, or exhibit, distribute or leave any tract, business card or advertisement;
- (c) sit, stand, climb upon, or deface or damage any memorial work of Council property;
- (d) commit any offensive, indecent or objectionable act or any act which constitutes a nuisance or causes a disturbance;
- (e) introduce any animal without the consent of the officer-in-charge;

- (f) hold or take part in any demonstration;
- (g) remove any plant or part thereof without the consent of the officer-in-charge;
- (h) drive or park any vehicle without the prior consent of the officer-in-charge on any road where driving or parking is prohibited by means of a notice or parking in a conspicuous position or drive or park any vehicle contrary to any direction of the officer-in-charge;
- (i) drive any vehicle or ride any cycle at a speed exceeding 20 km per hour;
- (j) obstruct, resist or oppose the officer-in-charge or any member of his/her staff in the exercise of his/her powers or performance of his/her duties under this by-law, or refuse to comply with any lawful order or request of the officer-in-charge or any member of his/her staff;
- (k) play or cause to be played any musical instrument or apparatus without the prior consent of the officer-in-charge;
- (l) play any sport or conduct himself/herself in a manner not in keeping with the atmosphere of a cemetery.

Liability of Council in respect of Injury or damage

- 35 The Council shall not be liable for any injury to person or damage to any property if such injury or damage has been sustained in a cemetery, except where such injury or damage was caused by the wilful misconduct of or a negligent act of commission by an employee of the Council.

Free Burial

- 36 If a person has died in indigent circumstances, and if no relative or other person can be found to bear the burial costs of such deceased person, the Council may inter such body free of charge.

Cemetery Hours

- 37 Every cemetery shall be open to the public during such hours as are indicated on a notice board at each gate of such cemetery: Provided that the officer-in-charge shall be entitled at any time to close off any cemetery or part thereof to the public for such period for such purpose as he may deem fit.

Offences and penalties

- 38 Any person who:
- (a) willfully conceals any other fact or document in connection with an application for interment;
 - (b) makes any false statement in his/her written application for interment;
 - (c) fails to comply with any provision of this by-law; shall be guilty of an offence and liable on conviction to a penalty not exceeding R 3000.00, or in default of payment, to imprisonment for a period not exceeding 6 months or to both such fine and imprisonment.

Repeal of by-laws

- 39 The Cemetery by-laws by the former Municipal Councils of Jan kempdorp, Hartswater and Pampierstad are hereby repealed.

CREDIT CONTROL BY-LAW

The Municipal Manager of the PHOKWANE Local Municipal Council in terms of subsection 156(2) of the Constitution of the Republic of South Africa, Act, 1996 (Act 108 of 1996) read with section 13 of the Local Government: Municipal Systems Act (Act 32 of 2000), publishes the by-law as set forth hereafter as by-law made by the Council.

1. DEFINITIONS

For the purpose of this by-law, unless the context indicates otherwise, means-

"apparatus" includes a building, structure, pipe, pump, wire, cable, meter, machine or any fitting.

"Council" the PHOKWANE Local Municipal Council and includes the Mayor, Political Office Bearers, Political Structures, Municipal Manager and any other official who has delegated powers in terms of section 59 of the Local Government: Municipal Systems Act (Act 32 of 2000);

"Credit control" all the functions relating to the collection of monies owed by ratepayers and users of municipal services.

"Customer management" the focusing on the client's needs in a responsive and proactive way to encourage payment, thereby limiting the need for enforcement.

"customer" any occupier of any premises to which the Council has agreed to supply or is actually supplying services, of if there is no occupier, then the owner of the premises.

"billing" proper formal notification (invoicing) on a statement to each customer of amounts levied for assessment rates and services and the net accumulated balance of the account.

"interest" constitutes a levy equal to service levies and is calculated at a rate determined by the Council on all service levies in arrears.

"Municipal services" those services, rates and taxes reflected on the municipal account for which payments is required by Council.

"Municipal account" shall include levies or charges in respect of the following services and/or taxes:

- (a) Electricity consumption
- (b) Water consumption
- (c) Refuse removal
- (d) Sewerage services
- (e) Rates and taxes charged in relation to the value of the premises
- (f) Interest

"Municipal manager" a person appointed in terms of the Local Government Structures Act, (Act 117 of 1998).

"defaulter" those persons owing the Council in respect of taxes and/or services charges for a period of more than 45 (forty-five) days from date of account.

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

"owner" -

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

"premises" includes any piece of land, the external surface boundaries of which are delineated on-

- (a) a general plan or diagram registered in terms of the Land survey Act (Act 8 of 1997) or in terms of the Deeds Registry Act, 47 of 1937; or
- (b) a sectional plan registered in terms of the Sectional Titles Act, 95 of 1986, which is situated within the area of jurisdiction of the Council.

"Chief Financial Officer" a person appointed by the Council to manage, *inter alia*, the Council's financial administration and debt collection of the Council's debtors.

2. GENERAL PROVISIONS

(1) Notices and Documents

- (a) A notice or document issued by the Council in terms of this by-law shall be deemed to be duly issued if it is signed by an officer authorized by the Council.
- (b) If a notice is to be served on a person in terms of this by-law, such services shall be affected by:
 - (i) delivering the notice to him or her personally or to his or her duly authorized agent;
 - (ii) by delivering the notice at his or her residence or place of employment to a person apparently not less than sixteen years of age and apparently residing or employed there;

- (c) if he or she has nominated an address for legal purposes, by delivering the notice to such an address;
- (d) registered or certified post addressed to his or her last known address;
- (e) in the event of a body corporate, by delivering it at the registered office or the business premises of such body corporate;
- (f) if service cannot be affected in terms of paragraphs (b) to (e) by affixing it to the principal door of entry to the premises, or placing it on a conspicuous place on the land to which it relates.

(2) Authentication of documents

- (a) Every order, notice of other document required authentication by the Council shall be sufficiently authenticated, if signed by the Municipal Manager or by a duly authorized officer of the Council; such authority being conferred by resolution of the Council or by a by-law or regulation.
- (b) Delivery of a copy shall be deemed to be delivery of the original.

(3) Full and final settlement of an amount

- (a) The appropriation on an account when the amount tendered is less than the levied amount will be allocated in the following order:
 - (i) Outstanding balances
 - (ii) Interest on outstanding account
 - (iii) Water
 - (iv) Assessment Rates, Sewerage and Refuse Removal
 - (v) Electricity
- (b) Where the exact amount due and payable to the Council has not been paid in full, any lesser amount tendered to and accepted by any Council employee, except the Chief Financial Officer and/or his/her fully authorized delegate, shall not be deemed to be in final settlement of such an amount.
- (c) The provisions in 2.3(a) above shall prevail notwithstanding the fact that such lesser payment was tendered and/or accepted in full settlement.
- (d) The Chief Financial Officer and/or his/her delegate shall consent to the acceptance of such a lesser amount in writing.

(4) Interest charges

Subject to the provisions of the Local Government Transition Act 1993 (Act 209 of 1993) or any other law relating to interest, the Council may by resolution charge and recover interest in respect of any amount due and payable to the Council.

(5) Prima Facie Evidence

A certificate reflecting the amount due and payable to the Council, under the hand of the Municipal Manager, or suitably qualified official authorized by the Municipal Manager, shall upon mere production thereof be accepted by any court of law as prima facie evidence of the indebtedness.

3. POWER OF COUNCIL TO RECOVER COSTS

(1) Dishonored payments

Where any payment made to the Council is later dishonored by the bank, the Council may levy such costs and administration fees against an account of the defaulting debtor in terms of the Council's tariff provisions.

(2) Legal fees

All legal costs, including attorney-and-own-client costs incurred in the recovery of amounts in arrears shall be levied against the arrears account of the debtor.

(3) Cost to remind debtors of arrears

For any action taken in demanding payment from the debtor or reminding the debtor, by means of telephone, fax, email, letter or otherwise, that his/her payments are due, a penalty fee may be levied against the account of the debtor in terms of the Council's provisions.

(4) Disconnection fees

Where any service is disconnected as a result of non-compliance with this by-law by the customer, the Council shall be entitled to levy and recover the standard disconnection fee as determined by the Council from time to time from the user of the services.

(5) Accounts

The Council may-

- (a) consolidate any separate accounts of persons liable for payments to the municipality;
- (b) credit any unspecified payment by such a person against any account of that persons; and
- (c) implement any of the debt collection and credit control measures provided for in this by-law in relation to any arrears on any of the accounts of such person.

4. SERVICE AGREEMENT

(1) No supply of services shall be given unless and until application has been made and a service agreement, in the Council's prescribed form in the format or as close as possible to the format reflected in Schedules 1A (Household Consumers) and 1B (Business Consumers), has been entered into and a deposit as security equal to an amount and in the form of either cash or a bank guarantee as determined by the Council from time to time, has been paid in full.

(2) Termination of the services agreement must be in writing to the other party of the intention to do so.

5. ARREARS COLLECTION

(1) Credit Control Policy

The Council shall have a written policy on credit control and debt collection, which provides for:

- (a) credit control procedures and mechanisms
- (b) debt collection procedures and mechanisms
- (c) provision for indigent debtors that is consistent with its rates and tariff policies and any national policy on indigents
- (d) interest on arrears
- (e) extensions of time for payment of accounts
- (f) termination of services or the restriction of the provision of services when payments are in arrears
- (g) in determining its policy, the Council may differentiate between categories of persons, clients, debtors and owners as it may deem appropriate.

(2) Power to restrict or disconnect supply of services

- (a) The Council may, restrict or disconnect the supply of water and electricity, or discontinue any other service to any premises whenever a user of any service:
 - (i) fails to make full payment on the due date or fails to make acceptable arrangements for the repayment of any amount for services, rates or taxes;
 - (ii) fails to comply with a condition of supply imposed by the Council
 - (iii) obstructs the efficient supply of electricity, water or any other municipal services to another customer;
 - (iv) supplies such municipal service to a customer who is not entitled thereto or permits such service to continue;
 - (v) causes a situation which in the opinion of the Council is dangerous or a contravention of relevant legislation;
 - (vi) is placed under provisional sequestration, liquidation or judicial management, or commits an act of insolvency in terms of Act no 24 of 1936;
 - (vii) if an administration order is granted in terms of section 74 of the Magistrates Court Act, 1944 (Act 32 of 1944) in respect of such user.
- (b) The Council shall reconnect and or restore full levels of supply of any of the restricted or discontinued services only after the full amount outstanding and due, including the costs of such disconnection and reconnection, if any, have been paid in full or any other condition or conditions of the Council's Credit Control Policy as it may deem fit have been complied with.
- (c) The right of Council to restrict water to any premises or customer shall be subject to the provisions of section 4 of the Water Services Act, 108 of 1997.
- (d) The right to restrict, disconnect or terminate service due to non-payment for any other service or assessment rate shall be in respect of any service rendered by Council, and shall prevail notwithstanding the fact that the person who entered into agreement for supply of services with the Council and the owner are different entities or persons, as the case may be.

(3) Power of Entry and Inspection

- (a) A duly authorized representative of the Council may for any purpose related to the implementation or enforcement of this by-law, at all reasonable times or in an emergency at any time, enter premises, request information and carry out such inspection and examination as he or she may deem necessary, and for purposes of installing or repairing any meter or service connection for reticulation, or to disconnect, stop or restrict the provision of any service
- (b) If the Council considers it necessary that work be performed to enable an officer to perform a function referred to in (a) above properly and effectively, it may-
 - (i) by written notice require the owner or occupier of the premises at his or her own expense to do specified work within a specified period;
 - (ii) if in its opinion the situation is a matter of urgency, without prior notice do such work or cause it to be done at the expense of the owner.
- (c) If the work referred to in (b) above is carried out for the sole purpose of establishing whether a contravention of this by-law has been committed and no such contravention has taken place, the Council shall bear the expense connected therewith together with that of restoring the premises to their former condition.

(4) Arrangements to pay outstanding and due amount in consecutive installments

- (a) A debtor may enter into a written agreement with the Council to repay any outstanding and due amount to the Council under the following conditions:
 - (i) the outstanding balance, costs and any interest thereon shall be paid in regular and consecutive monthly installments
 - (ii) the written agreement has to be signed on behalf of the Council by a duly authorized officer.
- (b) Should any dispute arise as to the amount owing by an owner in respect of municipal services the owner shall notwithstanding such dispute proceed to make regular minimum payments based on the calculation of the average municipal account for the preceding three months prior to the arising of the dispute and taking into account interest as well as the annual amendments of tariffs of the Council.

(5) Reconnection of services

The Chief Financial Officer shall authorize the reconnection of services or reinstatement of service delivery after satisfactory payment and/or arrangement has been made according to the Council's Credit Control Policy.

6. ASSESSMENT RATES

(1) Amount due for assessment rates

- (a) All assessment rates due by property owners are payable by the fixed date as determined by Council.
- (b) Joint owners of property shall be jointly and severally liable for payment of assessment rates.

- (c) Assessment rates may be levied as an annual single amount, or in equal monthly installments.
- (d) Payment of assessment rates may not be deferred beyond the fixed date by reason of an objection to the valuation roll.

(2) Claim on rental for assessment rates in arrears

The Council may apply to Court for the attachment of any rent, due in respect of ratable property, to cover in part or in full any amount outstanding in respect of assessment rates for a period longer than three months after the fixed date.

(3) Liability of company Directors for assessment rates

Where a company, closed corporation or a body corporate in terms of the Sectional Titles Act, 1986 is responsible for the payment of any arrears amount to the Council, the liability of such entity shall be extended to the directors or members thereof jointly and severally, as the case may be.

(4) Disposed of Council's property and payment of assessment rates

- (a) The Purchaser of Council property is liable for the payment of assessment rates on the property in respect of the financial year in which the Purchaser becomes the new owner.
- (b) In the event that the Council repossesses the property, any outstanding and due amount in respect of assessment rates shall be recovered from the Purchaser.

(5) Restraint on Transfer of property

- (a) A registrar of deeds or other registration officer of immovable property may not register the transfer of property except on production to that registration officer of a prescribed certificate-
 - (i) issued by the municipality in which that property is situated; and
 - (ii) which certifies that all amounts due in connection with that property for municipal service fees, surcharges on fees, property rates and other municipal taxes, levies and duties during the two years preceding the date of application for the certificate have been fully paid.
- (b) In the case of the transfer of immovable property by a trustee of an insolvent estate, the provisions of this section are subject to section 89 of the Insolvency Act, 1936 (Act No.24 of 1936).
- (c) An amount due for municipal service fees, surcharge on fees, property rates and other municipal taxes, levies and duties are a charge upon the property in connection with which the amount is owing and enjoys preference over any mortgage bond registered against the property.

(6) Assessment rates payable on municipal property

- (a) the lessee of municipal property is responsible for payment of any general assessment rates payable on the property for the duration of the lease, as if he is the owner of such property.

- (b) The Chief Financial Officer may elect to include the assessment rates in respect of a property in the rent payable by the lessee, in stead of billing it separately as in the case of owners of properties.

7. RELAXATION, WAIVER AND DIFFERENTIATION

- (1) The Council may differentiate between different categories of ratepayers, users of services, customers, debtors, taxes, services, service standards and other matters.
- (2) The Council may, in specific instance and for a particular owner or customer, relax or waive in writing the requirements of a provision of this by-law.
- (3) Any such differentiation or relaxation shall be upon such conditions as it may deem fit to impose, if it is of the opinion that the application or operation of that provision in that instance would be unreasonable.

8. REPORTING OF DEFAULTERS

The Council may in its discretion through a duly delegated officer report such persons that owe the Council monies to bodies that collate and retain such information. The information that would be included in such a report shall be the available personal information of the defaulter, or in the event of a legal person, the available statutory details, including information pertaining to the responsible officers of such legal person.

9. CONFLICTION OF BY-LAWS

If there is any conflict between this by-law and any other by-law of the Council this by-law will prevail.

10. OFFENCES

(1) A person who-

- (a) fails to give the access required by an officer in terms of this by-law;
- (b) obstructs or hinders an officer in the exercise of his or her powers or performance of functions or duties under this by-law;
- (c) interferes with Council equipment or services supplied;
- (d) tampers or breaks any seal on a meter or on any equipment belonging to the Council, or for any reason determined by the Chief Financial Officer causes a meter not to properly register the service used, shall be charged for usage, estimated by the Chief Financial Officer based on average usage.
- (e) fails refuses to give an officer such information as he or she may reasonably require for the purpose of exercising his or her powers or functions under this by-law or gives such an officer false or misleading information knowing it to be false or misleading;
- (f) contravenes of fails to comply with a provision of this by-law;
- (g) fails to comply with the terms of a notice served upon him or her in terms of this by-law;

shall be guilty of an offence and liable upon conviction to a period not exceeding 18 months of community service or a fine not exceeding R3000.00, or a combination of the aforementioned.

11. REPEAL OF COUNCIL CREDIT CONTROL BY-LAWS

The by-laws in regard to matters in this by-law by the former Municipal Councils of Jan Kempdorp, Hartswater and Pampierstad are hereby repealed.

ELECTRICITY BY-LAW

The Municipal Manager of the PHOKWANE Local Municipal Council in terms of subsection 156(2) of the Constitution of the Republic of South Africa Act 1996, (Act 108 of 1996) read with section 13 of the Local Government: Municipal Systems Act (Act 32 of 2000), publishes the by-law as set forth hereafter as by-law made by the Council.

Section

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Definitions

1. In this by-law, unless the context indicates otherwise means—
“approved” in relation to any article or practice, approved by the Council or the engineer as being suitable and satisfactory in respect of safety, design, performance, and the method of its application, regard being have to the recognised principles of electrical practice, and “approval” shall be interpreted accordingly;
“Chief Financial Officer” the officer in charge of the Financial Department or any other officer authorised to act on his/her behalf.
“consumer” any person who has entered into an agreement with the Council for the supply to him/her of electricity’
“consumer’s agreement” an agreement as referred to in section 3;
“contractor” an electrical contractor or a permit holder in terms of the Act;
“Council” the PHOKWANE Local Municipal Council and includes the Mayor, Political Office Bearers, Political Structures, Municipal Manager and any other official who has delegated powers in terms of section 59 of the Local Government: Municipal Systems Act (Act 32 of 2000);
“delivered” also when left at the place of residence or business of the consumer by handing it to a person older than 16 years, present as occupier or visitor at such place of residence or business, or if placed in the letter box or such other place that is reasonable conspicuous at such place of residence or business and includes the fixing of a notice to the fence or gate of such place of residence or business.
“Electrical installation”, electrical installation as described in the Act;
“Engineer” the head of the Council’s electricity undertaking or an official duly authorised by the Council;

“High-voltage enclosure” a chamber, compartment or other enclosure in which a transformer, switchgear or other electrical equipment is contained for operating at a voltage above 1 000 and the expression “high voltage” shall be interpreted accordingly;

“Installation work” installation or installing work as described in the Act;

“Low-voltage enclosure” and “enclosure for a special supply at low voltage” a chamber, compartment or other enclosure in which a transformer, switchgear or other electrical equipment is contained for operating at a voltage at or below 1 000 and the expression “low voltage” shall be interpreted accordingly;

“Meter-reading period” the period extending from one reading of a meter to the next;

“Meter cabinet” an enclosure intended for the accommodation of a meter, circuit breaker or other associated electrical equipment determined by the engineer and designed to operate at low voltage;

“occupier” any person in occupation of premises at any relevant time;

“Owner” -

- (g) the person in whom from time to time is vested the legal title to the premises;
- (h) in a case where the person in whom the legal title is vested is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration of and control of such premises is vested as curator, trustee, executor, administrator, judicial, manager, liquidator or other legal representative;
- (i) in any case where the Council is unable to determine the identity of such person, a person who is entitled to the benefit of such premises or a building thereon;
- (j) in the case of premises for which a lease of 30 years or more has been entered into, the lessee thereof;
- (k) in relation to-
 - (viii) a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act 1986, (Act 95 of 1986), and without restricting the above the developer or the body corporate in respect of the common property, or
 - (ix) a section as defined in such Act, the person in whose name such section is registered under a sectional title deed and includes the lawfully appointed agent of such a person;
- (l) any legal person including but not limited to:
 - (v) a company registered in terms of the Companies Act, 1973 (Act 61 of 1973), trust *inter vivos*, trust *mortis causa*, a Closed Corporation registered in terms of the Closed Corporation Act, 1984 (Act 69 of 1984), a Voluntary Association.
 - (vi) Any Department of State.
 - (vii) Any Council or Board established in terms of any legislation applicable to the Republic of South Africa.
 - (viii) Any Embassy or other foreign entity.

“Points of consumption” point of consumption as described in the Act;

“Point of supply” point of supply as described in the Act;

“premises” any land and any building, erection or structure, above or below the surface of any land and includes any aircraft, vehicle or vessel;

“Service connection” the cable or conductor leading from the supply main to the point of supply of the electrical installation and includes any high voltage or other equipment connected to that cable or conductor, any meter; and any board, panel or other device to which the meter is fixed and all installation work and apparatus associated with the said equipment, meter or other device installed by the Council;

“Service fuse” of “service circuit breaker” a fuse or service circuit breaker belonging to the Council and forming part of the electrical circuit of the service connection;

“Skilled person” any person who in the opinion of the engineer is sufficiently skilled and qualified to execute, supervise and inspect work pertaining to high voltage regard being had to his/her experience and knowledge of electrical practice;

“Special supply at low voltage” a supply of electricity exceeding 40 kVA at low voltage;

“supply” a supply of electricity from the supply main;

“Supply main” any cable or wire forming that part of the Council’s electrical distribution system to which service connections may be connected;

“tariff” the tariff of charges as determined from time to time by Council.

“The Act” the Occupational Health and Safety Act, 1993 (Act 85 of 1993) whichever is in force, and the regulations promulgated thereunder;

Application for and Conditions of Supply

- 2.(1) Application for a supply shall be made to and in a form prescribed by the engineer.
- (2) The engineer may, before granting a supply, inspect the electrical installation to which an application relates with a view to establishing that such installation is safe and proper and complies with this by-law or other applicable legislation.

Consumer’s Agreement

- 3.(1) No supply shall be given an electrical installation unless and until the owner or occupier of the premises or some person acting on his/her behalf has completed a consumer’s agreement in a form prescribed by the Council.
- (2) The charge payable for the supply shall be in accordance with the tariff.
- (3) No person shall use a supply unless a consumer’s agreement as contemplated in subsection (1) has been concluded with the Council.
- (4) The Council may decide whether a consumer’s agreement shall be concluded by it with the owner or with the occupier of the premises or some person acting on his/her behalf.
- (5) No person shall, without first having obtained the engineer’s permission in writing, lead electricity temporarily or permanently to any point of consumption or place not forming part of the electrical installation for which a supply has been agreed upon or given.

Termination of Consumer’s Agreement

4. Subject to the provisions of subsections 7(6) and 12, any consumers agreement may be terminated
by the consumer, his/her authorised representative, or by the Council on giving 7 days notice in writing calculated from the date of service thereof: Provided that if such notice purports to terminate an agreement on a Saturday, Sunday or public holiday, such termination shall only take effect on the next ensuing day which is not a Saturday, Sunday or public holiday.

Continuation of Supply to New Consumer

- 5.(1) The Council may, upon the termination of any consumer’s agreement, enter into a new consumer’s agreement with any prospective consumer providing for the continuation of the supply.

- (2) The consumer who is a party to the new consumer's agreement referred to in subsection (1) shall be liable to pay for the electricity consumed after a meter reading taken on the date of termination of the previous agreement.

Deposits

- 6.(1)(a) Except in the case of the Government of the Republic of South Africa, including the Province of the Northern Cape and Transnet, any other class of consumer approved by the Council, every applicant for a supply shall, before such supply is given, deposit with the Council a sum of money on the basis of the cost of the maximum consumption of electricity which the applicant is in the Chief Financial Officer's opinion likely to use during any two consecutive months: Provided that such sum shall not be less than is prescribed in the tariff.
- (b) Notwithstanding the foregoing provisions of this section the Chief Financial Officer may, in lieu of a deposit, accept from an applicant, a guarantee for an amount calculated in accordance with paragraph (a) and in the form prescribed by the Council, as security for the payment of any amount that may become due by the applicant for, or in respect of, the supply of electricity: Provided that no such guarantee shall be accepted unless the estimated monthly account in respect of the supply to the premises concerned amounts to at least R5 000-00.
- (2)(a) The Council may at any time when the deposit or guarantee is found to be inadequate for the purposes of subsection (1), require a consumer to increase the deposit made or guarantee furnished by him/her, in which event the consumer shall, within 30 days after being so required, deposit with the Council such additional sum or furnish such additional guarantee as the Council may require, failing which the Council may discontinue the supply.
- (b) An amount as determined by the Council from time to time by means of a Council resolution, shall be payable as a deposit for water consumption, when a pre-paid electricity meter is installed.
- (3) Any sum deposited by or on behalf of a consumer shall, on being claimed, be refunded within 30 days after the termination of the consumers' agreement after deducting any amount due by the consumer to the Council.
- (4)(a) Subject to the provisions of subsection (3), any person claiming a refund of a deposit or part thereof, shall either –
- (i) surrender the receipt which was issued for payment of the deposit; or
 - (ii) if such receipt is not available, sign a receipt prescribed by the Council for the refund to him/her of such deposit or part thereof and satisfy the Council that he/she is the person entitled to such refund.
- (b) If a deposit or part thereof has been refunded in accordance with paragraph (a), the Council shall be absolved from any further liability in respect thereof.
- (5) The consumer's agreement may contain a provision that any sum deposited by the consumer, a refund of which has not been so claimed within 1 year after either such agreement has been terminated or he/she has ceased for any reason to receive a supply in terms of such agreement, shall at the expiration of that period become forfeited to the Council.
- (6) Notwithstanding the provisions of subsection (5), the Council shall at any time pay –

- (a) to the person who paid the deposit on his/her satisfying the Council of his/her identity and the amount; or
 - (b) to any other person who has satisfied the Council that he/she is entitled to have the payment made to him/her, an amount equal to the forfeited deposit.
- (7) If a consumer applies to the Council for a supply of higher capacity than he/she is receiving, the Chief Financial Officer may require the consumer to make an increased deposit or furnish an increased guarantee in terms of subsections (1) and (2) before such supply is given.

Accounts

- 7 (1) The engineer shall, in respect of each scale of the tariff governing a supply, provide such number of meters as he/she deems necessary.
- (2) The Council may, during any meter reading period, render to the consumer a provisional account in respect of a part of such period (which part shall nearly as practically possible be a period of 30 days and the amount of such account shall be determined as provided in subsection (4) and shall as soon as possible after the meter reading at the end of such period render to consumer an account based on the actual measured consumption and demand during that period, giving credit to the consumer for any sum paid by him/her on a provisional account as aforesaid.
- (3) An account may be rendered for fixed charges in terms of the tariffs as and when they become due.
- (4) The amount of a provisional account referred to in subsection (2) shall be determined by the Council by reference to such previous consumption, on the same premises as would in his/her opinion, constitute a reasonable guide to the quantity of electricity consumed over the period covered by the provisional account: Provided that where there has been no such previous consumption the Council shall determine the amount of the said account by reference to such consumption on other similar premises which, in his/her opinion, affords reasonable guidance.
- (5) A consumer's decision to dispute an account shall not entitle him/her to defer payment beyond the due date stipulated in the account.
- (6) In the event of the Council not being able to gain access to a meter for 2 consecutive meter readings the Council may forthwith discontinue the supply of electricity in respect of the premises to which that meter relates.
- (7) When it appears that a consumer has been wrongly charged for electricity due to the application of a wrong tariff or on any other grounds other than inaccuracy of a meter, the Council shall make such enquiries and tests as it thinks necessary and shall if satisfied that the consumer has been wrongly charged, adjust his/her account accordingly or if not so satisfied, charge him/her if the Council's actions are the result of a complaint by the consumer, in addition the cost to itself of making such enquiries and tests.

Prepayment metering

- 8.(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 preciously 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.
- (4) The Council shall not be liable for the reinstatement of credit in a prepayment meter lost due to tampering with, or the incorrect use of the abuse of, prepayment meters and/or tokens.
- (5) Where a consumer is indebted to the Council for electricity consumed or for any other service supplied by the Council (including rates) or for any charges previously raised against him/her in connection with any service rendered, the Council may deduct a percentage from the amount tendered to offset the amount owing to the Council, as set out in the section agreement for the supply of electricity.
- (6) The Council may, at its discretion, appoint vendors for the sale of credit for prepayment meters and shall not guarantee the continued operation of any vendor.

Reading of Meters

- 9.(1) The amount of electricity supplied to any premises during any meter reading period shall be taken as the difference of the reading of the meter or meters thereon at the beginning and the end of such period and where maximum demand metering pertains, the demand shall also constitute a part of the meter reading.
- (2) The reading shown by a meter shall be prima facie proof of the electrical energy consumed and of the maximum demand during the meter reading period and an entry in the Council's books shall be prima facie proof that the meter showed the reading which the entry purports to record.

Testing Accuracy of meter

10. (1) If a consumer or owner has reason to believe that a meter is not registering correctly, he/she may give written notice to the Council that he/she requires the meter to be tested, such notice to be accompanied by the fee prescribed in the tariff for the testing of meters, and the Council shall as soon as possible thereafter subject the meter to the test.
- (2) The Council's finding as to the accuracy of a meter after the test referred to in subsection (1) has been carried out shall be final, and a meter shall be deemed to be registering correctly if it is shown by that test to be over- or under-registering by not more than an average of 5% when tested in accordance with the code of practice of the South African Bureau of Standards for the testing of electricity meters or in accordance with procedure laid down by Council.
- (3) The fee payable in terms of subsection (1) shall be refunded if the meter is shown by the test to be registering incorrectly.
- (4) The engineer shall, immediately before removing a meter for testing, take a reading of that meter and the current meter-reading period shall be terminated at the time of such reading.
- (5) If after testing a meter the Council is satisfied that it is not registering correctly, it shall render to the consumer a statement of account adjusted in accordance with the consumption ascertained to have been over- or under-registered in respect of the period

of 3 months prior to the date of termination of the current meter reading period in terms of subsection (4) and an adjusted account so rendered shall be paid within 10 days of the date thereof.

Failure of meter to register correctly

- 11(1) When the Council is satisfied that a meter has ceased to register correctly the reading shown thereby shall be disregarded and the consumer –
- (a) shall be charged in respect of the current meter reading period the same amount as he/she paid in respect of the corresponding period in the preceding year, subject to adjustment necessitated by any alteration to the electrical installation of the tariff; or
 - (b) if he/she was not in occupation of the premises during the corresponding period referred to in paragraph (a), shall be charged on the basis of his/her consumption during the 3 months preceding the last date on which the meter was found to be registering correctly; or
 - (c) if he/she was not in occupation of the premises during the whole of the period referred to in paragraph (b), shall be charged on the basis of his/her consumption during the 3 months following the date from which the meter was again registering correctly.
- (2) If it can be established that the meter had been registering incorrectly for a longer period than the meter reading period referred to in subsection (1), the consumer may be charged with the amount determined in accordance with the said subsection or for a longer period: Provided that no amount shall be so charged in respect of a period in excess of 12 months prior to the date on which the meter was found to be registering incorrectly.

Disconnection of Supply

- 12(1) When any charges due to the Council for or in connection with electricity supplied are in arrear, the Council may at any time without notice, disconnect the supply to the electrical installation concerned or any part thereof until such charges together with the reconnection fee laid down in the tariff are fully paid. **Provided that electricity was unlawfully restored, the Council may terminate electricity supply by means of removal of the supply cable.**
- (2) When conditions are found to exist in an electrical installation which in the opinion of the Council constitute a danger or potential danger to person or property or interfere with the supply to any other consumer, the Council may at any time without notice, disconnect the supply to that installation or any part thereof until such conditions have been remedied or removed.
- (3) The Council may without notice temporarily discontinue the supply to any electrical installation for the purpose of affecting repairs or making inspections or tests or for any other purpose connected with its supply main or other works.
- (4) The Council shall, on application by a consumer in a form prescribed by the engineer, disconnect the supply and shall reconnect it on payment of the fee prescribed in the tariff.

Unauthorised connection

- 13(1) No person other than an employee of the Council authorised thereto shall connect or reconnect or attempt to connect or reconnect any electrical installation with the service connection or the supply main.
- (2) If the supply to any electrical installation is disconnected in terms of subsection 12(1) or (2), the consumer concerned shall take all reasonable steps within his/her power to ensure that such supply is not reconnected in contravention of subsection (1).
- (3) If such supply is nevertheless so reconnected after it has been disconnected by the Council the consumer concerned shall forthwith take all reasonable steps within his/her power to ensure that no electricity is consumed on the premises concerned and shall, in addition, forthwith notify the Chief Financial Officer of such reconnection.
- (4) If the consumer contemplated in subsection (2) or (3) is not in occupation of the premises concerned, then the occupier of those premises shall comply with the provisions of the mentioned subsections.
- (5) In any prosecution for a contravention of or failure to comply with subsection (2) or (3) or both, or of any or both of those subsections read with subsection (4), any contravention or failure to comply, whether intentional or negligent, shall be sufficient to constitute an offence and, unless the contrary is proved, it shall be deemed that –
- (a) reasonable steps contemplated in subsections (2) and (3) were not taken; and
 - (b) such contravention or failure was due to an intentional act or omission of the person charged.

Fraudulent use

- 14(1) A supply for which a charge is laid down in the tariff and which is measured by a meter or set of meters shall not be used for any purpose for which a higher charge is laid down.
- (2) Unless the Council has granted permission in writing no electricity supplied by it shall be used unless it has first passed through the meter connected to the electrical installation.

Resale of electricity

15. Where a person resells, electricity supplied by the Council –
- (a) such electricity shall, in respect of each purchaser, be metered through a sub-meter which, and the installation of which, has been approved by the Council.
 - (b) the Council shall not be held liable for any inaccuracy or other defect in any sub-meter whether or not the Council has approved such sub-meter or the installation thereof;
 - (c) The charge made by such seller shall not exceed the tariff which would have been payable had the purchaser been a consumer of the Council; and
 - (d) The conditions of resale shall not be less favourable to the purchaser than the terms on which the Council itself supplies electricity and every such purchaser shall be entitled to require the seller to furnish him/her with all such accounts, documents and other information as may be necessary to enable the purchaser to ascertain whether the accounts rendered to him/her for electricity supplied are correct.

Installation diagram and specifications

16. The Council may require a contractor to submit to him/her for approval a wiring diagram and specifications covering any proposed construction of, alteration, extension or repair to any electrical installation, and where the Council requires such a diagram and specifications the proposed work shall not be commenced until they have been submitted and approved.

Inspection and test

- 17(1) The engineer may, at any reasonable time or in case of emergency at any time, enter any premises and inspect or test any part of the service connection or electrical installation thereon for any purpose including the purpose of ascertaining whether a breach of this by-law or other applicable legislation has been or is being committed and the owner or contractor, when called upon to do so, shall remove any earth, bricks, stone, woodwork, or other work obstructing or covering any part of the electrical installation.
- (2) Before any test or inspection in terms of this section is carried out the owner of the occupier shall be informed of the purpose thereof and if it is established that a breach of this by-law has been committed, the Council shall, notwithstanding the provisions of subsection (3), not be liable to restore and make good in terms thereof.
- (3) The Council shall, save as is provided in subsection (2), restore and make good any disturbance of, damage to, or interference with, the premises occasioned by any inspection or test made in terms of subsection (1).
- (4) While any electrical installation is in the course of construction, alteration, extension or repair the engineer may inspect and test any part of the work as often as he/she deems necessary, and if any work which the engineer requires to inspect or test has been covered up the engineer may require the contractor or the owner of the premises at no cost to the Council to uncover that work, to expose any joints or wires and to remove any fittings, castings, trapdoors, floor boards, materials or other obstructions whatsoever, and any work or reinstatement rendered necessary shall likewise be carried out at no cost to the Council.
- (5) Every reasonable facility to carry out tests and inspections shall be afforded to the engineer by the contractor, the owner and the occupier of the premises and the aforesaid facilities shall in the case of a contractor include the provision of suitable ladders.
- (6) Where cables or conduits of an electrical installation are laid underground the trenches containing them shall be left open until the work has been inspected and approved,
- (7) Any contractor shall give the engineer at least 3 working days notice in a form prescribed in the Act that he/she requires the engineer to carry out an inspection or test of any electrical installation.
- (8) (a) After receipt of notice in terms of subsection (7), the engineer shall forthwith make such inspection and test.
- (b) Should an electrical installation require resetting according to regulation C177 (4) of the Act, such a retest is subject to the payment of a charge laid down in the tariff.

Liability of Council and Contractor

- 18(1) Neither the engineer's approval of an electrical installation after making any inspection or test thereof nor the granting by him/her of permission to connect the installation to the supply shall be taken as constituting for any purpose any guarantee by the Council that the work has been properly executed or the materials used in it are sound or suitable for the purpose or any warranty whatsoever or as relieving the contractor from liability, whether civil or criminal, for executing the work improperly or for using faulty material therein.
- (2) The Council shall not be under any liability in respect of any installation or other work or for any loss or damage caused by fire or other accident arising wholly or partly from the condition of an electrical installation.

Service Connections

- 19(1) The owner of the premises concerned shall make application for the installation or reinstatement of a service connection in a form prescribed by the engineer.
- (2) A service connection shall be installed at the expense of the owner and the cost thereof as determined by the Council shall be paid to the Council before supply is authorised.
- (3) Every part of the service connection shall remain the property of the Council.
- (4) Notwithstanding that the service connection to an approved electrical installation may already have been completed the Council may in its absolute discretion refuse to supply electricity to that installation until all sums due to the Council by the same consumer in respect of that or any other service connection, whether or not on the same premises, have been paid.
- (5) No owner shall be entitled to require more than one service connection for a supply for any premises even if it comprises or occupies more than one stand. The Council may, however, subject to such conditions as he/she thinks fit to impose upon the owner, provide more than one service connection to a premises and where more than one service connection is so provided it shall be unlawful to interconnect them.
- (6) The applicant for a service connection shall, before work on its installation is commenced, furnish the Council with such indemnity as it may specify.
- (7) The Council may, notwithstanding any indemnity given in terms of subsection (6), refuse to install a service connection until he/she is satisfied that no person is entitled to object to such installation.

Sealed apparatus

20. Where any seal of lock has been placed by the Council on any meter, service fuse, service circuit breaker or other similar apparatus or cabinet or room in which such apparatus is accommodated whether or not belonging to the Council, no person other than an authorised employee of the Council shall for any reason whatsoever remove, break, deface or otherwise interfere, with any such seal or lock.

Tampering

21. No person shall in any manner or for any reason whatsoever paint, deface, tamper or interfere with any service connection and only an authorised employee of the Council may make any adjustment or repair thereto.

Liability for damage to service connection

- 22(1) The owner of the premises or the consumer shall be liable to make good to the Council any damage that may occur to the service connection or any part thereof or to any other Council apparatus on the premises, unless such owner or consumer can prove negligence on the part of the Council.
- (2) If any damage occurs to the cable or any other part of a service connection the consumer shall inform the Council as soon as he/she becomes aware of that fact and the Council or a person authorised by Council shall repair the damage.

Type of supply

23. The Council may in any particular case determine whether the supply shall be high or low voltage and the type of such supply.

Meter cabinets

24. Before a low voltage supply is given, the applicant or owner shall, if required to do so by the Council at no expense to the Council and in a position approved by the Council provide a cabinet of approved design and construction for the accommodation of the Council's service connection.

High voltage electrical installations

- 25(1) All the apparatus used in connection with a high voltage electrical installation shall be of approved design and construction.
- (2) Before any work is commenced in connection with a new high voltage electrical installation or for the extension of an existing high voltage installation, a site plan and a drawing showing in detail to the Council's satisfaction the particulars and layout of all electrical apparatus which it is proposed to install together with full technical information concerning the apparatus shall be submitted to the Council and no work as aforesaid shall be commenced until the proposed installation or extension has been approved.
- (3) No person other than a skilled person shall undertake the installation, repair, alteration, extension, examination or operation of or touch or do anything in connection with high voltage apparatus.
- (4) Notwithstanding any approval previously given by him/her the Council may at any reasonable time and in case of emergency at all times inspect any high voltage apparatus and subject it to such tests as may be deemed necessary and may, if such apparatus be found defective, disconnect the supply to the premises until the defect has been rectified to the Council's satisfaction.
- (5) The owner of the consumer shall be liable to the Council for the cost of carrying out any of the test referred to in subsection (4) if any defect in the high voltage or the low voltage electrical installation is revealed thereby.
- (6) Notwithstanding anything contained in section 25 no high voltage apparatus which has been newly installed, altered or extended shall be connected to the supply without the permission in writing of the Council, which permission shall not be given unless and until every requirement of this section has been complied with.

Enclosures for supply equipment

- 26(1) Where required by the Council, an owner shall at no expense to the Council provide and maintain an approved enclosure for accommodating the Council's and consumer's supply equipment in a position determined by the Council.
- (2) No person shall enter the enclosure accommodating the Council's supply equipment or touch or interfere with any apparatus therein, unless authorised thereto by the Council.
- (3) Every low voltage enclosure associated with a high voltage enclosure and every enclosure for a special supply at low voltage shall be kept locked by the consumer and a key thereto shall, if required by the Council, be deposited with him/her or provision made for the fitting of an independent lock by the Council who shall be entitled to access to the enclosure at all times.
- (4) The consumer or owner of premises shall at all time provide and maintain safe and convenient access to a low voltage enclosure or an enclosure for a special supply at low voltage and such enclosure shall at all times be kept clean and tidy by the consumer to the satisfaction of the Council and shall be used for no other purpose save the accommodation of equipment and apparatus associated with the supply.
- (5) The consumer or owner of the premises shall at all times provide and maintain safe and convenient access to a high voltage enclosure, such access to be direct to that part of the enclosure into which the high voltage supply is led and not through the low voltage enclosure or through any door or gate the lock of which is controlled by the consumer or the owner of the premises.
- (6) The Council may use any enclosure for supply equipment in connection with a supply to consumers on premises other than those on which that enclosure is situated.

Permanently connected appliances

27. Appliances permanently connected to an electrical installation shall be approved.

Surge diverters

28. Every electrical installation connected to an overhead supply main shall be provided with one or more approved surge diverters in positions determined by the Council.

Position of cooking appliances

29. No heating or cooking appliance shall be installed, placed or nursed below any meter belonging to the Council.

Provision of circuit breakers

30. When required by the Council, the owner shall supply and install 1 or more approved supply circuit breakers in a manner and position as determined by the Council.

Maintenance of installation

- 31.(1) Any electrical installation on any premises connected with the supply shall at all times be maintained by the owner or consumer in good working order and condition to the satisfaction of the Council.
- (2) The Council may require a consumer who takes a multiphase supply, to distribute his/her electrical load, as approved by the Council, over the supply phases and may install such

devices in the relevant service connection as he/she may deem necessary to ensure that this requirement is complied with.

Control apparatus

32. The Council shall have the right to install a control relay on any water heater, space heater of the storage type or any other apparatus and thereafter at any time to switch off the said apparatus during periods of stress or peak load for such length of time as it may deem necessary.

Obstructing employees

33. No person shall wilfully –
(a) hinder, obstruct or interfere with any employee of the Council in the performance of any duty relating to this by-law; or
(b) refuse to give such information as the Council may reasonable require; or
(c) give to the Council any information which to his/her knowledge is false or misleading.

Irregular supply

34. The Council shall not be liable for the consequences to the consumer or any other person of any stoppage, failure, variation, surge or other deficiency of electricity from whatsoever cause.

Owner's and consumer's liability

35(1) The owner and the consumer shall be jointly and severally liable for compliance with any financial obligation, except as provided in subsection (2), or other requirement imposed upon them in the alternative by this by-law.
(2) The liability for compliance with any financial obligation in respect of the consumption of electricity, shall be the sole responsibility of the consumer.

Notice

36(1) Any notice or other document to be issued by the Council in terms of this by-law shall be deemed to have so issued of it is signed by an authorised official of the Council.
(2) Where the by-law requires that a notice or other document be served on a person, it shall be deemed to be properly so served if delivered at the person's place of residence or business or if send per registered mail to such person's last known resident or business address recorded in the Chief Financial Officer's records.

Offences and penalties

37(1) Any person contravening or failing to comply with any provision of this by-law shall be guilty of an offence and shall on conviction thereof be liable to a fine not exceeding R10 000.00 or imprisonment for a period not exceeding 24 months.
(2) The occupier or, if there be no occupier, the owner of any premises supplied with electricity, on which a breach of this by-law is committed, shall be deemed to be guilty of that breach unless he/she proves that he/she did not know and could not by the exercise

of reasonable diligence have known that it was being or was likely to be summated that it was committed by some other person over whose acts he/she has no control.

- (3) Any person who contravenes the provisions of section 13 and who is in consequence not charged for electricity which has been consumed or is charged for such electricity at a rate lower than that at which he/she should properly have been charged shall, notwithstanding any penalty which may be imposed in terms of this section, be liable to pay to the Council the sum which would have been paid to it had the said offence not been committed, and such sum shall be calculated in terms of the highest charge which could have been made according to the tariff applicable from the date when the contravention first took place.
- (4) Any person who uses electricity on a premises or allow electricity to be use in contradiction with subsection 12(3) shall reimburse the Council for such use at the tariff prescribed for the use of electricity as applicable.

Repeal of by-laws

38. The Electricity by-laws of the former municipal Councils of Jan kempdorp, Hartswater and Pampierstad are hereby repealed.

FINANCIAL BY-LAW

The Municipal Manager of the PHOKWANE Local Municipal Council in terms of subsection 156(2) of the Constitution of the Republic of South Africa Act 1996, (Act 108 of 1996) read with section 13 of the Local Government: Municipal Systems Act (Act 32 of 2000), publishes the by-law as set forth hereafter as by-law made by the Council.

1. DEFINITIONS

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

"Council" means the PHOKWANE Local Municipal Council and includes the Mayor, Political Office Bearers, Political Structures, Municipal Manager and any other official who has delegated powers in terms of section 59 of the Local Government: Municipal Systems Act (Act 32 of 2000);

"Director: Administration" a person appointed to be in charge of the Directorate: Administration reporting to the Municipal Manager or a person acting in his/her place.

"department" means any department, section or branch of the Council, the head of which is directly responsible to the Municipal Manager.

"Head of Department" means the officer who is head of a department and who is, in terms of section 56 of the Local Government Municipal Systems Act directly responsible to the Municipal Manager, or any person duly authorized by such head to act on his/her behalf.

"Institute" means the Institute of Municipal Finance officers.

"Municipal Manager" means a person appointed in terms of section 82 of the Local Government: Municipal Structure Act, (Act 117 of 1998).

"Chief Financial Officer" means the officer in charge of the Financial Department or any other officer authorized to act on his/her behalf.

2. ESTIMATES AND BORROWING

(1) Borrowing powers and borrowing

The Chief Financial Officer shall be responsible for the raising of such loans as may be required on such terms and conditions and from such sources as may be approved by the Council.

(2) Preparation of capital and operating estimates and capital programmed

(a) Every Head of Department shall, in respect of the activities of his/her Department and in consultation with the Chief Financial Officer prepare-

- (i) draft capital and operating estimates for the ensuing financial year;
- (ii) a draft capital programmed for the following two or more financial years;
and
- (iii) revised capital and operating estimates for the current financial year.

(b) The revised capital and operating estimates, draft capital and operating estimates and

draft capital programmed shall be prepared in such form and completed by such date as the Chief Financial Officer may direct.

- (c) The Chief Financial Officer shall issue guidelines, having regard to the State Treasury's directives concerning limitations placed on expenditure growth, in regard to the preparation and administration of the estimates and Heads of Departments shall comply with such guidelines in preparing their estimates.
- (d) The Chief Financial Officer shall summaries the draft capital and operating estimates and draft capital programmed and shall thereafter submit such summaries together with his/her comments, including his/her proposals for the funding thereof to the Council for approval.
- (e) The draft operating estimates submitted to the Council for approval shall not reflect a deficit. Where the aggregate operating income is less than the aggregate operating expenditure, the estimates must contain proposals to meet such deficit.
- (f) The Council shall, prior to the start of the financial year, approve the estimates and determine the property rates, tariffs and rentals to be levied to balance the operating budget, provided that expenditure or income proposed may not be increased or reduced until such proposed change has been reported on by the Chief Financial Officer and such report considered by the Council.
- (g) The approved estimates may be amended by the Council during the year, provided that the total estimates are not exceeded. Where expenditure in excess of the approved estimates is required, any necessary external approval shall be obtained.

(3) Capital expenditure

- (a) Any report submitted by a Head of Department in which authority is sought to incur capital expenditure shall include-
 - (i) the estimated total capital cost of the project;
 - (ii) the effect on current and future operating income and expenditure, including the cost of additional staff; and
 - (iii) such other information as the Chief Financial Officer and the Council may direct.
- (b) No capital expenditure shall be incurred unless-
 - (i) provision therefor has been made in the approved capital estimates;
 - (ii) the Council has specifically approved such expenditure; and
 - (iii) all approvals required by law have been obtained and all other requirements have been complied with.
- (c) No under-expenditure on any capital project may be applied to meet additional expenditure on any other approved capital project without the approval of the Council, except that the Chief Financial Officer may, on recommendation of a Head of Department, transfer a financial provision not exceeding the maximum amount determined by the Council
- (d) Whenever an approved capital estimate is, or is expected to be, exceeded a Head of Department is required, subject to the provisions of subsection 2(3)(c), to obtain appropriate authority from the Council for the additional amount, provided

that where any capital estimate is exceeded by a percentage determined by the Council, a Head of Department shall, at the first opportunity, report the reasons-

- (i) for the additional expenditure; and
 - (ii) why timeous authority, where applicable, for the additional expenditure was not obtained.
- (e) A Head of Department shall advise the Chief Financial Officer immediately when he/she becomes aware of any amounts on his/her capital estimates which will no longer be required by his/her Department.
- (f) Subject to the approval of the Council expenditure in connection with uncompleted projects from a previous year may be incurred during the current financial year, provided that compensatory under-expenditure is affected.

(4) Operating estimates

(a) Excess expenditure

Should a Head of Department or the Chief Financial Officer have a reason to believe that any estimate provision is or will be insufficient, he/she shall forthwith report the matter to the Council provided that the Chief Financial Officer may, subject to such conditions as the Council may determine, authorize the transfer of an estimate provision up to, in any one case, an amount as determined by the Council, within a service from a vote or votes expected to be under spent. In the event of the over-expenditure exceeding this amount or where no under-expenditure is available, the reasons for the excess expenditure that can be affected in order to meet reductions in other expenditure that can be affected in order to meet the excess expenditure shall be indicated. The matter shall be considered by the Council with a view to meeting the excess expenditure by a decrease in expenditure or any increase in income.

(b) Shortfall in income

Where estimated income is unlikely to realize, the Head of Department concerned shall, forthwith report the matter to the Council indicating. In consultation with the Chief Financial Officer, how the shortfall will be met.

(5) Integrated Development Plan

The budget must be based on the approved Integrated Development Plan of the Council.

(6) Reports

- (a) No report, which has financial implications shall be considered by the Council until the Chief Financial Officer has reported thereon.
- (b) Where any expenditure is contemplated in a report to the Council, the Head of Department shall indicate the relevant provision on the capital or operating estimates and the vote to be charged.
- (c) Before instructions are given to a consultant in regard to any project, and before any expenditure is incurred, the Head of Department concerned shall first obtain the approval of the Council of the project and also ensure that adequate financial provision is contained in the relevant estimates.

3. ACCOUNTING AND COSTING

- (1) The Chief Financial Officer, or Head of Department, when so directed by the Chief Financial Officer, shall maintain proper cost accounting systems on capital and operating accounts and, except in so far as the form of such accounts may be prescribed by law, they shall be kept in whatever form the Chief Financial Officer considers to be suitable to enable him/her to control the finances of the Council efficiently.
- (2) No accounting system shall be introduced by any Department and no alteration shall be made to any existing system without the prior approval of the Chief Financial Officer.
- (3) The Chief Financial Officer shall maintain the financial accounting records of the Council and the accounting principles, which he/she adopts in compiling such records shall, apart from complying with any prescription of law, adhere to any guidelines which the institute may from time to time determine.
- (4) All re-charge rates shall be kept under continual review by Heads of Departments in consultation with the Chief Financial Officer.
- (5) The Chief Financial Officer shall prepare financial statements in respect of such financial year in the form prescribed by the institute and shall certify the correctness of such statements.
- (6) No material shall be supplied to and no jobbing shall be carried out for a private individual, company, firm, organization, state or parasitical body until the Head of Department concerned has been notified by the Chief Financial Officer that the amount of the estimated cost or shared cost of the work has been paid or otherwise provided for, provided that the Chief Financial Officer may, in the case of State or parasitical bodies, waive the requirements of this by-law. If a payment in advance has been made in compliance with this section, and it nevertheless becomes evident to the Chief Financial Officer or the Head of Department performing the work or supplying the material that such payment in advance is likely to or will be exceeded by the cost of work or material, such Head of Department shall not continue with the performance of such work or the supply of such material without the prior consent of the Chief Financial Officer, and without thereafter complying with such terms and conditions as the Chief Financial Officer may direct.
- (7) No work shall be carried out or services rendered by one Department for another unless such work or services are requisitioned on the Council's official form and signed by a duly authorized official. The documents shall contain a description of the work or services, the authority for incurring the expenditure, and the vote or item in the estimates or job number to which such expenditure should be charged.
- (8) No work estimated to cost more than an amount as determined by the Council shall be undertaken departmental without the prior approval of the Council.
- (9) Charges levied by one Department on another in respect of work or services referred to in subsection 3(7) shall promptly be submitted to the Department for approval and thereafter be submitted to the Chief Financial Officer for re-charge purposes. Any objection to a charge shall be referred to the Chief Financial Officer for adjudication.
- (10) In all cases where stores and material have to be transferred from one job to another, the provision of subsection 14(7) shall be complied with in the first instance.

4. INCOME

- (1) The Chief Financial Officer shall be responsible for the collection of all moneys due to the Council and such moneys shall be paid to the Chief Financial Officer, or where suitable arrangements have been made by and with the Chief Financial Officer, to any other Department or, where the Chief Financial Officer so directs, to the Council's banker, or to any other body or institution approved by the Chief Financial Officer.
- (2) All moneys received shall be banked daily or at such regular intervals as the Chief Financial Officer determines.
- (3) The Chief Financial Officer shall ensure that all moneys received by any other Department are paid over regularly to his/her Department or otherwise in accordance with the provisions of subsection 4(1), and for that purpose shall prescribe a system to be operated for the collection of income, and no such system shall be altered or departed from without the Chief Financial Officer approval.
- (4) Notification shall be given promptly to the Chief Financial Officer by a Head of Department of any moneys becoming due to the Council and such notification shall set out the reasons why such moneys are due.
- (5) No amount due to the Council shall be written off as irrecoverable without the approval of the Council, except that the Chief Financial Officer shall be authorized to write off amounts not exceeding in any one case an amount determined by the Council and a record of all amounts written off shall be kept in such form as the Chief Financial Officer may decide.
- (6) **Receipts**
 - (a) All moneys received shall be recorded at once by means of a numbered official receipt.
 - (b) Every cancelled receipt form shall be re-affixed in its proper place in the receipt book, or, in the absence of a receipt book, filled in accordance with instructions issued by the Chief Financial Officer.
 - (c) Any surplus cash found at any time shall immediately be declared as such and deposited without delay to the credit of the appropriate account and all shortages of cash shall be reported to the Head of Department concerned immediately and made good in accordance with the Chief Financial Officer directive.
- (7) The determine and annual review of rentals, tariffs, fees and other charges shall be undertaken and appropriate recommendations made to the Council by-
 - (a) the Head of Department for land matters. In consultation with the Chief Financial Officer, in respect of rentals payable by occupants of any property leased, hired or rented from the Council;
 - (b) the Chief Financial Officer, in consultation with any Head of Department concerned, in respect of rentals payable for dwellings in State Housing projects; and

(c) the Head of Department concerned, in consultation with the Chief Financial Officer, in respect of tariffs, fees and other charges for services provided by the Council.

(8) Predated cheques, endorsed cheques and altered cheques shall not be accepted for payment.

5. CONTROL OF RECORDS

(1) Receipt books, tickets and badges, as well as all printed matter for sale, except documents which any Department has been expressly authorized by the Council to control and sell, shall be obtained only from the Chief Financial Officer, and the Chief Financial Officer and Department so authorized shall keep a register showing the quantities received from the printers and the items issued, together with the signature of the recipient.

(2) Every document containing a record of transactions which involves the receipt or payment of money, which is to be written up by hand, shall be written up in ink, and the use of pens of any description with erasable ink shall not be permitted. Where an entry in such document has been audited, it shall not be altered in any way.

(3) Receipts shall not be altered in any way and the use of ink or solvents shall not be permitted. Any corrections or alterations to other records shall be made by ruling out the incorrect figures and inserting the correct figures above, and the person making the alteration shall affix his/her signature thereto.

(4) It shall be the duty of every Head of Department to take the necessary steps to safeguard all documents which could have significance in legal proceedings and which fall within the control of his/her Department and to retain such other documents as are necessary in terms of the National Archives of South-Africa Act (Act 43 of 1996) and the Chief Financial Officer may from time-to-time issue directives in this regard.

6. CONTROL OF PAYMENTS

(1) Every payment from the funds of the Council, other than imp rest moneys, shall be made by the Chief Financial Officer through the Council's bankers.

(2) The signature of at least two persons duly authorized by the Council shall appear on all cheques drawn by the Council.

(3) Every Head of Department shall establish and maintain a register of persons to whom authority has been delegated to sign official documents, and such register shall indicate the nature of the documents to which such signing authority applies, and shall include specimen signatures.

(4) A copy of the register referred to in subsection 6(3) shall be made available to the Chief Financial Officer, who shall be notified immediately of any changes to such register.

(5) Every voucher submitted for payment shall be in the form prescribed by the Chief Financial Officer and shall be certified by an authorized official from the Department concerned and shall, when submitted to the Chief Financial Officer, be accompanied by supporting documents, where applicable, and have indicated the following thereon;

(a) The name of the Department against which it is to be charged;

- (b) The vote, item or account number from which it is to be paid;
 - (c) That sufficient estimate provision exists;
 - (d) The authority for the expenditure;
 - (e) That the goods have been received or the services rendered;
 - (f) The statutory authority, where relevant; and
 - (g) Such other information as the Chief Financial Officer may direct.
- (6)** Notwithstanding the provisions of subsections 6(5)(c) and 6(5)(d) payments shall nevertheless be made where the Council is under a legal obligation to do so, provided that such payment is so certified, and provided further that such payment shall forthwith be reported to the Council for approval.
- (7)** *Petty disbursement*
- (a) Imprest accounts for the making of petty disbursements shall only be established with the approval of the Chief Financial Officer, who shall prescribe the amount of such accounts and the nature and extent of payments to be made therefrom.
 - (b) Every voucher submitted for the refund of petty disbursements made by a Department shall be accompanied by supporting documents for all such payments and a proper record shall be kept in a form approved by the Chief Financial Officer.

7. STAFF RECORDS AND PAYMENTS

- (1)** The Chief Financial Officer shall be responsible for the calculation of salaries, wages and allowances and shall keep records approved for this purpose.
- (2)** The Chief Financial Officer shall be responsible for the verification of all calculations referred to in subsection 7(1).
- (3)** The payment of all salaries, wages and allowances shall be made by the Chief Financial Officer and the method of such payment shall be at his/her discretion.
- (4)** The Chief Financial Officer shall be notified of all appointments, promotions, dismissals, resignations, transfers, leave of any description and all matters affecting the emoluments of employees of the Council. The submission of such information to the Chief Financial Officer shall be in such form and at such date and time as the Chief Financial Officer may from time to time determine.
- (5)** A Head of Department shall be required to certify, that, in respect of every employee reflected on the pay-sheet for each pay period, such employee was employed by the Council during such period.
- (6) Where salaries and wages are paid in cash-**
 - (a) the supervisor or a responsible official designated by the Head of Department, and who shall be present, and the paymaster shall certify that the amounts

reflected on the pay-sheet or pay tickets have been duly paid to the respective persons against their signatures or other marks of identification; and

- (b) the paymaster or other responsible official designated by the Chief Financial Officer shall verify that all unclaimed salaries or wages have been paid into the designated account, in accordance with any relevant legislation, within the time period specified by the Chief Financial Officer and appropriate record of such unclaimed moneys shall be kept.

8. INTERNAL CONTROL

It shall be the responsibility of a Head of a Department-

- (a) To establish and maintain systems of internal control to ensure that activities are conducted in an efficient and well order manner;
- (b) to ensure that adequate measures are taken to safeguard computer equipment, programs and all associated records; and
- (c) generally, to maintain and safeguard all assets and records for which the Department is responsible.

9. INTERNAL AUDIT

- (1) The Municipal Manager shall be responsible for the auditing, on such basis as he/she considers appropriate, subject to any legal prescriptions, of all records, transactions, undertaking or matters generally which have any bearing on the finance of the Council.
- (2) The Municipal Manager may appoint an internal audit section to assist with the internal auditing.
- (3) The internal audit section must prepare an internal audit plan which must be submitted to and approved by the Audit Committee, and

The internal audit must be done in accordance with the internal audit plan.

- (4) To enable the Municipal Manager to discharge the responsibility referred to in subsection 9(1), he/she shall have access to any information which he/she in his/her opinion requires for this purpose. A Head of Department shall advise the Municipal Manager of any departmental enquiry which has any bearing on the financial administration of the Council. The Municipal Manager may, at his/her discretion, and in addition to any steps taken by the Head of Department submit a report on any matter pertaining to such enquiry to the Council.
- (5) In the exercising of the internal audit function, the Municipal Manager shall consider and, where he/she deems it necessary, report on, inter alia, the following:
 - (a) Whether, to the best of his/her knowledge, all income which should accrue to the Council has so accrued and has been properly recorded;
 - (b) Whether proper authority exists for any amount written off as irrecoverable or abated;
 - (c) Whether effective accounting records are maintained;

- (d) Whether expenditure incurred on any item or project, including interdepartmental jobbing-
 - (i) has been correctly allocated as between capital and operating account;
 - (ii) has been charged to the correct vote;
 - (iii) has been made with proper authority;
 - (iv) complies with the law; and
 - (v) affords the Council due value for money;
 - (e) whether waste, extravagance or inefficient administration exists;
 - (f) internal control, including the soundness, adequacy and application of financial and other management controls;
 - (g) whether procedures which have any bearing on the finance of the Council and which are prescribed in this by-law, or by any other law, or by a directive of the Chief Financial Officer, are adhered to;
 - (h) whether the movable assets of the Council, cash and other interests are adequately safeguarded;
 - (i) whether all securities for investments made by the Council are in order, adequately safeguarded and properly shown in the books of the Council;
 - (j) whether stocks of materials at the various Departments are verified at least once in every financial year;
 - (k) whether cash in hand and all bank balances are verified monthly;
 - (l) whether adequate security exists in respect of all computer installations and the determined procedures for the proper installations and the determined procedures for the proper management of such installations are properly observed; and
 - (m) the suitability and reliability of financial and other management data developed within the Council.
- (6)** The Municipal Manager, shall from time to time in order to determine the relative cost-benefit or value for money or both, evaluate and, where necessary, report on the performance of any Department or section of a Department including his/her own Department. Any information which the Municipal Manager considers necessary for the completion of such performance audit shall be furnished to him/her and whenever he/she deems it necessary, consultants may be engaged by the Council to assist with the conduct or interpretation of such performance audits or any other audit of whatever nature, subject to subsection 2(5)(c).
- (7)** When any matter arises which involves, or is thought to involve, irregularities concerning cash, stores or other property of the Council, or in the exercise of the functions of the Council in general, the Head of Department concerned shall forthwith notify the Municipal Manager who may take such steps as he/she considers necessary and report in such matter independently of the Head of Department.
- (8)** The Municipal Manager Council shall report to the Council at least quarterly on the audit activities of his/her Control, and specifically on the matters referred to in subsection 9(7).
- (9)** All reports regarding internal auditing must be submitted to the Audit Committee.

10. ASSETS

- (1)** Each Head of a Department shall ensure the safeguarding and care of the assets under his/her control.
- (2)** The Chief Financial Officer shall maintain a record of all capital assets belonging to the Council Authority which record shall contain at least a description of the asset concerned together with the original purchase price or other consideration relevant to the acquisition of the asset, and the source from which such acquisition was financed. The Head of department shall supply the Chief Financial Officer with such further information which he/she considers relevant to the compilation and maintenance of such record.
- (3)** A Head of Department shall notify the Chief Financial Officer without delay of the acquisition, disposal, demolition or any other change in the status of any capital asset under his/her control and shall furnish the Chief Financial Officer with any information he/she may require from time to time regarding any assets of the Council.
- (4)** Every Head of Department shall keep records in a form approved by the Chief Financial Officer of all assets not recorded in detail in accordance with subsection 10(2). The responsible Head of Department shall arrange for a complete check of all assets shown on such records at least once during each financial year, and shall thereafter submit to the Chief Financial Officer a certificate of the existence or otherwise of such assets. Any discrepancies, which cannot, in the opinion of the Chief Financial Officer, be satisfactorily accounted for, shall be reported to the Council.
- (5)** The Chief Financial Officer shall determine which be deemed to be a capital asset.
- (6)** Where, in the opinion of the Council, any asset would be scrapped or declared redundant or obsolete, such asset shall kept at such place as the Chief Financial Officer may direct, and the Chief Financial Officer or Head of Department so authorized shall dispose of such asset to the best advantage of the Council, in accordance with directives issued by the Chief Financial Officer or the Council, as the case may be, provided that where such asset has been financed from a loan that is not fully redeemed, the Chief Financial Officer shall determine the method by which the unredeemed portion of the loan shall be repaid.
- (7)** The Chief Financial Officer shall reconcile the capital assets and accounting records in respect of each financial year.

11. INVESTMENTS

The Chief Financial Officer shall be responsible for the investment of the funds of the Council on such terms and conditions as may be prescribed by law and in accordance with a policy determined by the Council and shall in connection with such investments be empowered to purchase or sell any securities.

12. INSURANCE

- (1)** The Chief Financial Officer shall be responsible for the placing of insurance as approved by the Council from time to time. The Chief Financial Officer shall also be responsible for the management of the Council's self-insurance fund. If in operation, and shall in managing such fund, cover such risks as the Council may from time to time determine and ensure that adequate premiums are charged by the fund annually.

- (2) A self-insurance fund shall be protected by such re-insurance cover as the Council may determine.
- (3) The Chief Financial Officer may at any time require from a Head of Department, who shall duly supply, a statement setting out the assets held by that Department, the risk to be insured, and any other information which the Chief Financial Officer deems necessary.
- (4) A Head of Department where so required by the Chief Financial Officer, shall give prompt notice to the Chief Financial Officer of all property acquired, leased or rented, which should be insured against fire, accident or loss of any kind, and of any alterations in structures, heating or occupations of any buildings or items under insurance.
- (5) A Head of Department shall advise the Chief Financial Officer of the amounts for which new insurance should be affected, or of any alterations in existing insurance, having regard at all times to the replacement costs of assets.
 - (a) A Head of Department shall give notice to the Director: Administration immediately after the occurrence of any fire or damage to or loss of the assets of the Council and shall as soon as possible after such occurrence, complete the appropriate claim form and furnish an estimate of the cost of making good such damage.
 - (b) A Head of Department shall similarly advise the Head of Human Resources of any injuries to employees of the Council.
 - (c) A Head of Department shall further advise the Director: Administration of any injuries or damage to third parties in any case which could give rise to a claim against the Council.
- (6) A Head of Department shall promptly advise the Chief Financial Officer of any assets, which in their opinion should be insured against political and malicious damage or any other risk and the amounts for which such insurance should be affected.
- (7) Should the Council operate a self-insurance fund, the Chief Financial Officer shall, unless the Council otherwise resolves, be responsible for the calling of tenders for the appointment of a suitable insurer, and shall ensure the placement of cover for such risks as the Council may from time to time determine, including cover for claims made against the Council by third parties.
- (8) The Director: Administration shall keep a record of all insurance policies held by the Council and ensure that all claims, which arise under such policies, are settled.
- (9) The Chief Financial Officer shall be responsible for the payment of all premiums.

13. TENDERS, QUOTATIONS AND CONTRACTS

- (1) Subject to the provisions of section 3 of the Preferential Procurement Regulations, 2001, the council shall, by notice published in the press invite tenders before entering into any contract for the execution of any work or the supply of any goods, material or services to the Council.
 - (a) Subject to the provisions of subsection 14(4) of this by-law, the Council shall not exercise its powers, to enter into a contract for the furnishing of goods, or the

execution of works, to the value of less than the amount stated above, without inviting tenders, shall not be exercised until it has invited and considered at least two quotations for such goods or works.

- (b) Quotations for the purchase of goods or the execution of works to an amount not exceeding 12% of the amount referred to in subsection 13(1) above need, not to be invited.
- (2) Every tender addressed to the Council shall be enclosed in a sealed envelope or package bearing on its exterior any number which have been attached by the Council to the invitation to tender and the nature of the goods or works to which the tender relates.
- (3) Subject to the provisions of subsection 13(7) no tender shall be considered if it has been placed later than the closing time specified in the invitation to tender in the tender box, which the Director: Administration shall provide for the purpose and keep locked at all times except when tenders are being collected therefrom.
- (4) A tender received otherwise than by deposit in the tender box shall as soon as it has been so received be placed, by the officer authorized so to act, in the tender box mentioned in subsection 13(3).
- (5) When a tender received otherwise than by deposit in the tender box is found not to comply with the requirements of subsection 13(2) it shall forthwith be placed in a sealed envelope on which shall be noted;
 - (a) The date and time of receipt of the tender;
 - (b) The nature of the goods or works to which it relates; and
 - (c) The condition in which the tender was received and it shall thereupon be placed in the tender box.
- (6) When a tender is found on the opening of the tender box not to comply with the requirement of subsection 13(2) the person opening tenders shall declare and endorse upon it the respects in which it fails so to comply.
- (7) A tender received by telegram or facsimile before the advertised closing time shall be considered if the name of the tenderer, the goods or works to which it relates, the amount of the tender and the period of delivery offered are specified therein and written confirmation thereof is posted not later than the advertised closing time.
- (8) A tender received after the advertised closing time may be considered if posted, telegraphed or sent by facsimile in time to reach the Council before the advertised closing time and the Council is satisfied that the tenderer has taken all reasonable precautions and is otherwise in no way to blame for the delay.
- (9) Immediately after the opening of the tender box all the tenders shall be opened in public by the Director: Administration or an officer authorized by the latter to act on his/her behalf in the presence of an authorized officer of the Chief Financial Officer or of the department concerned with the tender. The person opening the tender, shall in each case read out the name of the tenderer and if any tenderer so request, the amount of the tender.
- (10) As soon as a tender has been opened-

- (a) the official stamp of the Council and the signatures of the person who opened it and of the person in whose presence it was opened as prescribed by subsection 13(9) shall be placed upon it;
 - (b) the name of the tenderer shall be recorded in a register kept for that purpose; and
 - (c) the person who opened the tender shall forthwith place his/her initials against every altered figure in the tender documents.
- (11)** After being recorded in the register mentioned in subsection 13(10)(b), the tenders shall be handed over to the representative of the department concerned or the Chief Financial Officer
- (12)** The Head of Department concerned shall forthwith and to the Chief Financial Officer any deposit or security received with the tenders and shall thereafter submit a written report to the Chief Financial Officer on those tenders with his/her recommendations.
- (13)** No tender other than the lowest shall be accepted by the Council until it has first considered a written report to the Head of Department concerned stating fully his/her reasons for recommending a tender other than the lowest.
- (14)** The Council shall not accept a quotation other than the lowest, unless a written report, stating the reasons for the acceptance of a quotation, other than the lowest, accompanies the quotation.
- (15)** Subject to the provisions of any law, compliance with the provisions of subsection 13(1) shall be waived where the Chief Financial Officer and Head of Department concerned consider that the invitation of quotations would not be to the advantage of the Council.
- (16)** A Head of Department shall ensure that his/her requirements for particular goods, material, services and work are not deliberately divided in order to avoid the need to invite public tenders and any contravention of this regulation shall be reported to the Council by the Chief Financial Officer.
- (17)** Notwithstanding the provisions of any of this by-law, unless he/she has been authorized by the Council to do so, the Chief Financial Officer or where the function has been delegated by the Council to another Head of Department, such Head of Department, shall not without first inviting public tenders enter into any contract on behalf of the Council for the leasing of goods for a period exceeding 12 months where such contract involves an average estimated monthly rental in excess of any amount as determined by the Council.
- (18)** In reports dealing with the acceptance of tenders or quotations, a Head of Department shall indicate, in addition to known costs that will have to be paid to the successful tenderer, the probable additional costs which may arise in the execution of such contract, or for the completion of the project, and where necessary obtain approval from the Council for any additional expenditure.
- (19)** No contract shall be binding on the Council unless it is in writing and the acceptance thereof signed by an official authorized to do so by the Council.
- (20)** In case of every contract where the total amount to be paid under the contract exceeds or is likely to exceed an amount as from time to time determined in terms of the Preferential Procurement Regulations, 2001, a guarantee approved by the Chief Financial Officer shall be provided by the contractor, and such guarantee shall cover at least 10% of the

contract sum. Notwithstanding the foregoing the Council may, in circumstances which it deems appropriate, and upon the recommendation of the Chief Financial Officer, waive compliance with the whole or any part of this section.

- (21) A progress payment in terms of a contract shall be limited to the value of the work done or material supplied, as certified in terms of the contract, less the number of previous payments made and retention money withheld in pursuance of such contract.
- (22) Upon completion of a contract, the certificate for final payment together with the contractor's detailed account and statement showing omissions and additions shall be forwarded to the Chief Financial Officer.
- (23) A Head of Department shall furnish the Chief Financial Officer or Head of Department approved by Council with all such information as he/she may require to ensure the efficient administration of all contracts entered into by the Council
- (24) Council shall compile a procurement policy in regard to purchases and services from suppliers to empower previous disadvantage individuals.

14. STORES AND MATERIAL

- (1) The Chief Financial Officer shall be responsible for the proper management of all stores under his/her control, for the safe custody of all goods and material contained therein, and shall keep such records of receipts and issues as the Chief Financial Officer may deem necessary to account for such stores and material.
- (2) Maximum and minimum stock and re-order levels shall be determined in the manner prescribed by the Chief Financial Officer. Stocks shall not be held in excess of normal requirement, except where the Chief Financial Officer agrees that special circumstances exist.
- (3) Except where the Chief Financial Officer is of the opinion that special circumstances exist, material shall to be carried by any Department in excess of normal requirements as ascertained by experience.
- (4) With the exception of petty cash disbursements made from petty cash imprest account in terms of subsection 6(7) all goods and material shall be purchased or issued by the Chief Financial Officer and no goods or material shall be so purchased or issued otherwise than that against a requisition authorized by the Head of the Department by which the goods or material are required.
- (5) Every Head of Department shall at least once in every financial year carry out a stocktaking covering all stores and material under his/her control and shall report to the Chief Financial Officer the quantity and value of any discrepancies and breakages in stocks revealed by such stocktaking, together with the reasons for such discrepancies and breakages. In addition, the Chief Financial Officer shall from time to time, and on such basis as he/she considers adequate, verify the existence of all stocks, whether they are under his/her control or under the control of another Department.
- (6) Any adjustments to stock records shall be authorized in the manner prescribed by the Chief Financial Officer or the Council, as the case may be. Provided that any adjustments which the Chief Financial Officer deems to be material, and all cases involving negligence or identifiable theft shall be reported to the Council and, if applicable, dealt with as prescribed by a higher authority.

- (7) All stores and material which are surplus on the completion of the works or on the fulfillment of the purpose for which they were issues, or recovered in the course of carrying out works, or on hand for any reason whatsoever, shall immediately, under cover of an advice note which adequately describes them, be returned to the store or such place as the Chief Financial Officer may direct. The advice shall be in such form as the Chief Financial Officer may prescribe and, where applicable, the value place on returned stores and material shall be fixed in consultation with the Chief Financial Officer.
- (8) Where, in opinion of the Council, any stores and material should be scrapped or declared redundant or obsolete, the Chief Financial Officer or Head of Department so authorized shall dispose of such stores and material to the best advantage of the Council, in accordance with directives issued by the Chief Financial Officer or the Council as the case may be.
- (9) No order for the purchase of goods material or services shall be placed on behalf of the Council except by the Chief Financial Officer or other officer authorized by the Council to do so.
- (10) In the event of an unauthorized order being placed, the officer who placed such an order shall be personally liable for the payment of such items, if the Council so resolves.

15. COMPUTERS

(1) **Acquisition of Computer hardware and software.**

The Council shall not purchase or otherwise acquire, develop or extend any computer hardware including peripheral equipment, software or application packages when the Chief Financial Officer and any computer advisory body established by the Council report to the Council on such acquisition, or development.

2. Computer security

- (a) An employee in charge of a computer shall sign off the computer when leaving the workstation.
 - (b) The computer installation shall be physically protected and accessibly limited to authorised employees.
- (2)
- (a) No employee or councillor must operate on the computer system without a valid and paid-up software user license.
 - (c) The Chief Financial Officer is responsible for renewal and payment of the software user license.
- (3) In the exercising of the internal audit function, the Municipal Manager shall consider and, where he/she deems it necessary, report on, inter alia, the following:
- (n) Whether, to the best of his/her knowledge, all income which should accrue to the Council has so accrued and has been properly recorded;
 - (o) Whether proper authority exists for any amount written off as irrecoverable or abated;
 - (p) Whether effective accounting records are maintained;

- (q) Whether expenditure incurred on any item or project, including interdepartmental jobbing-
 - (vi) has been correctly allocated as between capital and operating account;
 - (vii) has been charged to the correct vote;
 - (viii) has been made with proper authority;
 - (ix) complies with the law; and
 - (x) affords the Council due value for money;
- (r) whether waste, extravagance or inefficient administration exists;
- (s) internal control, including the soundness, adequacy and application of financial and other management controls;
- (t) whether procedures which have any bearing on the finance of the Council and which are prescribed in this by-law, or by any other law, or by a directive of the Chief Financial Officer, are adhered to;
- (u) whether the movable assets of the Council, cash and other interests are adequately safeguarded;
- (v) whether all securities for investments made by the Council are in order, adequately safeguarded and properly shown in the books of the Council;
- (w) whether stocks of materials at the various Departments are verified at least once in every financial year;
- (x) whether cash in hand and all bank balances are verified monthly;
- (y) whether adequate security exists in respect of all computer installations and the determined procedures for the proper installations and the determined procedures for the proper management of such installations are properly observed; and
- (z) the suitability and reliability of financial and other management data developed within the Council.

16. MISCELLANEOUS

- (1) Wherever powers are delegated to an officer in terms of this by-law, conditions under which such powers have been delegated should be defined, including a condition that such officer shall report to the Council at such intervals as the Council may decide.

(2) Committee meeting, agendas and minutes

Notice of all meeting of the Council shall be sent to the Chief Financial Officer together with full agendas and reports. The Chief Financial Officer shall have authority to attend all such meetings and take part in the discussion.

(3) Circulars, letters and other written communications from the state and other institutions.

A Head of Department shall, immediately upon receipt of any circular, letter or other written communication, the contents of which in any way relate to the financial administration of the Council, forward a copy of such communication to the Chief Financial Officer.

(5) Financial procedures

The Chief Financial Officer shall be empowered to prescribe financial procedures under this by-law.

(5) Review of monetary limits

All monetary limits referred to in this by-law shall be initially determined by the Council and thereafter be subject to review by the Council.

17. REPEAL OF BY-LAWS

The Financial by-laws of the former Municipal Councils of Jan kempdorp, Hartswater and Pampierstad are hereby repealed.

BY-LAW RELATING TO THE KEEPING OF BEES.

The Municipal Manager of the PHOKWANE Local Municipal Council in terms of subsection 156(2) of the Constitution of the Republic of South Africa Act 1996, (Act 108 of 1996) read with section 13 of the Local Government: Municipal Systems Act (Act 32 of 2000), publishes the by-law as set forth hereafter as by-law made by the Council.

1

1. (1) No person shall on any premises keep or permit to be kept bees without the sanction in writing of the Council.
- (2) Any application for the sanction of the Council to keep bees shall be in writing and the applicant shall in such application –
 - (a) specify the premises whereon he/she proposes to keep bees;
 - (b) state the maximum number of hives to be used; and
 - (c) state whether or not he/she has a knowledge of the habits of bees and if the affirmative, satisfy the Council that in fact he/she has such knowledge.
2. No person shall under authority of the sanction of the Council in terms of section 1, keep bees:
 - (a) on premises, less than 3750 sq. in extent;
 - (b) except in a bar-framed hive approved by the Council, situated not less than 100m from any street, dwelling, place of business or fowl-house or place where animals or birds are kept, and enclosed by means of a sound wire fence or wall of a height not less than 1.5m at a distance of not less than 5m in any direction from such hive so as to render such hive inaccessible to animals or unauthorised persons.
3. Notwithstanding the provisions of the foregoing sections, the Council may –
 - (a) withhold its sanction in the case of any premises, whereon it is proposed to keep bees in terms of any application made therefor, being within 400 metres, measured from the nearest point of the nearest boundary of such premises, of the nearest point of the nearest boundary of any church, school, hospital of cinema or any other place of amusement, gathering or recreation; or
 - (b) withhold its sanction in the case of the applicant not having any or, in the opinion of the Council, not sufficient knowledge of the habits of bees, or
 - (c) cancel any sanction given in the case of any person who has failed or is failing to comply with the provisions of section 2 after 7 days of a notice served upon the holder of such sanction of its intention to do so.
4. No person shall keep or permit to be kept bees on any premises within the Council whereon is situated any building used for the purpose of any industry, business or trade.
5. Any sanction of the Council given for the keeping of bees shall, subject to the provisions of this by-law, expire on the 31st December in each year and application for the renewal thereof shall reach the Municipal Manager not later than the 1st December of such year.

6. Any person contravening any provisions of these regulations or any notice served thereunder shall be guilty of an offence and on conviction liable to a fine not exceeding R3000.00.
7. The by-laws of the former Municipal Councils of Jan kempdorp, Hartswater and Pampierstad in regard to matters contained in this by-law, are hereby repealed.

BY-LAW RELATING TO LIQUEFIED PETROLEUM GAS

The Municipal Manager of the PHOKWANE Local Municipal Council in terms of subsection 156(2) of the Constitution of the Republic of South Africa Act 1996, (Act 108 of 1996) read with section 13 of the Local Government: Municipal Systems Act (Act 32 of 2000), publishes the by-law as set forth hereafter as by-law made by the Council.

Definitions

1. For the purpose of this by-law, unless the context indicates otherwise, means –

“approved” approved by the Town Engineer;

“Bulk depot” any premises used or intended to be used for the storage of liquefied petroleum gas, whence liquefied petroleum gas is to be broken down from bulk into portable containers or road tank wagons;

“carcase” any distribution system used for the handling of liquefied petroleum gas, together with any fittings pertaining thereto;

“Consumer premises” any premises on which liquefied petroleum gas is consumed for approved domestic consumption; provided that the number of containers in which such gas is kept for this purpose shall not exceed six, subject to a total nett mass of 300kg; and provided further that a maximum of three containers may be linked together;

“container” or “cylinder” any vessel or bottle used for the storage of liquefied petroleum gas under pressure;

“Council” the PHOKWANE Local Municipal Council and includes the Mayor, Political Office Bearers, Political Structures, Municipal Manager and any other official who has delegated powers in terms of section 59 of the Local Government: Municipal Systems Act (Act 32 of 2000);

“Decanting equipment” any equipment used for the purpose of decanting liquefied petroleum gas;

“keep” in addition to its ordinary meaning and include “to have in possession”;

“Liquefied petroleum gas” any product which is comprised of or is a mixture of hydrocarbons and shall include propane, butane, butylene, ethane, ethylene, isopentane, normal pentane and methane;

“Motor vehicle” any vehicle self-propelled, and includes a trailer;

“permit” a permit issued in terms of this by-law;

“person” or “occupier” includes any individual, partnership, association or body, whether incorporate or not;

“Road tank wagon” and include a vehicle used for conveying liquefied petroleum gas in bulk for distribution and especially designed and constructed for this purpose;

“S.A.B.S. Specification” or “S.A.B.S. Code” the existing specification or code, as the case may be, as laid down by the South African Bureau of Standards, and any amendments thereto, and

“store” any building or structure or part thereof which is used or intended to be used for the storage of liquefied petroleum gas in portable containers but shall exclude consumer premises.

Permit to keep liquefied petroleum gas

2. No person shall store or keep liquefied petroleum gas on any premises, except consumer premises, unless such person has obtained a permit from the Council to do so; provided that this provision shall not apply to a person to whom a certificate of registration has been granted in terms of previous legislation in terms of which he/she is authorised to store or keep inflammable substances on such premises.

Application for permit

3. (1) Any person desiring to obtain a permit in terms of subsection (1) shall make application to the Council on the prescribed form and supply such information as the Council may require.
(2) The prescribed fees as determined from time to time by Council are payable with the application.

Plan of location to accompany application for permit

4. Every application for a permit shall be accompanied by a plan in triplicate, showing the location where the liquefied petroleum gas is to be kept, in relation to adjacent buildings, drains, basements, wells, manholes, door openings, windows, public thoroughfares, existing liquefied petroleum gas storage and other hazardous storage. Every plan shall be on a scale of 1:2 000 in respect of the site plan and 1:100 in respect of the building plan.

Quantity stated on permit not to be exceeded

5. No quantity of liquefied petroleum gas shall be kept on any premises in respect of which a permit has been issued in excess of any quantity stated in such permit.

Fire extinguishers

6. (1) There shall be fixed in a permanent position adjacent to any place where liquefied petroleum gas is kept, such number of approved fire extinguishers as may from time to time be required by the Council.
(2) Such fire extinguishers shall be tested by an approved person at least once annually.
(3) Immediately after a fire extinguisher has been used, it shall be recharged.

General

7. (1) Liquefied petroleum gas shall only be kept in containers manufactured in accordance with the S.A.B.S. Specification 219.
- (2) No lights other than electric lights or approved lightning installations manufactured in accordance with S.A.B.S. Specification 549 shall be used where liquefied petroleum gas is kept.
- (3) No cylinder shall be used to store liquefied petroleum gas after the expiry of a period of five years reckoned from the date endorsed thereon by the manufacturer thereof, unless such cylinder be hydraulically tested by an approved person who certifies that such cylinder is fit for the storage of liquefied petroleum gas, and likewise no cylinder shall be used to store liquefied petroleum gas after the expiry of a period of five years reckoned from the date of the last test by an approved person referred to above, unless such cylinder again be tested by an approved person, who certifies that it is fit for such use.
- (4) No person shall smoke, light a match or bring a naked flame within 15 cm of any place wherein liquefied petroleum gas is kept, or within 15m of the fuel tank of a motor vehicle into which liquefied petroleum gas is being conveyed.
- (5) All containers or cylinders shall be labelled or marked with the words *Liquefied petroleum gas*.
- (6) No person shall keep any liquefied petroleum gas under any staircase or in any such position as is likely to create a fire hazard.
- (7) Any pipes connected to any container shall be coloured to an approved code.
- (8) No container or decanting equipment shall be installed in or under any portion of a public thoroughfare or public place.
- (9) No alterations, additions or repairs shall be made to any premises in respect of which a permit has been issued or carcase, unless the Council's permission thereto has first been obtained.

Storage vessels at bulk depots

8. (1) The construction, installation and initial testing of storage vessels at bulk depots shall be carried out in accordance with the S.A.B.S. Code of Practice 087, Part III, Section (3), and 089, Part I, Section 12.1 to 12.6 inclusive.
- (2) Filling ratios and volumes of storage in industrial vessels at bulk depots shall be in accordance with the S.A.B.S. Code of Practice 087, Part III, Section (4).
- (3) Storage vessels at bulk depots shall be located in accordance with the S.A.B.S. Code of Practice 087, Part III, Section (5).
- (4) The installation of storage vessels at bulk depots shall be in accordance with S.A.B.S. Code of Practice 087, Part III, Section (6).
- (5) The construction and location of vaporisers at bulk depots shall be in accordance with the S.A.B.S. Code of Practice 087, Part III, Section (7).

- (6) Container filling sheds, containers and filling of containers at bulk depots shall comply with the requirements of the S.A.B.S. Code of Practice 089, Part I, Section 12.7 and 12.8.
- (7) Precautions for hoses, static electricity and lightning shall be taken in accordance with the S.A.B.S. Code of Practice 089, Part I, Section 12.9 and 12.10.

Stores

9. Every store shall be constructed of the following materials and shall comply with the following requirements: -
 - (1) All foundations shall be of approved concrete.
 - (2) All external and internal walls shall be built of approved concrete, reinforced concrete, brick or stone of an approved thickness, regard being had to the situation and dimensions of the store.
 - (3) All floors shall be of approved brick, concrete, cement, mortar, granolithic cobblestones, granite sets or other incombustible materials.
 - (4) Adequate ventilation shall be provided to the open air at ceiling and floor levels by air bricks measuring 230mm by 150mm, the internal and external surfaces of which shall be covered by a closely-woven copper or bronze wire gauze with at least 28 meshes for every 25mm of its length. All gauze shall be held in position by metal strips, metal frames or cement.
 - (5) The roofs shall be of approved incombustible materials.
 - (6) The glass of all windows shall be of heat-resistant, wire-woven glass, reinforced with netting mesh.
 - (7) Doors and windows shall be constructed of approved fire-resistant materials and all doors shall be so constructed that they can only open outwards and all windows shall be fixed in a closed position.
 - (8) No lights other than approved electric lights or installations shall be used.
 - (9) The store shall not communicate with any other building and shall only be entered directly from the open air, and no store shall abut any building unless the nearest point of any such store is at least 6 m away from any opening in such building.
 - (10) All doors of any store shall be kept locked when not in use.
 - (11) Only liquefied petroleum gas may be stored or kept in any store.

Decanting

10. No person shall decant liquefied petroleum gas unless the following requirements are complied with: -
 - (1) All decanting equipment shall be located at ground level in an area which is free from any combustible materials.

- (2) Any site where liquefied petroleum gas is decanted shall not be enclosed so as to impede the free movement of air at ground level but decanting equipment may be located under a small canopy or weather shelter which is fire-resistant and of such design that vented or escaped gas shall not collect under such canopy or weather shelter.
- (3) All decanting equipment shall be located at least –
 - (a) 15 m from any flame or source of ignition;
 - (b) 6 m from any opening to a basement;
 - (c) 5 m from any window which is capable of being opened;
 - (d) 3 m from any entrance to a public street, public place, open drain, manhole, well, air brick, ventilation system or any window which is not capable of being opened, and
 - (e) 6 m from any door which is the only door providing means of entrance or exit to or from any enclosed room or space, or otherwise at least 3 m from any other door.
- (4) No decanting equipment shall be located in any building or on any site which is accessible to the general public.
- (5) No decanting cylinder shall be mounted inverted.
- (6) Where a decanting cylinder exceeds a capacity of 20 kg the cylinder's valve protecting the cap must be firmly screwed on until such time as the cylinder is safely in the decanting position.
- (7) All sites where liquefied petroleum gas is decanted shall be supplied with at least one approved fire extinguisher.
- (8) Decanting of liquefied petroleum gas shall only be carried out under the direct supervision of an adequately trained person.
- (9) Liquefied petroleum gas shall not be decanted continuously for a period of more than two hours, unless a 30-minute break in decanting is observed to allow the accumulation of vented gas to dissipate.
- (10)
 - (a) The instructions of the manufacturer of cylinders of less than 20 kg capacity shall be carried out regarding the decanting thereof, and such instructions shall be displayed next to any decanting equipment which is decanting such a cylinder.
 - (b) The filling of such cylinders shall be carried out in accordance with the S.A.B.S. Code of Practice 091/1951.
 - (c) A label shall be affixed to such cylinder by the person filling it, at the time it is filled, warning the user thereof not to place the cylinder near any source of heat or flame.

Conveyance in road tank wagons

11. (1) All road tank wagons shall be constructed in accordance with the S.A.B.S. Code of Practice 089, Part IV, Section 5 to 9 inclusive, and all liquefied petroleum gas therein shall be conveyed in accordance with the said Code of Practice.
- (2) Before any person may use a road tank wagon to convey liquefied petroleum gas, he/she shall –
- (a) be in possession of a certificate of roadworthiness of fitness in respect of such motor vehicle;
 - (b) be in possession of a certificate by the Council stating that such motor vehicle complies with the provisions of this by-law, and
 - (c) ensure that all requirements of the Road Traffic Act, 1989, whenever applicable to the said motor vehicle, have been complied with.

Conveyance of liquefied petroleum gas in portable containers

12. All motor vehicles other than road tank wagons which are used to convey liquefied petroleum gas shall comply with the following requirements: -
- (a) Be provided with sides on the carrying space of the motor vehicle of at least 1 m height.
 - (b) Be provided with an approved fire extinguisher.
 - (c) Not carry more than 75% of the tare of such motor vehicle.
 - (d) Have no containers conveyed which are not adequately secured?
 - (e) Be provided with warning notices as laid down by the S.A.B.S Code of Practice 087, Part IV, Section 5.3.

Fire precautions

13. All storage vessels at bulk depots shall be equipped with a water spray system fitted with approved no-clogging spray nozzles, which when in operation, must be capable of enveloping the entire storage vessel in water spray.

Warning notices

14. There shall be conspicuously exhibited on all premises in respect of which a permit has been issued, a notice in red letters of not less than 100mm high and in 25mm stroke lettering on a white background, with the words *No smoking – No naked lights* in both official languages and the sign divalent thereof, painted or printed thereon. Such notice shall not be more than 3m above the ground and shall be maintained in a clear and legible condition.

Carcases

15. (1) All carcasses shall be constructed and maintained in such a condition as to be reasonably safe from damage and to prevent any leakage of liquid or vapour therefrom.

- (2) All carcasses shall be manufactured, maintained and tested in accordance with the S.A.B.S. Code of Practice 087, Part I, Section 3,4,5,6 and 7.
- (3) No carcasses shall be installed within 1 m of any opening, door, window, airbrick or vent or within 2 m of any manhole, basement or Stormwater drain.

Seizure and removal of liquefied petroleum gas

- 16. Where any duly authorised officer of the Council has reasonable cause to believe that any liquefied petroleum gas found by him/her is being kept or stored in contravention of this by-law or any other law he/she may seize and retain the same and may require the occupier of the place in which it is seized to retain the liquefied petroleum gas either in that place or in any other place as will, in his/her opinion, least endanger the public safety and there retain it until arrangements to the satisfaction of the Council have been made for the disposal of storage of the liquefied petroleum gas.

Forges, blowlamps and welding or other spark producing apparatus

- 17. No forges, blowlamps or welding or other spark-producing apparatus shall be used in any place where liquefied petroleum gas is kept, or within such distance thereof as may be considered unsafe by the Council.

Power to inspect and take samples

- 18. (1) Any duly authorised officer of the Council may at all reasonable hours and on producing,
 - if demanded, either a copy of his/her authority certified by the Municipal Manager or some other sufficient evidence of his/her authority, enter and inspect –
 - (a) any premises where liquefied petroleum gas is kept or is reasonably suspected of being kept, and
 - (b) any place (which for the purpose of this by-law includes any vehicle) in which any liquefied petroleum gas is or has been or is intended to be or is reasonably suspected to be stored or kept for the purpose of conveyance.
- (2) During such inspection such officer may make enquiries as to the observance of this by-law and may further require the occupier or person in charge for the time being –
 - (a) to show him/her all liquefied petroleum gas containers, which for a time being are stored, kept or had on the premises or place and the storage tanks, installations, cases or vessels in which the same or any of them are kept or are likely to be kept, and
 - (b) to permit him/her, on tendering a receipt therefor, to take one cylinder of a lot for the purpose of sample, which the officer has reasonable cause to believe to contain liquefied petroleum gas, the keeping of which may be regulated by this by-law.
- (3) When a duly authorised officer of the Council has obtained any cylinders for the purpose of sample and intends same to be tested, he/she shall declare his/her intention to the occupier of the premises or other person present on his/her behalf and shall, if required, mark and seal the cylinder to the satisfaction of the occupier and retain same for the purpose of ascertaining if the liquefied

petroleum gas or substance falls within an of the definitions prescribed in section 1.

- (4) Any person who resists or hinders such officer when such officer is entering or attempting to enter or is inspection or attempting to inspect such premises, or who refuses or fails without lawful excuse to comply with any lawful requirements of such officer in terms of this by-law or who refuses or fails without lawful excuse to give such officer such assistance as he/she may require for the purpose of this by-law or who obstructs or interferes with such officer in the carrying out of his/her powers and duties under this by-law or who aids, incites or encourages any person so to resist, hinder, obstruct or interfere with such officer, shall be guilty of an offence and liable to the penalties prescribed in section 20.

Accidents to be reported

19. In the event of an accident occurring, such accident being in any way due to or involving any liquefied petroleum gas and resulting in fire, explosion, personal injury or abnormal spillage or loss of any liquefied petroleum gas the occupier or owner of the premises or vehicle shall immediately report the occurrence to the Council.

Penalties

20. Any person who contravenes or fails to comply with any of the provisions of this by-law or who contravenes or fails to comply with the conditions subject to which any permit has been granted, or fails to comply with any awful instruction even in terms of this by-law shall be guilty of and offence and liable, upon conviction, to a fine not exceeding R3000.00 and a fine note exceeding R 500.00 for each day upon which the contravention continuous.

Repeal of by-laws

21. The by-laws relating to liquefied petroleum gas of the former Municipal Councils of Jan kempdorp, Hartswater and Pampierstad are hereby repealed.

STREET TRADING BY-LAW

The Municipal Manager of the PHOKWANE Local Municipal Council in terms of subsection 156(2) of the Constitution of the Republic of South Africa Act 1996 (Act 108 of 1996) read with section 13 of the Local Government: Municipal Systems Act (Act 32 of 2000), publishes the by-law as set forth hereafter as by-law made by the Council.

1. DEFINITIONS

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

"Authorized official" an official of the Council authorized to implement the provisions of the by-law and "officer" shall have a corresponding meaning;

"building" normal brick structures and includes informal structures such as "shanties or movable such as caravans;

"Council" the PHOKWANE Local Municipal Council and includes the Mayor, Political Office Bearers, Political Structures, Municipal Manager and any other official who has delegated powers in terms of section 59 of the Local Government: Municipal Systems Act (Act 32 of 2000);

"foodstuff" any article or substance [except a drug as defined in the Drugs and Drug Trafficking Act, (Act 140 of 1992)], ordinarily eaten or drunk by persons or purporting to be suitable, or manufactured or sold, for human consumption, and includes any part or ingredient of any such article or substance, or any substance used or intended or destined to be used as a part or ingredient of any such article or substance;

"Heritage site" a place declared to be a national or provincial heritage site in terms of the National Heritage Resources Act, 1999 (Act 25 of 1999);

"garden of park" a garden or park to which the public has a right of access;

"goods" any transferable interest but excludes any living thing and hazardous substances;

"litter" any waste materials and includes any container or other matter which has been discarded, abandoned or left behind by a person trading or his/her customers;

"pavement" a sidewalk or that portion of a road reserved for the use of pedestrians;

"nuisance" any action or behavior by anyone which constitutes a disturbance or causes discomfort to anyone;

"perishables" milk, meat fish, crustaceans, fruit and vegetables as well as products which require special storage facilities;

"premier" the Member of the Executive Council who is charged with the responsibility of the administration of the Business Act (Act No. 71 of 1991);

"Prohibited area" any place declared or to be declared under subsection 6A (2) of the Act by resolution of the Council to be an area in which street trading may be prohibited;

"property" in relation to a person carrying on the business of street trading, means any article, receptacle, vehicle or structure used or intended to be used in connection with such business, and includes goods in which he/she trades;

"Public building" a building occupied solely by the State or the Council or any organs or state;

"Public place" any square, park, recreation ground, sport ground, sanitary lane or open space which has-

(a) in connection with any subdivision or layout of land into erven, lots of plots, been provided, reserved or set apart for use by the public or the owner or occupiers of such erven, lots of plots, whether or not it is shown on a general plan, plan of subdivision or diagram;

(b) at any time been dedicated to the public;

- (c) been used without interruption by the public for a period at least 30 years expiring after 31 December 1959; or
- (d) at any time been declared or rendered such by a Council or other competent authority;

"Public road" any road, street or thoroughfare or any other place (whether a thoroughfare or not) which is commonly used by the public or any section thereof or to which the public or any section thereof has a right of access, and includes-

- (a) the verge of any such road, street or thoroughfare;
- (b) any bridge, ferry or drift traversed by any such road, street or thoroughfare; and
- (c) any other work or object forming part of or connected with or belonging to such road, street or thoroughfare;

"Restricted area" any place declared under subsection 6A (2) of the Act by resolution of the Council to be an area in which street trading may be restricted;

"Street trader" a person that is mobile and sells goods for own profit whether such goods are the product of his/her own labour or not;

"sell" alienation for value and includes supply to and also-

- (a) exchange or hire;
- (b) store, expose, offer or prepare for sale, and "sale has a corresponding meaning;

"services" includes any advantage or gain for consideration or reward;

"The Act" the Business Act, 1991 (act No. 71 of 1991);

"trade" the lawful sale of goods or services in a public road or public place, and "trading" has a corresponding meaning;

"verge" a verge as defined in section 1 of the National Road Traffic Act, 1993 (Act No. 93 of 1996), and any word or expression to which a meaning has been assigned in the Business Act, 1991 (Act No, 71 of 1991).

- (2) For the purpose of this by-law a single act of selling in a public place shall constitute trading.

2. RIGHT TO TRADE

Subject to the provisions of sections 3 and 4 and any other law, street trading is permitted except in so far as such trading is restricted or prohibited by sections 5 to 13 inclusive, provided further that no person who is not a South African resident shall be entitled to operate as a street trader unless he/she is in possession of a valid work permit authorizing such street trading.

3. GENERAL CONDUCT OF STREET TRADERS

A person shall -

- (a) not place his/her property on a verge or public place except for the purpose of commencing to trade;
- (b) ensure that his/her property does not cover an area of a public road, public place or pavement which is greater in extent than three square meters (3m²) unless written permission for a greater area is obtained from the Council;
- (c) not trade on pavements narrower than 2,5m
- (d) not place or stack his/her property in such a manner that it constitutes a danger to any person or property or is likely to injure any person or damage property;

- (e) not erect any structure for the purpose of providing shelter or sleep overnight at the place of business without the prior written approval of the Council provided that where approval is given for a shelter to protect goods, he/she shall not erect an unsightly structure from which to conduct business;
- (f) not obstruct access to a fire hydrant or area demarcated solely for the use of emergency vehicles and/or services;
- (g) on concluding business for the day, remove his/her property, except any permanent structure permitted by the Council, to a place which is not part of a public road or public place;
- (h) on request by an employee or agent of the Council or any supplier of telecommunication or electricity or other services, move his/her property so as to permit the carrying out of any work in relation to a public road, place or any such service;
- (i) not attached any object or goods by any means to any building structure, pavement, tree, parking meter, lamp post, electricity pole, telephone booth, post box, traffic sign, fence, bench or any other street furniture in or on a public road or public place;
- (j) not make an open fire at a place of trading or in circumstances where it could harm a person or damage a building or vehicle;
- (k) not store his/her property in manhole or storm water drain, bus shelter, public toilet or tree;
- (l) not sell his/her goods in a street by constantly using megaphones, radios, loudspeakers, or constantly shouting or singing in a manner which shall constitute a nuisance or disturbance in the area;
- (m) not commence street trading unless he/she registers with the Council and pay such fees or costs for services reasonably required including the costs of leasing any trading space or structure provided by the Council.

4. CLEANLINESS

(1) A Person trading shall-

- (a) keep his/her property and the area or site occupied by him/her for the purpose of such business in a clean and sanitary condition;
- (b) dispose of litter generated by his/her business in whatever receptacles provided therefor by the Council, including recycling and dumping sites, and not dispose of litter in a manhole, storm water drains or other place not intended for the disposal of litter;
- (c) ensure that on completion of business for the day the area or site occupied by him/her for the purpose of trade is free of litter.
- (d) take such precautions as may be necessary or prescribed by the Council to prevent the spilling onto a public road or public place of any fat, oil, grease or any hazardous substances in the course of conducting his/her business and prevent any smoke, fumes, odor or noise emanating from his/her activities from becoming a nuisance.

(2) The Council shall-

- (a) ensure that the site on which the street traders are trading are cleaned and sanitized on a regular basis;
- (b) provide receptacles on the sites in order to facilitate the disposal of litter by the street traders; and
- (c) ensure that the receptacles are emptied on a regular basis in order to facilitate clean trading sites.

5. OBSTRUCTION OF PEDESTRIANS

No person shall trade at a place where such trading-

- (a) obstructs access to or use of street facilities such as a bus passenger bench or shelter or queuing line, refuse disposal bin or other facility intended for the use of the general public;
- (b) obstructs the visibility of a display window, signboard or premises, if the person carrying on business in the premises concerned objects thereto;
- (c) obstructs access to a building in width, automatic bank teller machine, pedestrian crossing or motor vehicle;
- (d) leaves less than 1,5m in width of a sidewalk clear for pedestrian use, or in any manner substantially obstructs pedestrians in their use of a sidewalk.

6. OBSTRUCTION OF VEHICULAR TRAFFIC

No person shall trade at a place where such trading-

- (a) cause an obstruction on a roadway;
- (b) limits access to parking or loading bays or other facilities for vehicular traffic;
- (c) obscures any road traffic sign or any marking, notice or sign displayed or made in terms of this or any other by-law; or
- (d) interferes in any way with any vehicle that may be parked alongside such place;
- (e) obscures or impedes the view of any user of the road, any traffic sign or any other road user.

7. TRADING RESTRICTED TO SPECIFIED HOURS IN CERTAIN PLACES

No person shall trade-

- (a) on a verge contiguous to any place of worship, national monument or public building; or
- (b) in a restricted area, which is specified in Schedule A, compiled according to the consultation process outlined in subsections 6A(2)(a) to (j) of the Act, outside the hours so specified in relation to each garden, park, verge or area.

8. TRADING RESTRICTED TO SPECIFIED GOODS OR SERVICES IN CERTAIN PLACES

No person shall trade-

- (a) on a verge contiguous to any place of worship, national monument or public building;
- (b) in a restricted area, which is specified in Schedule B, compiled according to the consultation process outlined in subsections 6A(2)(a) to (j) of the Act, other than the goods or services so specified in relation to each such garden, park, verge or area; or
- (c) on a verge contiguous to that part of a building in which business is being carried on by a person
- (d) other than a department store or supermarket or other large supplier of many different lines of goods of the same nature as or of a similar nature to goods being sold by the first-mentioned person without the consent of the second-mentioned person.

9. TRADING RESTRICTED TO DEMARCATED STANDS OR AREAS IN CERTAIN PLACES

No person shall trade-

- (a) on a verge contiguous to any place of worship, national monument or public building; or
- (b) in a restricted area, which is specified in Schedule C, compiled according to the consultation process outlined in subsections 6A(2)(a) to (j) of the Act outside a stand or area set apart for trading purposes as contemplated in subsection 6A(3)(b) of the Act.

10. NO TRADING IN STANDS OR AREAS WHICH HAVE BEEN LET EXCEPT BY THE LESSEE

If the Council has let or otherwise allocated any stand or area set apart or otherwise established for street trading purposes, as contemplated in subsection 6A(3)(c) of the Act, no person may trade in such area if he/she is not in possession of proof that he/she has hired such stand or area from the Council of that it has otherwise been allocated to him/her.

11. NO TRADING NEAR CERTAIN PUBLIC BUILDINGS, PLACES OF WORSHIP AND NATIONAL MONUMENTS

No person shall trade on a verge contiguous to any place of worship, national monument or public building which is specified in Schedule D, compiled according to the consultation process outlined in subsections 6A(2)(a) to (j) of the Act, unless he/she obtains written consent from the Council, which consent shall not be unreasonably withheld.

12. NO TRADING IN PROHIBITED AREA

No person shall trade in any prohibited area, prohibited for that purpose by the Council.

13. TRADING NEAR RESIDENTIAL BUILDINGS

No person shall, outside an area specified in Schedule E, compiled according to the consultation process outlined in subsections 6A(a) to (j) of the Act, trade in that half of a public road contiguous to a building used exclusively for residential purpose if-

- (a) the owner, person in control or occupier of any part of the building facing onto such road has objected thereto in writing; and
- (b) the fact that such objection was made has been made known in writing to the first mentioned person by an authorized official.

14. SIGNS INDICATING RESTRICTIONS AND AREA

The Council may-

- (a) by resolution, after consultation with all interested parties, prescribed signs, markings or other devices approved by the Premier indicating-
 - (i) specified hours, places, goods or services in respect of which street trading is restricted;
 - (ii) the location or boundaries of a restricted area;
 - (iii) the boundaries of a stand or area set apart for the purpose of the carrying on of the business of street trading under subsection 6A(3)(b) of the Act;
 - (iv) the fact that any such stand or area has been let or otherwise allocated;
 - (v) any restrictions or prohibition against trading in terms of this by-law; and

- (vi) the location of boundaries of a prohibited area; and
- (b) display any such sign, marking or device in such a position and manner as will indicate the restrictions or the location or boundaries of the area of stand concerned.

15. REMOVAL AND IMPOUNDMENT

- (1)** An officer may remove and impound any goods, articles, receptacle, vehicle or structure-
 - (a) which he/she reasonable suspects is being used or has been used in or in connection with street trading; and
 - (b) which he/she finds at a place where street trading is restricted or prohibited in terms of sections 5 to 13 inclusive and which, in his/her opinion, constitutes an infringement of any such section; or
 - (c) which constitutes an infringement of subsection 3(d) hereof?

- (2)** Any officer acting in terms of these provisions shall-
 - (a) except in the case of goods which have been left or abandoned, issue forthwith to the person carrying on the business of street trader a detailed receipt for any property so removed and where the property will be impounded and the procedure for reclaiming such property; and
 - (b) forthwith deliver any such property to the Council.

- (3)** Any property removed and impounded as contemplated by subsection 6A of the Act-
 - (a) may, in the case or perishable property, be sold or destroyed by the Council concerned within a reasonable time after the impoundment thereof, provided that such property shall subject to the provisions of 15 (4) hereunder, at any time prior to the disposal thereof, be returned to the owner on request and proof ownership by such owner to the Council concerned provided such perishables are still fit for human consumption;
 - (b) shall, subject to the provisions of 15(4) hereunder, in the case of property other than perishable property, be returned to the owner thereof on request and proof of ownership by such owner to the Council concerned within a period of one month of the date of impoundment.

- (4)** The Council concerned shall be entitled to keep to property concerned until all reasonable expenses have been paid to it, failing which the property may be sold by public auction upon 14 days notice being given to the owner or in the case of perishable goods either be sod or destroyed by such Council

- (5)** In case of a sale of impounded property by a Council, the proceeds of such sale less the reasonable expenses incurred by such Council in connection with the removal, impoundment and/or disposal of such property, shall be paid to the person who was the owner of such property when such property was impounded. If such owner fails to claim the said proceeds with in three months of the date on which such property was sold, such proceeds shall be forfeited to such Council and shall be paid onto a special fund created by such Council dedicated to the development of the informal sector and matters ancillary thereto.

- (6)** In the event of the proceeds of any sale of property contemplated by this provision not being sufficient to defray the reasonable expenses incurred by the Council

in connection with such removal, impoundment and/or disposal.

16. OFFENCES

Any person who-

- (a) Contravenes or fails to comply with any provision of this by-law;
- (b) ignores, disregards or disobeys any notice, sign or marking displayed or erected for purpose of this by-law;
- (c) contravenes or fails to comply with any approval or conditions granted or imposed in term this by-law;
- (d) fails to comply with a written instruction to move or remove his/her property;
- (e) deliberately furnishes false or misleading information to an officer or an employee of the Council; or
- (f) threatens, resists, interferes with or obstructs an officer or employee of the Council the performance of his/her powers, duties or functions under this by-law; shall be guilty of an offence.

17. PENALTIES

Any person who is guilty of an offence in terms of this by-law shall on conviction be liable to a fine not exceeding R 3000.00 or to imprisonment for a period not exceeding six months.

18. VICARIOUS RESPONSIBILITY OF PERSONS CARRYING ON BUSINESS

When an employee of a person conducting the business of street trading does or omits to do anything which would be an offence in terms of this by-law for that person to do or omit to do, that person shall be deemed himself/herself to have done or omitted to do the act, unless he/she satisfies the court that-

- (a) he/she neither connived at nor permitted the act or omission by the employee concerned;
- (b) he/she took all reasonable steps to prevent the act or omission; and
- (c) an act or omission, whether lawful or unlawful, of the nature charged on no condition or under no circumstances fell within the scope of the authority or employment of the employer concerned, and the fact that the said person issued instructions whereby an act or omission that nature is prohibited shall not in itself be sufficient proof that he/she took all reasonable steps to prevent the act or omission.

19. VICARIOUS RESPONSIBILITY OF EMPLOYEES

When a person carrying on the business of street trading is by virtue of section 18 liable for an act of omission by an employee of that person, that employee shall also be liable as if he/she was the person carrying on the business concerned.

20. APPEALS

- (1) Any person who feels him/herself aggrieved by the decision of the Council may appeal against such decision to an appeal committee in accordance with the provisions set out herein.
- (2) Any person who feels him/herself aggrieved by a decision of the Council shall notify the Council of his/her intention to appeal the decision in writing within 10 days of having received notification of the Council 's decision.

21. CONSTITUTION OF AN APPEAL COMMITTEE

- (1) The member of the Executive Council of Economic Affairs may, with the concurrence of the Council, representatives of the informal traders and any other interested person, designate persons as members and alternate members of the Appeal Committee.
- (2) The Appeal Committee shall consist of a maximum of 7(seven) members with at least 1(one) member from the relevant sector.
- (3) The members of the Appeal Committee shall appoint a member to act as a Chairperson and Deputy Chairperson respectively.
- (4) When the chairperson is unable to perform the function of Chairperson, the Deputy Chairperson shall perform the function of Chairperson
- (5) If the Chairperson is of the opinion that a particular person is able to assist the Appeal Committee, he/she may co-opt that person for that purpose.
- (6) A person so co-opted shall not be entitled to vote at any meetings of the Committee.
- (7) The chairperson shall notify the aggrieved person of the date, time and place of the meeting of the Appeal Committee at which his/her presence is required within 10 days of receipt of one Notice of Appeal.
- (8) The aggrieved person who has received notice in terms of provision 21 (7) shall personally appear at the meeting or appoint a legal representative or any other person to appear on his/her behalf.
- (9) An authorized official or a legal representative may represent the Council concerned.

22. PROCEDURE AT APPEAL MEETINGS

- (1) The Chairperson shall determine the procedure of the meeting, provided-
 - (a) such procedures adhere to the *Audi alteram partem* principle; and
 - (b) all parties are advised seven days prior to the hearing and the procedures to be observed.
- (2) All members shall be present at the meeting of the Appeal Committee.
- (3) Any person present at the meeting may-
 - (a) be called upon by the Chairperson to give evidence;
 - (b) be called upon by the Chairperson to produce to the Committee any document or any other property which is in his/her possession or under his/her control; or
 - (c) be questioned by the Committee on the matter before it.

- (4) The Appeal Committee shall review the decision of the Council and make a finding having regard to the following considerations;
- (a) Whether the decision of the Council was fair and equitable in the circumstances;
 - (b) The effect of the decision on the ability to trade of the aggrieved person; and
 - (c) Whether alternative measures may be adopted to facilitate the continued business of the aggrieved person.
- (5) A decision of the Committee shall be taken by a majority of votes of the members present at the meeting and in the event of an equality of votes, the Chairperson shall have a casting vote in addition to his/her deliberative vote.
- (6) The Appeal Committee may after consideration by it of the evidence presented-
- (a) refuse the appeal;
 - (b) uphold the appeal; or
 - (c) take such other steps as it may think fit.
- (7) The Appeal Committee shall as soon as it is practicable-
- (a) notify the aggrieved person of its decision in writing; and
 - (b) furnish the aggrieved person with written reasons for its decision.

23. REPEAL OF BY-LAWS

The by-laws of the former Municipal Councils of Jan Kempdorp, Hartswater and Pampierstad relating to matters contained in this by-law, are hereby repealed.

SCHEDULE A

PLACES WITH RESTRICTED TRADING HOURS

PLACES

TRADING HOURS

- A. Gardens and parks.
- B. Verges contiguous to the following: places of worship, national monuments and public buildings.
- C. Restricted areas:
(With number and date of notice of declaration thereof).

With regard to A, B and C above, the hours determined by Council after receiving specific applications.

SCHEDULE B

PLACES WHERE GOODS OR SERVICES ARE RESTRICTED

PLACES

PERMITTED GOODS OR SERVICES

- A. Gardens and parks.

B. Verges contiguous to the following: places of worship, national monuments and public buildings.

- C. Restricted areas:
(With number and date of notice of declaration thereof).

With regard to A, B and C above, the goods or services determined by Council from time to time.

SCHEDULE C

PLACES WHERE TRADING IS TRSTRICATED TO DEMARCATED STANDS AND AREAS

PLACES

- A. Gardens and parks.

B. Verges contiguous to the following: places of worship, national monuments and public buildings.

- C. Restricted areas:
(With number and date of notice of declaration thereof).

SCHEDULE D

VERGES WHERE TRADING IS PROHIBITED

THE VERGES CONTIGUOUS TO THE FOLLOWING:

- A. Public Buildings.
B. Places of worship.
C. National monuments.

SCHEDULE E

AREAS EXCLUDED FROM RESTRICTION ON TRADING NEAR RESIDENTIAL BUILDINGS

- A. Townships and portions of townships.
B. Public roads and portions of public roads.

PHOKWANE LOCAL MUNICIPAL COUNCIL

LIBRARY BY-LAW

The Municipal Manager of the PHOKWANE Local Municipal Council in terms of subsection 156(2) of the Constitution of the Republic of South Africa Act 1996, (Act 108 of 1996) read with section 13 of the Local Government: Municipal Systems Act (Act 32 of 2000), publishes the by-law as set forth hereafter as by-law made by the Council.

Definitions

1. In this by-law, unless inconsistent with the context means–

“borrower” any person registered by the Council as a borrower;

“Council” the PHOKWANE Local Municipal Council and includes the Mayor, Political Office Bearers, Political Structures, Municipal Manager and any other official who has delegated powers in terms of section 59 of the Local Government: Municipal Systems Act (Act 32 of 2000);

Use of library

2. Any person admitted to the library by the library authority may use the library facilities free of charge during official hours of opening. However, if a person wants to borrow library material, he shall first register as a borrower of the library.

Registration

- 3.(1) (a) Any person residing permanently or being the owner of immovable property in the Council's area concerned shall be registered as a borrower at the library concerned if he applies for such registration on the form supplied by the Council and the Council concerned grants such application; provided that any application by a child shall be countersigned by his parent or guardian who, by such countersignature, shall for all purposes be deemed to have undertaken to accept liability in respect of any library material borrowed by such child.
 - (b) The secretary of any society of similar body contemplated by subsection 6(4) may, if duly authorized thereto by such society or body, on the form supplied by the Council, apply for the registration of such society or body as a borrower in respect of films and videos. The Librarian shall, if he is of opinion that such society or body operates or functions in the Council's area and is properly equipped for the showing of films and videos and that any films or videos which may be lent will be shown without the collection of admission charges, register such society or body as a borrower.
- (2) A person residing for a period shorter than three months in the Council's area concerned may be registered as a visitor if –
 - (a) he applies for such registration on the prescribed form supplied by the Council;
 - (b) he deposits with the Librarian such deposit as may be determined by the Council concerned from time to time, and

- (c) the Council concerned approves such application.
- (3) The deposit contemplated by subsection (2)(b) shall be refunded on application of any borrower; provide that if the borrower does not renew his cards contemplated by subsection 4(1) within a period of three years after the expiry of the period of validity, such deposit shall be forfeited to the Council concerned; provided further that upon any such refunding or forfeiting, the registration of the borrower concerned shall be cancelled.
- (4) A person residing outside the Council's area concerned who wishes to use the library on a regular basis may register as a borrower at the library concerned if –
 - (a) he applies for such registration on the form supplied by the Council;
 - (b) he pays the Librarian the annual user fees as determined by the Council;
 - (c) the Council approves such application.

Borrower's card

- 4.(1) (a) The Librarian shall issue a borrower with cards authorising the loan of the number of books which such borrower may be permitted to borrow in terms of this by-law and may, at the request of such borrower issue him with further cards authorising the loan of such number of gramophone records, videos, compact discs, art prints or any other library material which such borrower may be permitted to borrow in terms of this by-law.
- (b) Any card contemplated by subsection (1)(a) shall be issued for a period of validity not exceeding three years as stipulated by the Librarian subject to the provisions of this by-law; provided that such card, after the expiry of such period of validity, except in cases as contemplated by the second provision of subsection 3(3) may be renewed without any further registration and without the number of renewals being limited.
- (2) (a) Should a borrower report that he has lost a card, a duplicate card shall, on payment of a fee as determined by the Council from time to time, be issued to such borrower by the Librarian; provide that no borrower shall be exempt from liability in terms of this by-law arising from the loan of library material on the authority of the lost card before such loss has been reported to the Librarian.
- (b) Should the lost card subsequently be found, any duplicate card issued in the place thereof shall be returned to the Librarian, and in such event the fee for such duplicate card shall not be refunded to the borrower.
- (3) Should a borrower wish to terminate his registration as a borrower or no longer qualifies in terms of this by-law for registration as a borrower, he shall return for cancellation all cards in his possession to the Librarian of the library where he is so registered.

Change of address

5. A borrower shall notify the Librarian of the library where he is a borrower of any change of address within seven days of such a change occurring.

Loan and return of library material

- 6.(1) No library material shall be lent to any person unless such loan has been registered by the librarian against cards authorising such loan to the person concerned or as provided in subsection (4)

- (2) Subject to the provisions of subsection (4) and any conditions stipulated by the Council concerned and upon payment of any fines or compensation for which such borrower is liable in terms of this by-law, a borrower may, unless the library material concerned has already been requested by another borrower of library, borrow not more than the following at any one time:

- (a) Four books;
- (b) Two gramophone records, sets of records or compact discs;
- (c) Two art prints;
- (d) Two video tapes;

Provided that no borrower who is a child may, subject to the provisions of subsection (8), borrow library material other than books not exceeding three in number at any one time.

- (3) (a) Books, gramophone records, sets of records or compact discs shall be loaned for fourteen

days or such shorter or longer period as the Librarian may determine, as the case may be, but for a period not exceeding one month, and art prints shall be loaned for a period not exceeding three months.

- (b) Videos shall be loaned on the conditions as determined by the Librarian and shall be returned to the library not later than the first day on which the library is open after the day of issue.
- (c) Library material not contemplated by subsection (2) or (4) shall be loaned in such amounts and for such periods as the Council may determine from time to time.
- (d) If no other borrower or library has requested the library material concerned, a borrower may, subject to this by-law and on payment of any fine payable by him, obtain an extension of any such period from the Librarian.

- (4) (a) Where films are made available by the Council for loan purposes, no person other than a society or similar body may borrow films.

- (b) Any film lent in terms of this section shall be returned to the library not later than the first day of which the library is open after the showing of the film by such society or body.

- (c) No admission shall be charged for the showing of any films which may be lent.

Overdue library material

- 7.(1) A fine for the retention of library material in excess of the period as provided in this by-law shall be levied in respect of –
- (a) library material other than films and videos, at a rate as determined by the Council, but not exceeding the maximum as determined by the Council from time to time per week or part of a week in excess of such period, or
 - (b) films and videos at a daily rate as determined by the Council from time to time.
- (2) The Librarian may exempt any person from the payment of such fine if he is satisfied that the failure to return library material is due to circumstances beyond the borrower's control.

Children's section

8. A borrower under the age of twelve years shall not borrow or remove material from that part of the library set aside for adults without the permission of the Librarian.

Reservation of library material

9. A borrower may reserve not more than the number of items of library material which, in accordance with the stipulation of the Librarian, is available for loan to borrowers. A reservation fee as fixed by the Council, but not exceeding the maximum as determined by the Council from time to time, may be levied in respect of each item so reserved. However, no borrower shall at one time request by special request more than four items of library material not available at that stage in the library, or have more than four special requests in process.

Lost and damaged library material

- 10.(1) A borrower shall accurately establish that library material borrowed by him is in an undamaged condition before its removal from the library and any damage which is observed shall be reported to the Librarian before the material is so removed.
- (2) A borrower or the parent or guardian of a child who is a borrower shall be responsible for the loss or damage, other than by fair wear and tear, whether such loss or damage is occasioned by his own negligence or otherwise, to any library material lent to such borrower, and shall make good such loss or damage by paying such compensation in respect thereof as may be determined by the Librarian.
- (3) Any library material bearing the ownership mark or stamp of any library and not officially marked as withdrawn, discarded or sold shall at all times remain the property of such library.
- (4) Library material retained by a borrower for more than three months calculated from the expiry date allocated to such material at the time of issue or after granting any extension of the loan period shall for all purposes be deemed to be lost; provided that art prints shall not be deemed to be lost until a period of six months from such date has expired.

Library material for special purposes

11. Library material of a specialised nature shall only be used in such parts of the library building as are set aside by the Council for special purposes, and shall not be removed from the library building or to any other part of the building without the permission of the Librarian.

Use of group activities hall

12. Approval for the use of the group activities hall shall vest in the Council, which the Council shall give preference to activities organised and/or presented by the Librarian.

Library hours

13. A notice by the Council, setting forth the days and hours during which the library shall be open, shall be displayed in a prominent place at or near the entrance thereto.

Recovery of service costs

14. Any special expenditure incurred by the Council in respect of postage, telephone calls, photocopies or other services in connection with the loan of library material to any borrower may be recovered from such borrower.

Handling of library material

15. No person having an item of library material in his possession shall either wilfully or negligently –
- (a) fail to keep such material in clean condition;
 - (b) expose or permit such material to be exposed to damage by water, heat, fire, animals or any other thing;
 - (c) mutilate, deface, mark or in any way damage such material or permit such material to be mutilated, defaced, marked or damaged, or
 - (d) remove or damage or permit to be removed or damaged any protective coverings of such material.

Offences

16. No person shall –
- (1) conduct or participate in a disturbing conversation, read aloud, sing or whistle in the library building in a manner which is disturbing to other persons present in the library building.
 - (2) impede, obstruct, disturb or in any other way annoy any other person in the legitimate use of the library;
 - (3) refuse to deliver any library material or equipment to any other person within a reasonable time of being requested to do so by the Librarian;

- (4) while using the library, refuse to comply with any lawful request of the Librarian;
- (5) allow any child under his supervision to create a disturbance in the library;
- (6)
 - (a) act in an uncouth or a disorderly fashion;
 - (b) use unseemly, abusive or blasphemous language, or
 - (c) lay bets or gamble in any part of the library;
- (7) recline, sleep or partake of refreshments in the library;
- (8) cause or permit any animal under his supervision to enter or remain in the library building;
- (9) bring any vehicle, carrier or container into the library building without the permission of the Librarian;
- (10) distribute, or deposit in the library for distribution, material for advertisement, publicity, or any other purpose without the permission of the Librarian;
- (11) damage or deface any part of the library building, or any fitting, furniture, equipment or contents thereof;
- (12) supply a false name or address for the purpose of entering any part of the library or to benefit from any service rendered by the library;
- (13) enter or remain in any part of the library if he is –
 - (a) unclean in body or dress;
 - (b) suffering from a contagious or infectious disease notifiable in terms of any law, or
 - (c) under the influence of intoxicating liquor or drugs;
- (14) enter or remain in any part of the library during the hours that such library or part thereof is not officially open for service to the public;
- (15) enter or leave the library building by any entrance or exit not officially provided for use of the public;
- (16) enter or remain in any part of the library building which is reserved for the use of the library staff;
- (17) obstruct or block any entrance to or exit from the library building;
- (18) remove from the library or be in the possession of library material the loan whereof has not been registered by the Librarian in terms of this by-law, or
- (19) retain in his possession any library material for more than 24 hours after the delivery to his registered address of a written demand from the Librarian for the return of such material.

Penalties

17.(1) Any Librarian, security officer or member of the police force who is called upon or requested

thereto by a Librarian may order out or remove any person who is guilty of misbehaviour in any library, or any person not *bona fide* using the library for the purposes it is intended for.

(2) Any person contravening any of the provisions of this by-law shall be guilty of an offence and shall on conviction be liable to a fine not exceeding R1000.00.

Repeal of former by-laws

18. The library by-laws of the former Municipal Councils of Jan kempdorp, Hartswater and Pampierstad are hereby repealed.

STANDING ORDERS BY-LAW

The Municipal Manager of the PHOKWANE Local Municipal Council in terms of subsection 156(2) of the Constitution of the Republic of South Africa Act 1996, (Act 108 of 1996) read with section 13 of the Local Government: Municipal Systems Act (Act 32 of 2000), publishes the by-law as set forth hereafter as by-law made by the Council.

1. Definitions

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

"act" means the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998)

"budget" means the estimate of the revenue and expenditure of the Council drawn up and presented by the Executive Committee in terms of national legislation.

"Chairperson of the Council" means the Mayor of the Council as contemplated in sections 36 and 37 of the Act.

"Council" means the PHOKWANE Local Municipal Council and includes the Mayor, Political Office Bearers, Political Structures, Municipal Manager and any other official who has delegated powers in terms of section 59 of the Local Government: Municipal Systems Act (Act 32 of 2000);

"mayor" shall also mean the person presiding at Executive Committee meetings as contemplated in section 49 of the Act, as well as where a Deputy Mayor is elected, the Deputy Mayor acting in the mayor's stead.

"meeting" means a meeting of the Council or the Executive Committee, as the case may be.

"member" means a member of the Council or the Executive Committee as the case may be.

"motion" means a motion introduced in writing in terms of section 21 or 50;

"Municipal manager" means a person as contemplated in section 82 of the Act.

"proposal" means any proposal with the exception of a motion, moved and seconded during a meeting of the Council or a committee thereof, or any successor legislation thereto and any other word or expression to which a meaning has been assigned in the Act or the Ordinance, shall have that meaning.

2. Removal of persons from Council chamber

- (1) The chairperson may at any time during a meeting, if for the maintenance of order, he/she deems it necessary, direct the removal of any person other than a member from the Council chamber or order the gallery to be cleared.
- (2) Any person who refuses to carry out any order or direction given in terms of this action or who willfully resists the carrying out thereof shall be guilty of an offence.

3. Signing of attendance register and wearing of robe during meetings

Every member attending a meeting shall-

- (a) sign his/her name in the attendance registers; and
- (b) wear a robe if the Council so resolves which robe is provided for that purpose.

4. Adjournment in event of no quorum

If at the expiration of thirty minutes after the hour at which a meeting is appointed to be held a quorum has not assembled, no meeting shall take place unless the members present agree to allow further time not exceeding an additional ten minutes in order to enable a quorum to assemble. The members present may at any time after the expiry of the ten minutes aforesaid, by a majority of votes, request the Municipal Manager to convene a meeting at a convenient time, notice of which shall be given in terms of the Act, and the provisions of section 7 of these rules shall apply *mutatis mutandis*.

5. Count out of members

If during any meeting, the attention of the chairperson is directed to the number of members present, such members shall be counted and, if it is found that there is no quorum, the chairperson shall cause this fact to be recorded in the minutes and the call bell to be rung for at least one minute and, if after an interval of five minutes a quorum has not yet assembled, the members present may by a majority of votes resolve to adjourn the meeting. If no such resolution be taken and after an interval of ten minutes there be no quorum, the meeting shall be considered adjourned until a time to be determined by the Municipal Manager.

6. Notice of adjourned meeting

When a meeting is adjourned, notice of the adjourned meeting shall be served in terms of the Act unless a proposal fixing of the date and hour of such an adjourned meeting is adopted by at least three quarter of the members present (fractions to be reduced to the lowest member).

7. Adjourned meeting

Subject to the provisions of section 8 no business shall be transacted at an adjourned meeting except such as specified in the notice of the meeting, which is adjourned.

8. Business limited by notice

Subject to the provisions of subsection 50(1) no matter not specified in the notice of a meeting shall be transacted at that meeting save an urgent report of the Executive Committee.

9. Order of business of meeting

(1) The order of business of an ordinary meeting shall be as follows:

- (a) Opening
- (b) Acceptance of notice of the meeting as read.
- (c) Applications for leave of absence.
- (d) Official notices-
 - by the Chairperson;
 - by members of the Council;

- by the Municipal Manager.
- (e) Chairperson's unopposed proposals.
- (f) Confirmation of minutes of previous meetings.
- (g) Questions of which notice has been given.
- (h) Motions or proposals referred from previous meetings.
- (i) Report of the Executive Committee.
- (j) New motions.
- (k) Petitions
- (l) Closure

- (2) After the matters referred to in paragraphs (a) to (f) of subsection (1) have been considered, the Council may at its discretion change the order of the other business appearing on the agenda.

10. Minutes of meeting

- (1) Unless the minutes of a meeting are confirmed at the same meeting, the minutes shall be taken as read with a view to confirmation, provided a copy thereof has been served on each member in the manner as provided in the Act.
- (2) No motion proposal or discussion shall be allowed on the minutes, except as to their accuracy.

11. Question by members

- (1) A member may put a question at a meeting-
- (a) on a matter arising out of or connected with any item of the report of the executive committee when such item has been called or during discussion thereon;
 - (b) concerning the general work of the Council not arising out of or connected with any item of the report of the Executive Committee: Provided that such question may only be asked if at least seven days prior notice in writing has been lodged with the Town Secretary, who shall forthwith furnish a copy thereof to the chairperson and the chairperson of the Executive Committee.
- (2) A question on a matter which in the opinion of the chairperson is of urgent public importance shall only be asked at a meeting after notice in writing thereon in duplicate has been lodged with the Town Secretary at least ten minutes before the commencement of the meeting, and the Town Secretary shall immediately furnish a copy thereof to the chairperson and the chairperson of the Executive Committee.
- (3) Any person put in terms of this section shall be replied to by or on behalf of the chairperson of the Executive Committee.
- (4) After a member's question has been replied to, he/she may ask for elucidation thereof and the question whether it has been decisively or fully replied to shall not be debated except with the consent of the chairperson.
- (5) The chairperson may disallow a question if he/she is of the opinion that it is out of order or not put clearly.

12. Reporting to Executive Committee

- (1) A report of departmental head shall be directed to the Municipal Manager who must submit it to the Executive Committee/ Mayor.
- (2) The Municipal Manager may refer a report back to a departmental head for factual amendment or amplification and he/she may, if he/she deems it necessary, comment on and make a recommendation in respect of any report contemplated in subsection 12(1).

13. Composition of a report of Executive Committee

- (1) A report submitted by the Executive Committee in terms of the Act, read with subsections 160(6) (a) to (c) of the Constitution of the Republic of South Africa (Act 108 of 1996), shall first contain the matters in respect of which recommendations are made (hereinafter referred to as "the first part") and thereafter those matters which have in terms of the Act had been delegated to-
 - (a) the Executive Committee; (hereinafter referred to as the "second part") and
 - (b) committees contemplated in section 79 of the Act, (hereinafter referred to as the "third part", fourth part, etc., on a numerical basis).
- (2) Unless any item is submitted to the Council for information only, every item of the first shall contain a recommendation which may be adopted by the Council.

14. Report shall be delivered

A report of the Executive Committee/Mayor with the exception of a report accepted by the chairperson as a matter of urgency, shall be delivered in the manner provided in for in the Act.

15. Moving report

- (1) The chairperson of the Executive Committee or member called upon by him/her to do so, shall submit a report of the Executive Committee, and in doing so, shall move-

"That the report be considered"

- (2) A proposal referred to in subsection (1) shall not be discussed, and if the Council accepts such proposal, the chairman shall put the recommendations contained in the first part of the report seriatim, unless for a good cause he/she sees fit to vary the order.
- (3) When a recommendation referred to in subsection (2) is accepted, such recommendation shall become a resolution of the Council.
- (4) At the conclusion of the first part of the report referred to in subsection (2), the chairperson shall permit discussion of the second and ensuing parts of the report: Provided but-
 - (a) such discussion shall be limited-
 - (i) One hour in respect of the matters contemplated in subsection 13(1) and
 - (ii) thirty minutes per part in respect of the matters contemplated in subsection(1)(b)
 - (b) a member, excluding the chairperson of the Executive Committee, shall not, unless permitted by the Council speak for more than ten minutes, and when a member is permitted to speak for more than ten minutes, the Council shall decide on the period of time;

- (c) during such discussion no other proposal shall be submitted, except a proposal that the Executive Committee or a committee contemplated in subsection 13(1)(b), as the case may be, be requested to reconsider its decision;
- (d) a member may during such discussion request that his/her opposition to any resolution in such second part, and the reason therefore, be recorded, whereupon the Town Secretary shall record or have such opposition recorded.

16. Recommendations of Executive Committee shall be regarded as proposals

It shall be deemed that the member who has made a proposal in terms of section 15 moves each recommendation contained in the report and that such proposal has been seconded.

17. Withdrawal or amendment of recommendation

The member who has made a proposal in terms of section 15 may withdraw or amend any recommendation contained in a report with the consent of the Council.

18. Reply to debate

- (1) The chairperson of the Executive Committee or the member who has made a proposal in terms of section 15 shall reply to and close the debate on any item in a report of the Executive Committee, without introducing new matters.
- (2) Notwithstanding the provisions of subsection (1) the chairperson or the member therein mentioned may make an explanatory statement or an announcement prior to the consideration of any particular item contained in the report of the Executive Committee or during the discussion of such a report.

19. Deputation

- (1)
 - (a) A deputation desiring an interview with the Council shall submit a memorandum sitting out the representations it wishes to make.
 - (b) The Town Secretary shall place the memorandum before the Executive Committee which may receive the deputation and deal with the matter raised in the memorandum in terms of the power delegated to it: Provided that the Executive Committee may dispense with the necessity of submitting a memorandum.
 - (c) If the Executive Committee is of the opinion that the matter is one which should be placed before the Council, it shall so report to the Council and, if the Council so orders, an interview shall be granted to the deputation.
- (3) A deputation shall not exceed three in number and only one member thereof shall be at liberty to speak except in reply to a question of a member. The matter shall not be further considered until the deputation has withdrawn.

20. Petition

A petition may be presented by a member, but when presenting it, he/she shall not deliver a speech or comment thereon to the Council. Such a petition will be referred to the Executive Committee who will report to Council in that regard.

21. Form of giving notice of motion

- (1) Every notice of motion shall be in writing and such motion shall be signed by the member submitting it.
- (2) A motion shall be given to the Administration Officer who shall enter it in a book to be kept for the purposed of his/her office, which book shall be open to the inspection of any member, and the Administration Officer shall without delay furnish each member with a copy of the motion.
- (3) At the request of the member who gave notice of the motion, the Administration Officer shall acknowledge receipt thereof in writing.
- (4) Unless a notice of motion is received at least ten days before a meeting, it shall not be specified in the notice of such meeting.
- (5) Every motion shall be relevant to some question relating to the administration or conditions in the municipality.
- (6) The member who introduces a motion may reply: Provided that when a proposal in terms of subsection 43(1)(b), (c), (d), (e), (f) or (g) is carried in respect of such motion, such member may reply for not more than ten minutes.

22. Order of motions

Every motion shall on receipt be dated and numbered and shall be entered by the Council Secretary upon the agenda in the order in which it is received except in the case of notice of an amendment which shall be entered immediately after such notice of motion, irrespective of the time upon which notice of motion to amend is received.

23. Limitation of notices

No member shall have more than one motion other than a deferred motion upon the agenda paper and no member shall move more than six motions, which includes a motion contemplated in subsection 50(1), in any year.

24. Motion to rescind any resolution passed within the preceding three months

- (1) When a member proposes a motion in terms of provisions of section 21 which
 - (a) is aimed at the revocation or amendment of a resolution of the Council taken within the preceding three months, or
 - (b) has the same purport as a motion which has been negative within the preceding three months such motion shall be placed on the agenda only if the notice of such motions is signed by three members in addition to the member who proposes such motion.

- (2) A motion similar to the one which was disposed of in terms of subsection (1), shall not again be proposed by a member before the expiry of six months after such disposal.
- (3) Notwithstanding the provisions of subsection (1) and (2), the Council may at any time rescind or amend a resolution in pursuance of a recommendation of the Executive Committee contained in a report in accordance with section 15.

25. Procedure in respect of putting of motions

- (1) When motions come up for discussion, the chairperson shall read out the number of each and the name of the mover and shall ascertain which motions are unopposed.
- (2) An unopposed motion shall be carried immediately and without discussion.
- (3) If there is an opposed motion, the chairperson shall call for a seconded and he/she shall thereafter in turn put each such seconded motion.
- (4) A member who seconded a motion may subsequently speak upon such motion unless a proposal in terms of subsection 43(1)(b), (c), (d), (e), (f) or (g) in respect of such motion has been made and carried before the seconded has spoken.
- (5) A motion which is not put by the proposer thereof, or which is not seconded, shall lapse.

26. Irregular motions or proposals

The chairperson shall disallow a motion or proposal-

- (a) which in his/her opinion-
 - (i) might lead to the discussion of a matter already contained in the agenda or which is not relevant to some question relating to the administration or conditions in the municipality; or
 - (ii) advances argument, expresses an opinion or contains unnecessary factual, incriminating, derogatory or improper allegations;
- (b) In respect therefor-
 - (i) the Council has no jurisdiction; or
 - (ii) a decision by a judicial or quasi-judicial body is pending; or
- (c) which, if carried, will be in conflict with the provisions contained in these Standing Orders or of any other law, or will be unenforceable.

27. Matter serves before Council by way of proposal

- (1) Subject to the provisions of subsections 15(2) and 16, a matter shall not be deemed to be put to the Council for a decision unless a proposal on such matter has been made and duly seconded.
- (2) The provisions of subsection 25(4) shall apply *mutatis mutandis* to a member seconding a proposal.

28. Provisions relating to the consideration of the budget

Notwithstanding anything to the contrary contained herein, the following provisions shall apply when the Council considers the budget:

- (a) A proposal, which will have the effect that estimated revenue or expenditure of the Council is increased or decreased, shall not be put, before the debate on the budget has been closed.
- (b) After the debated on the budget has been closed, the chairperson shall put every proposal contemplated in paragraph (a) seriatim.
- (c) If any such proposal is accepted, the budget shall not be deemed to be amended in accordance with that resolution and the meeting shall be postponed to a date and time determined by the chairperson, unless the chairperson of the Executive Committee or a member of that committee designated by him/her, decides that such postponement is not necessary.
- (d) If, in terms of paragraph (c), it is decided that a postponement of the meeting is not necessary, the budget shall be deemed to have been amended in accordance with a resolution contemplated in that paragraph.
- (e) After a postponement contemplated in paragraph (c), the Executive Committee shall investigate the implication of every such resolution and shall report to the Council thereon at the resumption of the meeting.
- (f) After the Executive Committee has reported in terms of paragraph (e), the chairperson shall-
 - (i) allow a debate thereon;
 - (ii) thereafter again put every proposal contemplated in paragraph (c) and if any such proposal is accepted, the budget shall be amended in accordance with that resolution.

29. Reference to Executive Committee of proposal affecting budget

A motion or proposal, other than a proposal contemplated in section 16, which will have the effect that the approved budget is increased or decreased shall not be accepted before the Executive Committee has reported thereon.

30. Reference to the Executive Committee of motion or proposal affecting by-law or law

A motion or proposal, other than a recommendation of the Executive Committee, affecting the making or amendment of a by-law or law shall, before the Council adopts a resolution thereon, be submitted to the Executive Committee to report thereon.

31. Withdrawal or amendment of motion or proposal

- (1) A mover may withdraw or amend a motion or proposal with the Council's permission, and only the mover shall be allowed to explain is request for such permission.
- (2) After permission has been requested in this way, no further discussion shall be held on the respective motion or proposal and the permission requested shall be granted or refused without further discussion.

32. Addressing the meeting

A member may sit when speaking and shall address the chairperson.

33. Precedence of chairperson

Whenever the chairperson speaks, any member then speaking or offering to speak shall sit down, and the members are to be silent so that the chairperson may be heard without interruption.

34. Length of speeches

(1) Subject to the provisions of sections 15 and 43, a member may not speak for longer than ten minutes: Provided that-

- (a) A member who submits a motion may speak for a period not exceeding fifteen minutes when elucidating his/her motion; and
- (b) The Council may permit a speech to be continued for a further period or periods of five minutes.

(2) The Council may waive the provisions of subsection (1) in regard to a statement made with the consent of the Council by the chairperson or other member of the Executive Committee in relation to any matter arising from a report.

(3) A member participating in any debate may during the course of his/her speech refer to notes but he/she shall not be permitted to read his/her speech. The chairperson may require a member reading his/her speech to discontinue his/her speech.

(4) The provisions of this section shall not apply to-

- (a) the chairperson of the Executive Committee when he/she presents the budget and opens the debate thereon;
- (b) the chairperson of the Executive Committee when he/she or a member of that committee designated by him/her delivers the budget speech, or replies to the debate in connection with the consideration of the budget;
- (c) the chairperson of the Executive Committee when he/she closes the debate in connection with the consideration of the budget; and
- (d) the person who in terms of subsection 18(1) replies to and closes the debate contemplated in that section.

35. Relevance

(1) A member who speaks shall direct his/her speech strictly to the matter under discussion or to an explanation or on a point of order.

(2) The chairperson shall not allow a discussion-

- (a) which will anticipate any matter on the agenda; or
- (b) on any matter in respect of which a decision by a judicial or quasi-judicial body is pending.

36. Irrelevance, repetition and breach of order

(1) If in the opinion of the chairperson, a member-

- (a) does not abide by the provisions of subsection 35(1) or is guilty of irrelevance or tedious repetition while he/she addresses the Council, the chairperson may direct

him/her to abide by the said provisions or to discontinue such irrelevancies or tedious repetition;

- (b) endeavors a discussion in breach of subsection 35(2), the chairperson shall direct him/her to cease that discussion;
 - (c) while he/she is in the Council chamber and irrespective of whether he/she addresses the Council-
 - (i) uses offensive or unbecoming language;
 - (ii) makes an incriminating, libelous or derogatory remark, allegation or insinuation in respect of another member or person;
 - (iii) breaches the order or disregards the authority of the chairperson; or
 - (iv) is improperly dressed.
- (2) If a member fails to comply with a direction contemplated in subsection (1), the chairperson may-
- (a) in a case contemplated in subsections (1)(a) and (b), direct the member concerned to discontinue his/her speech; or
 - (b) in a case contemplated in paragraph (a) and subsection (1)(c), direct the member concerned to withdraw from the meeting for the further duration thereof.

37. Chairperson may have member removed

Should any member fail to comply with a direction given in terms of subsections 36(2)(a) and (b) the chairperson may call upon an officer to remove the member and to take steps to ensure that the member does not return to the meeting. Subsections 36(1)(c); 36(2) and 37 are *mutatis mutandis* applicable to members of the public.

38. Exclusion of members

- (1) The Council may exclude from meetings of the Council, for such period as it may fix but not exceeding forty-five days, a member who willfully disregards the authority of the chairperson or who willfully obstructs the business at any meeting. Provided that the member concerned may within 7 days from the Council meeting at which the exclusion decision was taken, direct an appeal in writing to the mayor, who must convene a special Council meeting to consider the appeal within 7 days from date of receiving such appeal.
- (2) The Council at the said special meeting may confirm, reject or amend the original Council resolution.
- (3) In the considering of the appeal, the Council must comply with the rules of natural justice.
- (4) A proposal to exclude a member may be moved at any stage of the meeting.

39. Member to speak only once

- (1) Subject to any provisions to the contrary, or the prior approval of the chairperson, no member shall speak more than once of any motion or proposal and the chairperson's decision whether or not to allow the member to speak again, is final and shall not be open to discussion.
- (2) The provisions of subsection (1) shall not apply to a member of the Executive Committee when the Council considers the budget.

40. A point of order and personal explanation

- (1) Any member may rise to a point of order or explanation but such explanation shall be confined to the material content of his/her former speech.
- (2) Such a member shall be called upon to speak forthwith.

41. Chairperson's ruling on a question of order

The ruling of the chairperson on a point of order or on the admissibility of an explanation, shall be final and shall not be open to discussion.

42. Mode of voting

- (1) Every opposed motion or proposal shall be submitted to the Council by the chairperson who shall call upon the members to indicate by a show of hands, unless the Council decides otherwise, whether they are for or against it or abstained from it, and he/she shall thereupon declare the result of the voting.
- (2) After the chairperson has declared the result of the voting in accordance with subsection (1), a member may demand-
 - (a) that his/her vote be recorded against a decision, or
 - (b) a division by rising and putting such demand to the chairperson.
- (3) When a division has been duly demanded in accordance with subsection (2)(b), the chairperson shall accede thereto; the division bell shall be rung for at least one minute, whereupon every entrance to the Council chamber shall be closed, and no member shall leave or enter the Council chamber until the result of the division has been declared.
- (4) After the expiry of the period of time referred to in subsection (3), the chairperson shall again put the motion or proposal to the vote as provided in subsection (5) and thereafter declare the result of the division.
- (5) A division shall take place as follows: The Town Secretary shall read out the name of each member alphabetically. Each member shall indicate by means of a clearly audible "for" or "against" or "abstained" whether he/she votes in favour of or against or abstained on the motion or proposal, and the Town Secretary shall record each such vote as well as the name of each absent member.
- (6) When a division takes place in accordance with the preceding provisions, every member present, including the chairperson, shall be obliged to record his/her vote for or against the motion or proposal or abstained.
- (7) A member demanding a division shall not leave the Council chamber before such division has been taken.
- (8) Should there be an equality of votes in respect of a motion or proposal on which voting takes place in accordance with subsection (1) of (4), and the chairperson refuses to record his/her second or casting vote as contemplated in the Act the matter under consideration shall be referred back to the Executive Committee.

43. Proposals which may be made

- (1) When a motion or proposal is under debate at a meeting, no further proposal shall be received except the following:
- (a) That the motion or proposal be amended;
 - (b) That consideration of the question be postponed;
 - (c) That the meeting be adjourned;
 - (d) That the debate be adjourned;
 - (e) That the question be put;
 - (f) That the Council proceeds to the next business;
 - (g) That the question be referred back for further consideration;
 - (h) That, for the purpose of dealing with the matter, the Council resolves itself in committee in terms of section 54; and
 - (i) That the consideration of the matter be held over until the Council has dispatched all the other matters on the agenda;

Provided that the proposals referred to in paragraphs (b) to (g) may not be made to the Council until the mover of the motion or proposal under debate have spoken thereon: Provided further that a second proposal in terms of paragraph (b), (c), (d) (e) and (f) shall not be made within half-an-hour of a similar proposal under the same item unless, in the opinion of the chairperson, the circumstances are materially altered.

- (2) A member who has not participated in the debate upon or proposal may during that debate at the conclusion of any speech, move-
- (a) that consideration of the question be postponed to any stated date; or
 - (b) that the meeting be now adjourned: Provided that the meeting shall not be adjourned until the debate on a motion or proposal has first been adjourned; or
 - (c) that the debate be adjourned.
- (3) A member who has made a proposal mentioned in subsection (2) may speak thereon for not more than five minutes and the seconder shall not be allowed to speak thereon.
- (4) Upon a proposal mentioned in subsection (2) being made, the mover of the question under debate may speak on such proposal for not more than five minutes and subsequently the proposal shall be put without further debate.

44. Consideration of a matter to be held over

A member who makes a proposal in terms of subsection 43(1)(i), may speak thereon for not more than three minutes, but the seconder shall not be allowed to speak thereon, and thereafter the proposal shall be put to the vote without further debate.

45. Amendment of a motion or proposal

- (1) An amendment which is moved shall be relevant to the motion or proposal on which it is moved.
- (2) Such amendment shall be reduced to writing, signed by the mover and handed to the chairperson.
- (3) An amendment shall be clearly stated to the meeting before it is put.
 - (a) Whenever an amendment upon a motion or proposal has been moved and seconded, no further amendment shall be moved until a resolution has been adopted upon which an amendment may be moved.
 - (b) If the amendment is carried, the amended motion or proposal shall take the place of the original motion or proposals and shall become the substantive motion or proposal upon which an amendment may be moved.
- (4) A member shall not move more than one amendment of a proposal or motion.
- (5) The mover of an amendment of a proposal or motion shall have no right to reply.

46. Postponement of consideration of question

If a motion is carried that the consideration of the question be postponed to a stated date, the motion or proposal shall be placed first among the motions or proposals to be contained in the report of that committee to the Council on the day in question.

47. Adjournment of meeting

No member shall at any meeting move or second more than one proposal for the adjournment of the meeting.

48. Adjournment of the debate

- (1) If the proposal that the debate be adjourned is carried, the Council shall deal with the next question appearing on the agenda and the question in respect of which the debate has been adjourned, shall be placed first on the list of motions or proposals of the next meeting and the discussion thereof shall be resumed at that meeting.
- (2) On resuming an adjourned debate, the member who moved its adjournment shall be entitled to speak first.
- (3) No member shall move or second more than one proposal for the adjournment of the same debate.

49. Putting on the question

- (1) Subject to the provisions of subsection 43(1), a member who has not participated in the debate on a motion or proposal during that debate may at the conclusion of a speech move that the question be now put.
- (2) Subject to the provisions of subsection (3), a proposal made in terms of subsection (1) shall not be open to discussion.

- (3) The mover of a question under debate may, when a proposal has been made in terms of subsection (1), speak on such a proposal for not more than five minutes and subsequently the proposal shall be put without further discussion.

50. The Council shall proceed to next business

- (1) Subject to the provisions of subsection 43(1) a member who has not participated in the debate on a motion or proposal during that debate may at the conclusion of a speech move that the Council do now proceed to the next matter.
- (2) Subject to the provisions of subsection (3), a proposal made in terms of subsection (1) shall not be open to discussion.
- (3) The mover of a question under discussion may, when a proposal has been made in terms of subsection (1), speak on such proposal for not more than five minutes, and subsequently the proposal shall be put without any further debate.
- (4) If a proposal made in terms of subsection (1) is carried, the question under discussion shall be dropped.

51. The question shall be referred back for further consideration

- (1) When a recommendation of the Executive Committee is before the Council, a member may move that the question be referred back to the Executive Committee for further consideration.
- (2) The mover of such a proposal shall have no right of reply.
- (3) Such a proposal shall not be put until the provisions of section 18 have been complied with.
- (4) If such a proposal is carried, the debate on the recommendation shall end and the Council shall proceed to the next matter.

52. Suspension of section 8

- (1) Notwithstanding anything to the contrary contained in these Standing Orders, but subject to the provisions for this section, a member may move at an ordinary meeting or an adjournment thereof, that the provisions of section 8 be suspended to enable him/her to propose a motion whereof notice could not be given in terms of section 21 owing to the urgency thereof.
- (2) The proposal and motion referred to in subsection (1) shall be reduced to writing, shall be signed by the proposer and at least one seconder and shall be handed to the chairperson at least ten minutes before the commencement of the meeting whereat it is proposed to move the proposal and motion, unless the chairperson allows a shorter period of time.
- (3) The chairperson shall disallow both if he/she could have disallowed such motion in terms of section 26.
- (4) Immediately before the report of the Executive Committee is submitted in terms of section 15, the chairperson shall make known that a proposal and motion in terms of subsection (1), if any, have been handed to him/her and whether he/she is disallowing or allowing

them, and in the event of them being allowed, whether they shall be proposed before or after the dispatch of the report of the Executive Committee.

- (5) If the chairperson allows the proposal and motion in terms of subsection (4) the member concerned shall, when called upon to do so by the chairperson, read out the motion and after he/she has spoken on only the reason for the urgency of the consideration of that motion for not more than five minutes, which includes the reading of the motion, he/she shall propose that the provision of section 8 be suspended.
- (6) The seconder of the proposal and motion contemplated in subsection (1) shall not speak on them, except to formally second them.
- (7) The proposal to suspend shall be deemed to be carried if the members voting in favour thereof constitute a majority of the whole Council.
- (8) If the proposal to suspend is carried, the motion shall be deemed to be duly put and thereafter the debate thereon shall proceed in accordance with the provisions of these Standing Orders.

53. Interpretation of standing orders

- (1) (a) Any member may request the ruling of the chairperson as to the interpretation of the Standing Orders to be embodied in the minutes, and a register of such rulings shall be kept by the Council Secretary.
(b) The chairperson shall sign the entry of each ruling given by himself/herself.
- (2) (a) A member who has made a request in terms of subsection (1), may during that meeting orally or within 5 days thereof in writing require the Council Secretary to submit the matter to the Executive Committee and in such event the Executive Committee shall consider the ruling and report thereon to the Council.

54. Discussion of matter in committee

- (1) When a member moves that the Council resolve itself in committee to consider a matter on the agenda, including a proposal in terms of subsection 52(1), he/she may speak on such proposal for not more than three minutes, but the seconder shall not speak thereon.
- (2) After a proposal contemplated in subsection (1) has been carried, the chairperson shall after consideration if it is reasonable and necessary to protect the rights of the person/subject under discussion, order the press, the public and every other person whose presence will in his/her opinion not be require during the discussion, to leave the Council chamber, and upon satisfying himself/herself that his/her order has been complied with, he/she shall put the matter concerned again.
- (3) A discussion of a matter in committee shall not suspend any other provisions of these standing orders.
- (4) If after the Council has dispatched the matters dealt with in committee, there still remain other matters on agenda, the chairperson shall allow the press, the public and others leave to re-enter the Council chamber.
- (5) Any decision by the Council to resolve itself in committee must be taken with due consideration of section 31 of the Act which requires a Council to conduct its business in

an open manner and that it may close its sittings or authorize its committees to close their sittings only when it is reasonable and justifiable to do so in an open and democratic society after having regard to the nature of the business being conducted.

55. Quorum of the Council or the Council as committee

The quorum of the Council or the Council as committee shall be a majority of all the members of the Council.

56. Resignation of seat on committee

Any member of a committee who wishes to resign his/her seat on the committee, shall submit his/her resignation to the Municipal Manager in writing and thereafter such resignation may not be withdrawn.

57. Filling of a vacancy on a committee

Every vacancy on a committee, other than the Executive Committee, shall be notified by the Executive Committee to the Council not later than the second meeting after the meeting of the committee at which such vacancy is notified and the Council may fill the vacancy.

58. Filling of a vacancy on a committee during absence of a member

When any member who is not a member of the Executive Committee is granted leave of absence from a meeting of a committee, the Council may appoint another member to act during his/her absence on any committee on which the absent member serves.

59. Dates and times of Executive Committee Meetings

- (1) The Chairperson of the Executive Committee shall fix the dates, times and venues of meetings.
- (2) No meeting of the executive shall be held during a meeting of the Council without the Council's consent

60. Notice of Executive Committee meetings

- (1) The Municipal Manager or the Council Secretary shall issue a notice calling a meeting of the Executive Committee and specifying the business to be considered by that committee.
- (2) The notice shall be delivered to each member of that committee or left at his/her business or residential address at least twenty-four hours before the commencement of any ordinary meeting and should the notice accidentally not be so delivered or left; the validity of the meeting shall not be affected thereby.

- (3) Notice of any special meeting of the Executive Committee convened by the chairperson in terms of the Act, shall be given in writing under the hand of the Municipal Manger or the Town Secretary.
- (4) When the Executive Committee has failed to meet twice in any month in which an ordinary meeting of the Council is held, the Municipal Manager shall report the circumstances to the Council at its next meeting.

61. Attendance registers for Executive Committee meetings

- (1) The Council Secretary shall keep an attendance register in which every member of the Executive Committee attending a meeting of that committee shall sign his/her name.
- (2) Any member who is not an Executive Committee member shall whenever he/she attend a meeting of that committee, enter his/her name in the attendance register and shall write after his/her name the words "no-member".

62. Participation in discussions at Executive Committee meeting

Any person requested or allowed by the Executive Committee to attend a meeting of such committee may, with the permission of the chairperson, speak thereat.

63. No quorum at Executive Committee meeting

If after expiration of thirty minutes after the time at which a meeting of the Executive Committee is due to commence there is no quorum, the meeting shall be held on a day and at an hour determined by the Municipal Manager.

64. Manner of voting at meetings of Executive Committee

The chairperson shall allow the members of the Executive Committee to vote by show of hands and any member of that committee then present and voting may call for a division in which event the provision of subsections 42(5), (6) and (7) shall apply *mutatis mutandis*: Provided that no provision hereof shall affect the right of any member to have his/her vote recorded against the resolution.

65. Approval of minutes of Executive Committee meeting

- (1) At any ordinary meeting of the Executive Committee, after considering applications for leave of absence, the minutes of any previous meeting of the committee not yet confirmed shall be read, approved with or without amendments and signed by the chairperson.
- (2) The minutes mentioned in subsection (1) may be taken as read if they have been open to inspection of the members of the committee not less than an hour prior to the commencement of the meeting: Provided that the minutes shall be read if a member so required unless the committee decides to defer consideration thereof until its next meeting: Provided further that if the minutes have been circulated in a manner as provided in the Act, it shall not be competent for any member to require them to be read unless a majority of the members present so resolves.

66. Minutes may be held over owing to pressure of work

The minutes of a meeting of the Executive Committee may owing to pressure of work or any other appropriate reason be held over for confirmation at any subsequent meeting.

67. Discussion of minutes of Executive Committee meeting

No proposal or discussion shall be allowed upon the minutes, except as to their accuracy.

68. Reports may be supplied to press

The Municipal Manager, may, on application being made to him/her by any registered newspaper, supply the agenda of the Council to a representative of such newspaper at the commencement of a meeting: Provided that the Executive Committee or the Mayor may instruct him/her not to supply any particular agenda or item in an agenda or to withhold it until the conclusion of the relative meeting.

69. Exclusion of members disclosing documents

- (1) A member who publishes or discloses or causes to be published or disclosed any document or record of the Council or of the proceedings of any committee of the Council, or of the proceedings of any committee of the Council, or of the Council in committee, relating to a matter referred to in section 10 of the Code of Conduct for Councillors as annexed to the Act as Schedule 5 shall be guilty of a contravention of this subsection.
- (2) The Council may exclude for such period, but not exceeding 45 days, as it may determine, any member who in its opinion is guilty of a contravention of subsection (1). Provided that the appeal procedures contemplated in section 38 shall *mutatis mutandis* apply to the provisions for this section.
- (3) If a member attends any meeting despite a decision in terms of subsection (2) to exclude such member, the chairperson may call upon an officer to remove such member and to take steps to ensure that such member does not return to the meeting.

70. Return of attendance of meetings

- (1) The Town Secretary shall prepare annually a return of the number of Council meetings attended by each member and of the number of meetings of the Executive Committee contemplated in the act, attended by each member of such committees.
- (2) The Town Secretary shall include the return contemplated in subsection (1) in the agenda of the ordinary meeting to be held in January of each year.

71. Repeal of Standing Orders

The Standing Orders of the former Municipal Councils of Jan kempdorpe, Hartswater and Pampierstad, are hereby repealed

BY-LAW RELATING TO THE PREVENTION AND SUPPRESSION OF NUISANCES

The Municipal Manager of the PHOKWANE Local Municipal Council in terms of subsection 156(2) of the Constitution of the Republic of South Africa Act 1996 (Act 108 of 1996) read with section 13 of the Local Government: Municipal Systems Act (Act 32 of 2000), publishes the By-law as set forth hereafter as By-law made by the Council.

1. Definitions

In this by law, unless the context proves otherwise means-

"Council" the PHOKWANE Local Municipal Council and includes the Mayor, Political Office Bearers, Political Structures, Municipal Manager and any other official who has delegated powers in terms of section 59 of the Local Government: Municipal Systems Act (Act 32 of 2000);

"Noise nuisance" any sound which disturb or impairs or may disturb the convenience or peace of any person;

"Public peace and security" public tranquillity, calmness, safety and freedom from civil disorder;

"Public place" includes any public street or place, any public conveyance, any place of public entertainment, any place of public gathering or any place of which the public has unhindered usage of the right of way and any place that is open to public view;

"Public street" any street, road or highway, thoroughfare, lane, footpath, sidewalk, alley, passage, square, bridge or any other place of a like nature or any portion thereof, and includes any appurtenance thereto;

"animal" also includes birds and poultry.

2. Disturbance of the peace

(a) No person shall make, produce or cause a disturbance in noise, or allow it to be made, produced or caused by any person, animal, machine, device or apparatus or any combination thereof whether in a public or on private property.

(b) No person shall-

(i) operate or play, or allow to be operated or played, a radio, television set, drums, music instrument, sound amplifier, loudspeaker system or similar device producing, reproducing or amplifying sound so as to cause a noise nuisance;

(ii) offer any article for sale by means of any megaphone, loudspeakers or other similar device, or by shouting, ringing a bell or making other sound or by allowing shouting, the ringing of a bell or the making of other sound in a manner which may cause a noise nuisance.

(iii) except in an emergency, emit a sound, or allow a sound to be emitted by means of a bell carillon, siren, hooter, static alarm, whistle, loudspeaker or similar device if it may cause a noise nuisance;

(iv) drive a vehicle on a public street in such a manner that it may cause a noise nuisance.

(c) No person shall at any time of the day or night, disturb the public peace and security in any public place in the jurisdiction of the PHOKWANE Local Municipal Council by wrangling, quarrelling, fighting or challenging to fight, or by striking with or brandishing or using in a threatening manner, any stick or other weapon, or by any riotous, violent or unseemly behavior, which constitutes or may constitute a disturbance of the public peace and security.

- (d) No person shall in any public place in the jurisdiction of the PHOKWANE Local Municipal Council use any abusive or threatening language or commit any act which is liable or calculated to cause a breach of the peace.
- (e) If a noise emanating from a building, premises, vehicle, recreational vehicle or street is a disturbing noise or noise nuisance the person causing such noise or who is responsible therefore, or the owner or occupant of such building, premises, vehicle or recreational vehicle from which such noise emanates or may emanate, or all such persons, is deemed responsible for the disturbing noise or noise nuisance and punishable in terms of this by-law.

3. Animals

- (a) No person shall allow any animal owned or controlled by him or her to cause a noise nuisance or disturb the neighborhood.
- (b) No person shall be permitting any animal, of which he/she is the owner or in charge of, to rush pedestrians, motor cars or cyclists, or permit such animal to interfere with the comfort or safety of the public.
- (c) No person shall keep on any premises in the jurisdiction of PHOKWANE Local Municipal Council any wild, ferocious or dangerous animal unless such animal is securely tied up or confined.

4. Penalty

Any person contravening any provision of this by-law shall be guilty of an offence and liable on conviction to a penalty not exceeding R 3000.00 and in the event of a second further offence, to a further penalty not exceeding R 10 000.00.

5. Repeal of by-laws

The by-laws of the former Municipal Councils of Jan kempdor, Hartswater and Pampierstad relating to matters contained in this by-law, are hereby repealed.

REFUSE (SOLID WASTE) AND SANITARY BY-LAW

The Municipal Manager of the PHOKWANE Local Municipal Council in terms of subsection 156(2) of the Constitution of the Republic of South Africa Act 1996, (Act 108 of 1996) read with section 13 of the Local Government: Municipal Systems Act (Act 32 of 2000), publishes the by-law as set forth hereafter as by-law made by the Council.

CHAPTER 1

Definitions

1. For the purposes of this by-law, unless the context otherwise indicates means–

“bin” a standard type of refuse bin with a capacity of 01m (cubic) or 85 litre as approved by the Council and which can be supplied by the Council. The bin may be constructed of galvanised iron, rubber or polythene;

“Bin liner” a plastic bag approved by the Council which is placed inside a bin with a maximum capacity of 0,1m (cubic). These bags must be of a dark colour 950mm x 750mm in size of low-density minimum 40 micrometre or 20 macro meter high density;

“Builder’s refuse” refuse generated by demolition, excavation or building activities on premises;

“Bulky garden refuse” such as tree-stumps, branches of trees, hedge-stumps and branches of hedges and any other grade refuse of quantities more than 2 m(cubic);

“Bulky refuse” refuse which emanates from any premises, excluding industrial refuse, and which cannot by virtue of its mass, shape, size or quantity be conveniently accumulated or removed in a refuse bin with a bin liner;

“Business refuse” refuse generated by the use of premises other than a private dwelling-house solely as a residence, but shall not include builders refuse, bulky refuse, domestic refuse or industrial refuse;

“Contaminated animal carcasses, body parts and bedding” contaminated carcasses, body parts and bedding of animals that were intentionally exposed to pathogens in research, in the production of biologicals, or the *in vivo* testing of pharmaceuticals;

“Contaminated sharps” discarded sharps (e.g., hypodermic needles, syringes, Pasteur pipettes, broken glass, scalpel blades) which have come into contact with infectious agents during use in patient care or in medical, research or industrial laboratories.

“Council” the Phokwane Local Municipal Council and includes the Mayor, Political Office Bearers, Political Structures, Municipal Manager and any other official who has delegated powers in terms of section 59 of the Local Government: Municipal Systems Act (Act 32 of 2000);

“” cultures and stocks of infectious agents and associated biologicals” specimen cultures from medical and pathological laboratories, cultures and stocks of infectious agents from research and industrial laboratories, wastes from the production of biologicals and live or attenuated vaccines and culture dishes and devises used to transfer, inoculate and mix cultures.

“Domestic refuse” refuse normally generated by the use as a residence of a private dwelling-house, including flats, hospitals, schools, hostels, compounds, benevolent societies, churches and halls situated on private property and which can be easily removed without damaging the bin liner;

“Dry industrial refuse” dry refuse generated as a result of manufacturing, maintenance, fabricating and dismantling activities and the activities of railway marshalling yards, but shall not include builders refuse, special industrial refuse or domestic refuse;

“Garden refuse” refuse which is generated as a result of normal gardening activities such as grass cuttings, leaves, plants and flowers;

“Human blood and blood products” waste such as serum, plasma and other blood components;

“Infectious waste” waste capable of producing an infectious disease;

“Isolation’s waste” waste generated by hospitalised patients isolated to protect others from communicable diseases;

“miscellaneous contaminated waste” waste from surgery and autopsy (e.g. soiled dressing, sponges, drapes, lavage tubes, drainage sets, under pads and gloves), contaminated laboratory waste (e.g. specimen containers, slides and cover slips, disposal gloves, laboratory coats and aprons), dialysis unit waste (e.g. tubing filters, disposable sheets, towels, gloves, aprons and laboratory coats), and contaminated equipment (e.g. equipment used in patient care, medical and industrial laboratories, research and in the production and testing of certain pharmaceuticals).

"Occupier" any person who occupies any premises or part thereof, without regard to the title under which he or she occupies.

"Owner" -

- (m) the person in whom from time to time is vested the legal title to the premises;
- (n) in a case where the person in whom the legal title is vested is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration of and control of such premises is vested as curator, trustee, executor, administrator, judicial, manager, liquidator or other legal representative;
- (o) in any case where the Council is unable to determine the identity of such person, a person who is entitled to the benefit of such premises or a building thereon;
- (p) in the case of premises for which a lease of 30 years or more has been entered into, the lessee thereof;
- (q) in relation to-
 - (x) a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act 1986, (Act 95 of 1986), and without restricting the above the developer or the body corporate in respect of the common property, or
 - (xi) a section as defined in such Act, the person in whose name such section is registered under a sectional title deed and includes the lawfully appointed agent of such a person;

- (r) any legal person including but not limited to:
 - (ix) a company registered in terms of the Companies Act, 1973 (Act 61 of 1973), trust *inter vivo*, trust *mortis causa*, a Closed Corporation registered in terms of the Closed Corporation Act, 1984 (Act 69 of 1984), a Voluntary Association.
 - (x) Any Department of State.
 - (xi) Any Council or Board established in terms of any legislation applicable to the Republic of South Africa.
 - (xii) Any Embassy or other foreign entity.

“Pathological waste” waste consisting of tissues, organs, body parts and body fluids that are removed during surgery and autopsy.

"Public place" any square, park, recreation ground, sport ground, sanitary lane or open space which has-

- (e) in connection with any subdivision or layout of land into erven, lots of plots, been provided, reserved or set apart for use by the public or the owner or occupiers of such erven, lots of plots, whether or not it is shown on a general plan, plan of subdivision or diagram;
- (f) at any time been dedicated to the public;
- (g) been used without interruption by the public for a period at least 30 years expiring after 31 December 1959; or
- (d) at any time been declared or rendered such by a Council or other competent authority;

“Special industrial refuse” refuse, consisting of a liquid or sludge, resulting from a process or the pre-treatment for disposal purposes of any industrial liquid waste, which in terms of the Council’s Drainage and plumbing by-law may not be discharged into a drain or sewer;

“tariff” the tariff of charges as determined from time to time by the Council.

Removal of refuse

2.
 - (1) The Council shall provide a service for the collection and removal of business and house refuse from premises at the tariff charge.
 - (2) The occupier of the premises on which business or domestic refuse is generated, shall avail himself of the Council’s service for the collection and removal of such refuse, except where special exemption is granted.
 - (3) The owner of the premises in which the business or domestic refuse is generated, shall be liable to the Council for all charges in respect of the collection and removal of refuse from such premises.

Notice to Council

3. The occupier of the premises, or in the case of premises being occupied by more than one person, the owner of such premises, on which business refuse or domestic refuse is generated, shall within seven days after the commencement of the generation of such refuse notify the Council –

- (a) that the premises are being occupied;
- (b) whether business refuse or domestic refuse is being generated on the premises.

Provision of refuse bins

- 4. (1) The Council shall determine the type and number of containers required on a premises.
- (2) If a container is supplied by the Council, such container shall be supplied free of charge, or at ruling prices, or at a hiring tariff, as the Council may determine;
- (3) If required by the Council, the owner of a premises shall be responsible for the supply of the pre-determined number and type of containers.
- (4) The Council may deliver container units to premises if, having regard to the quantity of business refuse generated on the premises concerned, the suitability of such refuse for storage in bins, and the accessibility of the space provided by the owner of the premise in terms of section 5 to the Council's refuse collection vehicles, if it considers container units more appropriate for the storage of the refuse than bins : Provided that container units shall not be delivered to the premises unless the space provided by the owner of the premises in terms of section 5 is accessible tot the Council's refuse collection vehicles for container units.

Place of bins

- 5. (1) The owner of the premises shall provide adequate space on the premises for the storage of the bins delivered by the Council in terms of section 4 or for the equipment and containers mentioned in subsection 7(1).
- (2) The space provided in terms of sub section (1) shall –
 - (a) be in such a position on the premises as will allow the storage of bins without their being visible from a street or public place;
 - (b) where domestic refuse is generated on the premises –
 - (i) be in such a position as will allow the collection and removal of refuse by the Council's employees without hindrance;
 - (ii) be not more than 20m from the entrance to the premises, used by the Council's employees;
 - (c) if required by the Council, be so located as to permit convenient access to and egress from such space for the Council's refuse collection vehicles;
 - (d) be sufficient to house any receptacle used in the sorting and storage of the refuse contemplated in subsections 6(1)(a)(i) and 7(9), as well as any such refuse not being stored in a receptacle: Provided that this requirement shall not apply in the case of buildings erected, or the building plans whereof have been approved, prior to the coming into operation of this by-law.
- (3) The occupier of the premises, or in the case of premises, being occupied by more than one person, the owner of such premises, shall place the bins delivered in terms of section 4 in the space provided in terms of subsection (1) and shall at all times keep them there.

- (4) Notwithstanding anything to the contrary in subsection (3) contained –
- (a) in the case of buildings erected, or buildings the building plans whereof have been approved, prior to the coming into operation of this by-law; and
 - (b) in the event of the Council, in its opinion being unable to collect and remove business refuse from the space provided in terms of subsection (1);

the Council may, having regard to the avoidance of nuisance and the convenience of collection of refuse, indicate a position within or outside the premises where the bins shall be placed for the collection and removal of such refuse and such bins shall then be placed in such position at such times and for such periods as the Council may prescribe.

Use and care of containers and bin liners

- 6.(1) Every occupier of premises, or in the case of premises being occupied by more than one person, the owner of such premises shall ensure that –
- (a) all the domestic or business refuse generated on the premises is placed and kept in such bin liners for removal by the Council: Provided that the provisions of this subsection shall not prevent any occupier, or owner, as the case may be –
 - (i) who has obtained the Council's prior written consent, from selling or otherwise disposing of any swill, corrugated cardboard, paper, glass or other material being an element of business refuse, for recycling in a manufacturing process or, in the case of swill, for consumption;
 - (ii) from utilising such domestic refuse as may be suitable for making compost.
 - (b) no hot ash, unwrapped glass or other business or domestic refuse which may cause damage to bin liners or which may cause injury to the Council's employees while carrying out their duties in terms of this by-law, is placed in bin liners before he/she has taken such steps as may be necessary to avoid such damage or injury;
 - (c) no material, including any liquid which, by reason of its mass or other characteristics, is likely to render such bin liners unreasonably difficult for the Council's employees to handle or carry, is placed in such bin liners;
 - (d) every container on the premises is covered, save when refuse is being deposited therein or discharged therefrom, and that every container is kept in a clean and hygienic condition;
 - (e) no person deposits refuse in any other place than in the containers provided for that purpose;
- (2) No container may be used for any purpose other than the storage of business, domestic or garden refuse and no fire shall be lit in such container.
- (3) In the event of a container having been delivered to premises in terms of subsection 4(4), the occupier of such premises shall, 24 hours before the container is likely to be filled to capacity, inform the Council thereof.

- (4) The owner of premises to which bins or container units have been delivered in terms of section 4 or 11, shall be liable to the Council for the loss thereof and for all damage caused thereto except for such loss or damage as may be caused by the employees of the Council.
- (5) Plastic bin liners with domestic or garden refuse, or both, shall be properly closed and be placed outside the property next to the fence and near the entrance or access road before 07h00 on the day determined by the Council for removal of refuse;

CHAPTER 2

Compaction of refuse

- 7.(1) Should the quantity of domestic or business refuse generated on premises be such that, in the opinion of the Council, the major portion of such refuse if compactable, or should the owner or occupier of premises wish to compact such refuse, such owner or occupier, as the case may be, shall increase the density of that portion of such refuse as is compactable by means of approved equipment designed to shred or compact refuse and shall put the refuse so treated into an approved plastic, paper or other disposable container or into a compaction unit container, and the provisions of section 4 shall not apply to such compactable refuse, but shall remain applicable to all other refuse.
- (2) The capacity of the plastic, paper or another disposable container referred to in subsection (1) shall not exceed 0,1m(cubic).
- (3) After the refuse, treated as contemplated in subsection (1) has been put into a plastic, paper or other disposable container, such container shall be placed in a container or container unit.
- (4) Insofar as the provisions of subsection (1) make the compaction of domestic or business refuse compulsory, such provisions shall not apply until a period of 6 months has elapsed from the date of the serving of a notice to this effect by the Council.
- (5) "Approved" for the purpose of subsection (1) shall mean approved by the Council, regard being had to the suitability of the equipment or container for the purpose for which it is to be used, as well as the reasonable requirements of the particular case from a public health, storage and refuse collection and removal point of view.
- (6) The containers mentioned in subsection (1) shall be supplied by the owner or the occupier, as the case may be.
- (7) If the container referred to in subsection (1) is made of steel, such container shall, after the collection thereof and after it has been emptied by the Council, be returned to the premises.
- (8) The Council shall remove and empty the containers referred to in subsection (1) at such intervals as the Council may deem necessary in the circumstances.
- (9) The provisions of this section shall not prevent any owner or occupier of premises, as the case may be, after having obtained the Council's prior written consent, from selling or otherwise disposing of any swill, corrugated cardboard,

paper, glass or other material being an element of business refuse, for recycling in a manufacturing process or, in the case of swill, for consumption.

CHAPTER 3

GARDEN AND BULKY GARDEN REFUSE AND OTHER BULKY REFUSE

Removal and disposal of garden and bulky refuse

8. (1) The occupier or, in the case of premises occupied by more than one person, the owner of premises on which garden or bulky garden or other bulky refuse is generated, shall ensure that such refuse be disposed of in terms of this Chapter within a reasonable time after the generation thereof.
- (2) Any person may remove and dispose of garden or bulky garden refuse or other bulky refuse.
- (3) Garden or bulky garden or other bulky refuse removed from the premises on which it was generated, shall be deposited on a site designated by the Council as a disposal site for such refuse.

The Council's special service

9. At the request of the owner of any occupier of any premises, the Council shall remove bulky garden and other refuse from premises, provided that the Council is able to do so with its refuse removal equipment. All such refuse shall be placed within 3 m of the boundary loading point, but not on the sidewalk.

Builder's refuse

Responsibility for builder's refuse

10. (1) The owner of premises on which builders refuse is generated and the person engaged in the activity which causes such refuse to be generated shall ensure that –
- (a) such refuse be disposed of on the terms of section 12 within a reasonable time after the generation thereof;
- (b) until such time as builders refuse is disposed of in terms of section 12 and subject to the provisions of subsection 12(2) such refuse together with the containers used for the storing or removal thereof, be kept on the premises on which it was generated.
- (2) Any person may operate a builders refuse removal service. Should the Council provide such a service it shall be done at the tariff charge.

Containers

11. (1) If containers or other receptacles used for the removal of builder's refuse, bulky refuse of other waste material from premises can in the opinion of the Council not to be kept on the premises, such containers or other receptacles may with the written consent of the Council be placed in the roadway for the period of such consent.
- (2) Any consent given in terms of subsection (1) shall be subject to such conditions as the Council may deem necessary: Provided that in giving or refusing its consent or in laying

down conditions the Council shall have regard to the convenience and safety or the public.

- (3) The written consent of the Council referred to in subsection (1) shall only be given on payment of the tariff charge for the period of such consent.
- (4) Every container or other receptacle used for the removal of builder's refuse, shall –
 - (a) have clearly marked on it the name and address or telephone number of the person in control of such container or other receptacle;
 - (b) be fitted with reflecting chevrons or reflectors which shall completely outline the front and the back thereof; and
 - (c) be covered at all times other than when actually receiving or being emptied of such refuse so that no displacement of its consent or that nuisance can occur.

12. Disposal of builder's refuse

- (1) Subject to the provisions of subsection (2) all builders refuse shall be deposited at the Council's refuse disposal sites after the person depositing the refuse have paid the tariff charge therefor.
- (2) For the purpose of reclamation of land, builders refuse may with the written consent of the Council be deposited at a place other than the Council's refuse disposal sites.
- (3) Any consent given in terms of subsection (2) shall be subject to such conditions as the Council may deem necessary: Provided that in given or refusing its consent or in laying down conditions the Council shall have regard to –
 - (a) the safety of the public;
 - (b) the environment of the proposed disposal site;
 - (c) the suitability of the area including the drainage thereof;
 - (d) the expected manner and times of depositing of refuse at the site;
 - (e) the levelling of the site;
 - (f) the control of dust
 - (g) other relevant factors.

CHAPTER 4

SPECIAL INDUSTRIAL REFUSE

Notification of generation of special industrial refuse

13. (1) The person engaged in the activity which causes special industrial refuse to be generated shall inform the Council of the composition thereof, the quantity generated, how it is stored and how and when it will be removed.
- (2) If so, required by the Council, the notification referred to in subsection (1) shall be substantiated by an analysis certified by a qualified industrial chemist.
- (3) Subject to the provisions of this by-law the Council or any person duly authorised by the Council may enter premises at any reasonable time to ascertain whether special industrial refuse is generated on such premises and may take samples and test any refuse found on the premises to ascertain its composition.
- (4) Having notified the Council in terms of subsection (1), the person mentioned in subsection (1) shall notify the Council of any changes in the composition and quantity of the special industrial refuse occurring thereafter.

Storing of special industrial refuse.

14. (1) The person referred to in subsection 13(1) shall ensure that the special industrial refuse generated on the premises is kept and stored thereon in terms of subsection (2) until it is removed from the premises in terms of section 15.
- (2) Special industrial refuse stored on premises shall be stored in such manner that it cannot become a nuisance or pollute the environment.
- (3) If special industrial refuse is not stored in terms of subsection (2) on the premises on which it is generated, the Council may order the owner of the premises and the person and the referred to in subsection 13(1) to remove such refuse within a reasonable time and, if thereafter such refuse is not removed within such time, the Council may by itself or through a contractor remove it for the owner's expense.

Removal of special industrial refuse

15. (1) No person shall remove special industrial refuse from the premises on which it was generated without, or otherwise than in terms of, the written consent of the Council.
- (2) The Council may give its consent in terms of subsection (1), subject to such conditions as it may deem fit. In laying down conditions, the Council shall have regard to –
 - (a) the composition of the special industrial refuse;
 - (b) the suitability of the vehicle and container to be used;
 - (c) the place where the refuse shall be dumped; and
 - (d) proof to the Council of such dumping.
- (3) The Council shall not give its consent in terms of subsection (1), unless it is satisfied that the person applying for such consent is competent and has the equipment to remove the special industrial refuse and to comply with the conditions laid down by the Council.

- (4) The person referred to in subsection 13(1) shall inform the Council, at such intervals as the Council may stipulate, having regard to the information to be given to the Council in terms of subsection 13(1), of the removal of special industrial refuse, the identity of the remover, the date of such removal, the quantity and the composition of the special industrial refuse removed.
- (5) Should any person be caught in the act of contravening the provisions of this section, such person shall dispose of the refuse removed by him/her as directed by the Council.

CHAPTER 5

DISPOSAL SITES

Conduct at disposal sites

16. (1) Any person who, for the purpose of disposing of refuse enters a refuse disposal site controlled by the Council shall –
 - (a) enter the disposal site only at an authorised access point;
 - (b) give the Council all the particulars required in regard to the composition of the refuse; and
 - (c) follow all instruction given to him/her in regard to access to the actual disposal point, the place where and the manner in which the refuse should be deposited.
- (2) No person shall bring intoxicating liquor onto a disposal site controlled by the Council.
- (3) No person shall enter a disposal site controlled by the Council for any purpose other than the disposal of refuse in terms of this by-law and then only at such times as the Council may from time to time determine.

Ownership of refuse

17. (1) All refuse removed by the Council and all refuse disposal sites controlled by the Council shall be the property of the Council and no person who is not authorised by the Council to do so, remove or interfere therewith.
- (2) Only refuse which is generated on premises within the Council's area of jurisdiction may be disposed of on the Council's refuse disposal sites.

CHAPTER 6 LITTERING, DUMPING AND ANCILLARY MATTERS

Littering

- 18 (1) No person shall –
 - (a) throw, let fall, deposit or spill any refuse into or onto any public place, vacant stand, vacant erf, stream or watercourse;

- (b) sweep any refuse into a gutter on a public place;
- (c) allow any persons under his/her control to do any of the acts referred to in paragraph (a) and (b).

- (2) For the purpose of this section a person shall be deemed to have allowed the acts referred to in subsection (1) of persons under his/her control, unless the contrary is proved.

Dumping

- 19 (1) Subject to any provisions to the contrary in this by-law contained, no person shall abandon anything or allow anything under his/her control to be abandoned at a place to which such things have been brought with the intention of abandoning it there.
- (2) Once it has been proved that such person left a thing or allowed a thing to be left at a place of which he/she is not the owner or occupier, he/she shall be deemed to have contravened the provisions of subsection (1), unless and until he/she proves the contrary.
 - (3) Any person who contravenes the provisions of subsection (1), shall be guilty of an offence and liable, on conviction to a fine not exceeding R 3000.00 or to imprisonment for a period not exceeding 18 months or to both such fine and such imprisonment.

Abandoned things

- 20 Anything, other than a vehicle deemed to have been abandoned in terms of section 131 of the Road Traffic Act 1989 which is, in the light of such factors as the place where it is found, the period it has been lying at such place and the nature and condition of such thing, reasonably regarded by the Council as having been abandoned, may be removed and disposed of by the Council as it may deem fit.

Liability of responsible person

- 21 (1) Where anything has been removed and disposed of by the Council in terms of section 20, the person responsible shall be liable to pay to the Council the tariff charge in respect of such removal and disposal.
- (2) For the purposes of subsection (1) the person responsible shall be –
 - (a) the owner of the thing, and shall include any person who is entitled to be in possession of the thing by virtue of a hire purchase agreement or any agreement of lease at the time when it was abandoned or put in the place from where it was removed, unless he/she can prove that he/she was not concerned in and did not know if it's being abandoned or put in such place; or
 - (b) any person by whom it was put in the place aforesaid; or
 - (c) any person who knowingly permitted the putting of the thing in the place aforesaid.

CHAPTER 7

GENERAL PROVISIONS

Access to premises

- 22 (1) Where the Council provides a refuse collection service, the occupier of premises shall grant the Council access to the premises for the purpose of collecting and removing refuse and shall ensure that nothing obstructs, frustrates or hinders the Council in the carrying out of its service.
- (2) Where in the opinion of the Council the collection or removal of refuse from any premises is likely to result in damage to the premises or the Council's property, or injury to the refuse collectors or any other person, it may, as a condition of premises, require the owner or occupier to indemnify it in writing in respect of any such damage or injury or any claims arising out of either.

Accumulation of refuse

23. When any category of refuse defined in Chapter 1 of this by-law accumulates on premises so as to constitute of so as to render it likely that a nuisance will be created thereby, the Council may make a special removal of such refuse and the owner shall be liable in respect of such special removal to pay the tariff charge therefor.

CHAPTER 8

INFECTIOUS WASTE

Storage of infectious waste

24.

- (1) All infectious waste must be placed at the point of generation into a container approved by the Council.
- (2) The container used for the storage of sharp objects must be constructed of such a material that the object cannot pierce the container. The container must be fitted with a safe and hygienic lid, which must be sealed after use.
- (3) The container used for the disposal of other infectious waste must be constructed of a suitable material, preventing the leakage of the contents. The container must be fitted with a safe and hygienic lid, which must be sealed after use.
- (4) All containers must be adequately labelled and marked with the universal bio-hazardous waste symbol.

Transport of infectious waste

25. (1) All containers of infectious waste must be sealed at the point of generation.
- (2) The vehicle transporting infectious waste must be clearly marked indicating infectious waste in transit.
- (3) The vehicle used for the transport must be so designed that the drivers cab is separated from the load area. The load area must be enclosed with suitable sealable, lockable doors.

- (4) All loads being carried must be invoiced, indicating the premises from which the infectious waste was generated and the premises where the waste will be disposed of.

Removal and disposing of infectious waste

26. (1) The Council may remove infectious waste from the premises of generation and dispose thereof in a safe, sanitary and supervised manner, and the owner of such premises shall be liable to the Council for payment of the tariff charges in respect of such services.
- (2) Approved private contractors may remove and dispose of infectious waste after written consent has been granted to such contractor by the Council.
- (3) Infectious waste may be disposed of in an approved high temperature pollution free incinerator on the premises of origin after written consent has been granted by the Council.
- (4) The burning temperatures in the primary and secondary chambers of the incinerator to exceed 800 degrees C and 1 000 degrees C respectively and also have rapid cooling to prevent carcinogenic chemicals from entering the atmosphere.

CHAPTER 9

TARIFF CHARGES, PENALTIES AND REPEALING OF BY-LAW

Charges

27. (1) Save where otherwise provided in this by-law, the person to whom any service mentioned in this by-law has been rendered by the Council shall be liable to the Council for the tariff charge in respect thereof.
- (2) Services rendered by the Council in respect of which a monthly tariff charge is prescribed, shall only be discontinued by the Council after receipt of a written notification from the owner or occupier of the premises to which the services are rendered that the generation of domestic or business refuse on the premises has ceased, or when it has become obvious to the Council that the generation of such refuse on the premises has ceased.
- (3) Monthly tariff charges shall be payable until receipt by the Council of the notice mentioned in subsection (2), or when it has become obvious to the Council that the generation of such refuse on the premises has ceased.
- (4) Any person who fails to pay the tariff charge in respect of services rendered by the Council shall be guilty of an offence.

Offences and penalties

28. (1) Any person who contravenes or fails to comply with any provision of this by-law, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding R 10 000.00 or to imprisonment for a period not exceeding 24 months or to both such fine and imprisonment.

- (2) In the event of a continuing offence any person who contravenes or fails to comply with any provisions of this by-law, shall be deemed to be guilty of a separate offence for every 24 hours or part of such period during which the offence continues, and shall be liable as set out in subsection (1) in respect of each such separate offence.

Repeal of by-laws

29. (1) The by-laws of the former Municipal Councils of Jan kempdorp, Hartswater and Pampierstad in regard to matters contained in this by-law, are hereby repealed.

BY-LAW REGARDING PUBLIC AMENITIES.

The Municipal Manager of the PHOKWANE Local Municipal Council in terms of subsection 156(2) of the Constitution of the Republic of South Africa Act 1996, (Act 108 of 1996) read with section 13 of the Local Government: Municipal Systems Act (Act 32 of 2000), publishes the by-law as set forth hereafter as by-law made by the Council.

1. Definitions

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

"Council" the PHOKWANE Local Municipal Council and includes the Mayor, Political Office Bearers, Political Structures, Municipal Manager and any other official who has delegated powers in terms of section 59 of the Local Government: Municipal Systems Act (Act 32 of 2000);

"notice" a clear and legible official notice drawn up by a Council in both official languages and displayed by order of the Council at every entrance to or at a conspicuous place at or on a public amenity and to which the Council shall make known provisions and directions adopted by it in terms of a by-law;

"Public amenity"

- (a) any land, square, camping, site, swimming-bath, public resort, recreation site, nature reserve, zoological, botanical or other garden, park or hiking trail, including any portion thereof and any facility or apparatus therein or thereon, but excluding any public road or street;
- (b) any building, structure, hall room or office including any part thereof and any facility or apparatus therein, which is the property of, or is possessed, controlled or leased by a Council and to which the general public has access, whether on payment of admission fees or not;
- (c) also, any public amenity contemplated in paragraphs (a) and (b), if it is lawfully controlled and managed in terms of an agreement by a person other than the Council;

2. Maximum number of visitors

- (1) A Council may determine the maximum number of visitors who may be present at a specific time in or at a public amenity: Provided that different numbers may so be determined for different public amenities.
- (2) The number contemplated in subsection (1) are made known by the Council by means of a notice

3. Admission to and residence in a public amenity

- (1) A public amenity is, subject to the provisions of these by-law, open to the public on the times determined by the Council concerned: Provided that different times may be determined in respect of different public amenities.
- (2) No visitor shall enter or leave a public amenity at a place other than that indicated for that purpose.
- (3) The times and places contemplated in subsections (1) and (2), shall be made known by the Council concerned by means of a notice.

4. Entrance fees

- (1) A visitor to a public amenity shall pay the entrance fees determined from time to time by the Council, and such entrance fees shall be made known by means of a notice.
- (2) Different entrance fees may so be determined in respect of visitors of different ages.

5. Nuisance

No person shall perform or permit any of the following acts to be performed in or at a public amenity-

- (a) the use of language or the performance of any other act with the purposed of disturbing the good order;
- (b) the firing of firearms, airguns, air pistols, fireworks or the use of sling-shots or catapults;
- (c) the burning of rubble or refuse;
- (d) the causing of unpleasant or offensive smells;
- (e) the production of smoke nuisance; or
- (f) the causing of disturbances by fighting, shouting, arguing, singing or the playing of musical instruments, or similar equipment.

6. Health matters

No person shall in or at a public amenity-

- (a) dump, drop or place any refuse, rubble, material or any object or thing or permit it to be done, except in a container provided for that purpose in or at the amenity;
- (b) pollute or contaminate in any way the water in any bath, swimming-bath, dam, spruit, river or water-course;
- (c) enter any bath or swimming-bath while suffering from an infectious or contagious disease or having an open wound on his/her body;
- (d) perform any act that may detrimentally affect the health of any other visitor to a public amenity.

7. Structures

No person shall, without the written consent of the Council having first been obtained, erect or establish in or on a public amenity any structure, shelter or anything else, except a caravan or tent erected for camping purposes on a site specifically set aside therefor by notice: Provided that application for such consent shall be made to the Council on a form provided for that purpose, at least 21 days before such erection.

8. Liquor and food

- (1) No person shall, contrary to a provision of a notice, bring into a public amenity any alcoholic or any other liquor or any food of whatever nature.
- (2) Subject to the provisions of subsection (1) no person shall on, in or at a public amenity, contrary to a provision of a notice, cook or prepare food of any kind whatsoever, except at places set aside for such purposes by notice: Provided that the preparation and cooking of food in or at a public amenity shall be done in a clean and sanitary manner so as not to give rise to excessive smoke or other nuisances or entail any danger to health: Provided further that no live animals, poultry or fish may be killed or skinned on, in or at a public amenity.

9. Animals

- (1) No person shall bring any live animal, bird, fish or poultry into a public amenity except in accordance with the directions of the Council: Provided that different directions may so be determined in respect of different public amenities and different types of animals, birds, fish and poultry.
- (2) The directions contemplated in subsection (1), shall be made known by means of a notice.

10. Loitering

No person leading the life of a loiterer or who lacks any determinable and legal refuge or who leads a lazy, debauched or disorderly existence or who habitually slops in a public street, public place or on a private place or who habitually begs for money or goods or persuades others to beg for money and goods on his behalf, may loiter or linger about in a public amenity.

11. Gatherings and processions

- (1) No person shall without the consent of the Council, or contrary to any condition which the Council may impose when granting such consent-
 - (a) arrange, present or attend any public entertainment;
 - (b) collect money or any other goods for charity or any other purpose from the general public;
 - (c) display or distribute any pamphlet, placard, painting, book, handbill or any other printed, written or painted work;
 - (d) arrange, hold, address or attend any meeting;
 - (e) arrange, hold or attend a public gathering or procession, exhibition or performance;
 - (f) conduct any trade, occupation or business;
 - (g) display, sell or rent out or present for sale or rent any wares or articles;
 - (h) hold or attend an auction;
 - (i) tell fortunes for compensation; in or at a public amenity.
- (2) For the purposes of this by-law "public gathering or procession" shall mean a procession or gathering of 12 or more persons.
- (3) Consent contemplated in subsection (1), shall be refused only if the Council is of opinion that-

- (a) it would give rise to; -
 - (i) public rioting;
 - (ii) the disturbance of public peace;
 - (iii) the committing of an offence;
 - (b) it would be detrimental to the public or the users of or visitors to the public amenity; or
 - (c) it would be detrimental to the public amenity.
- (4) Any person who requires the Council's written consent for any action contemplated in subsection (1), shall apply in writing to the Council at least 21 days before such action on the form provided for this purpose.

12. Safety and order

- (1) No person shall, subject to subsection (2), in or at a public amenity-
- (a) damage or disfigure anything within such amenity;
 - (b) use or try to use anything within such amenity for any purpose other than that for which it is designated or determined by notice;
 - (c) light a fire or barbecue meat, except at a place indicated for that purpose by notice;
 - (d) throw away any burning or smoldering object;
 - (e) throw or roll down any rock, stone or object from any mountain, koppie, slope or cliff;
 - (f) pull out, pick or damage any tree, plant, shrub, vegetation or flower;
 - (g) behave himself/herself in an improper, indecent, unruly, violent or unbecoming manner;
 - (h) cause a disturbance;
 - (i) wash, polish or repair a vehicle: Provided that the foregoing provision of this paragraph shall not be applicable to the emergency repair of a vehicle;
 - (j) walk, stand, sit or lie in a flower bed;
 - (k) kill, hurt, follow, disturb, ill treat or catch any animal, bird or fish or displace, disturb, destroy or remove any bird nests or eggs;
 - (l) walk, stand sit or lie on grass contrary to the provisions of a notice;
 - (m) lie on a bench or seating-place or use it in such a manner that other users or potential users find it impossible to make use thereof;
 - (n) play or sit on play park equipment, except if the person concerned is a child under the age of 13 years; or
 - (o) swim, walk or play, contrary to the provisions of a notice, in a fish-pond, fountain, stream or pond.
- (2) A Council may by way of notice and subject to such conditions as the Council deems necessary and mentioned in the notice authorize any of the actions contemplated in subsection (1).

13. Water

No person may misuse, pollute or contaminate any water source or water supply or waste water in or at any public amenity.

14. Laundry and crockery

No person may in or at a public amenity wash any crockery or laundry or hang out clothes, except at places indicated by notice for those purposes.

15. Vehicles

- (1) No person may bring into a public amenity any truck, bus, motorcar, motor cycle, motor tricycle, bicycle or any other vehicle, craft or aero plane, whether driven by mechanical, animal, natural or human power, except in accordance with the directions of the Council concerned: Provided that different directions may be determined for different public amenities and for different such vehicles, craft or aero planes.
- (2) The Council may determine the speed limit applicable in a public amenity: Provided that different speed limits may be determined for different public amenities and for different such vehicles, craft and aero planes.
- (3) The directions contemplated in subsection (1) and the speed limit contemplated in subsection (2) shall be made known by the Council by way of notice.

16. Games

No game of any nature whatsoever shall be played or conducted in or on a public amenity by any person or persons except at places set aside for that purpose by notice and in accordance with the directions of the Council and which is made known by way of notice.

17. Improper or indecent behavior

No person may in or at a public amenity-

- (a) perform an indecent act or conduct himself/herself improperly by exposure of his person or otherwise, or make improper gestures or incite or urge someone to perform a disorderly or indecent act;
- (b) use foul, lewd dirty or indecent language;
- (c) write paint, draw or in any way make a filthy or immoral figure, writing, drawing or representation;
- (d) defecate, urinate or undress, except in such building or on premises intended or indicated by notice for such purposes or enter or use a toilet facility intended or indicated as such by notice for members of the opposite sex.

18. Clothing

Visitors to or a user of a public amenity at all times shall be clothed decently in public.

19. Powers of a person in control

A person appointed by a Council to control a public amenity may-

- (a) at any time enter upon any place, land, premises or building and conduct an investigation thereat in order to determine whether the provisions of these by-law are complied with;
- (b) for the better exercising of any power or the performance of any function or duty assigned or granted to him/her, take along an interpreter who, while acting under the lawful order of such a person, shall have the same powers, functions and duties as such person.

20. Penalties

Any person who

- (a) contravenes or fails to comply with a provision of these by-law or a direction adopted by a Council under these by-laws and which has been made known by notice, or of a condition imposed under such by-law, irrespective of whether such contravention or failure has been declared as an offence elsewhere in these by-laws, or not;
- (b) deliberately obstructs, hampers or handicaps any person in the execution of any power or the performance of any duty or function in terms of any provision of these by-laws; or
- (c) furnishes false, incorrect or misleading information when applying for permission from a Council in terms of a provision of a by-law,

shall be guilty of an offence and if found guilty shall be punishable with a fine of not exceeding R3000.00 or with imprisonment for a period not exceeding six months and, in the event of a continuing contravention, a fine not exceeding R1000.00 or with imprisonment not exceeding one month for each day that the contravention continued.

21. Repeal of By-laws

The by-laws of the former Municipal Councils of Jan Kempdorp, Hartswater and Pampierstad regarding matters of this by-law, are hereby repealed.

BY-LAW RELATING TO SHOP TROLLEYS

The Municipal Manager of the PHOKWANE Local Municipal Council in terms of subsection 156(2) of the Constitution of the Republic of South Africa Act 1996, (Act 108 of 1996) read with section 13 of the Local Government: Municipal Systems Act (Act 32 of 2000), publishes the by-law as set forth hereafter as by-law made by the Council.

1. In this by-law, unless the context otherwise indicates, means-

"Council" the PHOKWANE Local Municipal Council and includes the Mayor, Political Office Bearers, Political Structures, Municipal Manager and any other official who has delegated powers in terms of section 59 of the Local Government: Municipal Systems Act (Act 32 of 2000);

"officer" -

- (a) any traffic officer appointed by the Council in terms of the Road Traffic Act 1989; and
(b) any other employee of the Council authorized by the Council to enforce the provisions of this by-law.

"owner" includes any person authorized in writing by the owner to act on his/her behalf.

"prescribed" prescribed by the Council from time to time.

"Public place" shall include any road, street, thoroughfare, bridge, overhead bridge, subway, foot pavement, foot-path, sidewalk, lane, square, open space, garden, park, enclosed space vested in the Council provided that for the purposes of by-laws regulating traffic under the Road Traffic Act, 1989, the expression "public place" includes any road, place or thoroughfare however created which is in the undisturbed use of the public or which the public have the right to use.

"Public street" includes any street, road or thoroughfare shown on the general plan of a township, agricultural holdings or other division of land or in respect of which the public have required a prescriptive or other right of way.

"trolley" means a device designed or adapted principally to travel on wheels and normally used by customers for conveying merchandise in and from a shop.

2. An officer may seize any trolley (together with anything contained therein) which is found by him/her in a public street or public place and which is not under the immediate control of a person or is unattended.
- 3.(1) The owner of a trolley seized in terms of section 2 may within thirty days of the date of such seizure recover it from the Council upon payment of the prescribed fee.
- (2) Any person who seeks to recover a trolley which does not bear the name of or a distinguishing mark identifying the owner thereof shall furnish the Council with an indemnity acceptable to it and shall pay, in addition to the fee payable in terms of subsection (1), the prescribed fee for the preparation of such indemnity.
- (3) The Council may sell in any manner in which it is authorized by law to dispose of movable property any trolley (together with anything contained therein) seized in terms of section 2 which is not recovered in accordance with the provisions of subsections (1) and (2).
- (4) The Council shall be entitled to proceeds of a sale contemplated by subsection (3) and no person shall have the right to claim such proceeds or any part thereof.

5. The exercise by the Council or any officer of the powers conferred by this by-law shall not render the Council or such officer liable in respect of the loss or theft of or damage to any trolley or anything contained therein.
6. The by-laws relating to shop trolleys by the former Municipal Councils of Jan kempdorp, Hartswater and Pampierstad are hereby repealed.

BY-LAW FOR PREVENTING CONDITIONS LIKELY TO CAUSE OR FURTHER THE SPREAD OF FIRES

The Municipal Manager of the PHOKWANE Local Municipal Council in terms of subsection 156(2) of the Constitution of the Republic of South Africa Act 1996, (Act 108 of 1996) read with section 13 of the Local Government: Municipal Systems Act (Act 32 of 2000), publishes the by-law as set forth hereafter as by-law made by the Council.

1. No owner of any land within the Municipality shall upon such land allow trees, bushes, weeds or grass to grow or accumulate, in such manner as, in the opinion of the Council, or any authorized employee of the Council, is likely to further the spread of fire. Where such trees, bushes, weeds are, or grass or other inflammable matter is found on any land in contravention of this by-law, the Council or any such authorized employee may give notice in writing to the owner of such land requiring him/her to clear therefrom such trees, bushes, weeds, grass or other inflammable matter, or give effect to such precautionary measures as may be set out in such notice within a period to be stated in such notice, failing which the Council may, through its employees, enter upon such land and clear therefrom such trees, bushes, weeds, grass or other inflammable matter, or give effect to such precautionary measures as may have been set out in the notice aforesaid, at the cost of such owner, and in addition he/she shall be guilty of a contravention of this by-law.
2. No owner of any site within the Municipality shall, on such site or in any building on such site, keep any fodder or other combustible stores, or stock or store any timber, coal or other inflammable material, in such quantities or in such manner as, in the opinion of the Council or any duly authorized employee of the Council, is likely to cause the outbreak or spread of fire. Where such fodder, timber, coal or other inflammable material is, or other combustible stores are found on any site or in any building on such site in contravention of this by-law, the Council or any such authorized employee may give notice in writing to the owner of such site to give effect to such measures, for purpose of eliminating the danger likely to cause the outbreak or spread of fire, as shall be set out in the notice aforesaid within a period to be specified in such notice, failing which, the Council may, through its employees, enter upon such site and/or building and give effect to the terms of such notice at the cost of the owner, and in addition he/she shall be guilty of a contravention of this by-law.
3. No person shall on any premises, street or land within the Municipality, burn or cause or permit to be burned any rubbish, trees, bushes, weeds or grass, or make or cause or permit to be made any bonfire in such manner or under such conditions as may endanger life or property or cause annoyance to the inhabitants of the neighborhood. Any person contravening any provision of this by-law shall be guilty of an offence.
4. Any person contravening any provision of this by-law shall be guilty of an offence and on conviction to a penalty not exceeding R 10 000.
5. The by-laws of the former municipal Council of Jan Kempdorp, Hartswater and Pampierstad related to matters contained in this by-law are hereby repealed.

TARIFF POLICY BY-LAW

The Municipal Manager of the PHOKWANE Local Municipal Council in terms of subsection 156(2) of the Constitution of the Republic of South Africa Act 1996, (Act 108 of 1996) read with section 13 of the Local Government: Municipal Systems Act (Act 32 of 2000), publishes the by-law as set forth hereafter as by-law made by the Council.

1. Definitions

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

“Council” the PHOKWANE Local Municipal Council and includes the Mayor, Political Office Bearers, Political Structures, Municipal Manager and any other official who has delegated powers in terms of

section 59 of the Local Government: Municipal Systems Act (Act 32 of 2000);

“Cost to be recovered” – the cost of purchasing, the cost of changing the product to the delivered, capital cost, administrative and support systems cost.

“Domestic consumers” – in regard to the electricity services, it includes private dwelling houses, residential flats, hostels if provided with a separate meter.

“Bulk consumers” – in regard to the electricity service, it excludes domestic consumers and relates to any consumer whose electricity demand exceeds 100 KVA per month for an uninterrupted period of 12 months.

“Commercial and general consumers” in regard to the electricity service, it excludes domestic consumers and relates to any consumer whose maximum electricity demand is less than 100 KVA per month for a period of 12 months.

“off-peak supply” – it is an electricity supply on written request to bulk consumers during off peak hours or contributed to the Council’s maximum demand whichever is the greatest.

“Temporary consumers” includes builders, carnivals, fairs, amusement of any consumer of a temporary nature.

2. Cost of Services to be recovered

(1) Council shall levy charges for the delivery of services.

(2) The levied charges shall recover the cost to deliver the following services:

- (a) Electricity
- (b) Refuse removal
- (c) Sanitation/Sewerage, and
- (d) Water

3. Surpluses obtained

(1) The Council may obtain surpluses on the following services:

- (a) Electricity and water: 10%
- (b) Sanitation/Sewerage and Refuse Removal: 5%

4. **Services co-funded by property tax**

(1) Council may charge regularity tariffs to recover cost to deliver the following services:

- (a) Libraries
- (b) Cemeteries
- (c) Nature Reserves
- (d) Recreational Resorts
- (e) Fire Services
- (f) Information Services

(2) Council may adjust the service charges annually with the CPI on 30 April.

5. **Electricity services**

(1) Council provided 50 units free to indigent households in terms of the indigent policy of Council.

(2) Council may charge the following tariffs:

- (a) Basic charge differentiated amongst various consumers;

(3) Council may charge the following tariffs:

- (a) Availability charges based on consumption, type of stands and nature of consumers.

(b) Consumption charges per KWH.

- (i) Domestic Consumers
- (ii) Commercial and General consumers
- (iii) Bulk consumers
- (iv) Temporary consumers
- (v) Selected bulk consumers (up to 7% surcharge is applicable)

(c) Consumption charges (per KVA demand)

- (i) Bulk consumers
- (ii) Off-peak hours
- (iii) Selective bulk consumer (a surcharge of 7% is applicable)

(d) Special charges

- (i) Test of meter
- (ii) Special reading
- (iii) Connection fees

(e) VAT is not included in the tariffs and must and be added.

(4) Council may lower business tariffs in line with NER (National Electricity Regular) policy and incentive schemes of Council.

(5) All electrical supplies to be metered.

6. **Refuse Removal**

(1) Council subsidises refuse removal to the indigent households as determined in the indigent policy.

(2) Council may charge the following rates:

(a) Refuse removals to private dwellings, hospitals, churches, boarding houses, sport clubs, and charitable institutions: once a week per bin.

(b) Block of flats: per flat

(c) Removal from business premises, offices, industrial premises and government institutions: per bin

(i) Three times per week

(ii) Five times per week

(d) Compacted refuse: per removal

(i) Per 0.084 m³

(ii) Per container unit per m³

(e) Per mass container

(i) 1,1 m³ capacity

(ii) 5,5 m³ capacity

(iii) 4 m³ capacity

(iv) 750 litre capacities

(v) 600 litre capacities

(vi) 1,75 m³ capacity

(f) Medical waste: per removal

(g) Renting of mass containers

(i) 5,5 m³ per week

(ii) 5,5 m³ per month

(iii) 1,75 m³; 1,1 m³; 0,75 m³ and 0,6 m³: per month

(iv) 3 m³ and 3 m³: per month

(h) Vacuum tank services

(i) Special removals

(ii) Garden refuse

(iii) Building rubble or bulk refuse

(i) Removal of dead animals.

(j) Cleaning premises of long grass, weeds, shrubs and accumulation of refuse.

(k) Renting cleansing services out of town.

- (l) Sale of plastic bags.
- (m) All other services for which provision has not been made.
- (n) VAT is not included and should be added.

7. **Sanitation/Sewerage**

- (1) Council may grant a subsidy for the indigents as defined in the Indigent Policy.
- (2) Council shall apply the principle of equality for this service.
- (3) Council may charge the following tariffs:
 - (a) Application fees (building plans)
 - (b) Usage charges (operational charges) differentially
 - (c) Availability charges
 - (i) Based on size of land
 - (d) Work charges
 - (i) Sealing openings
 - (ii) Re-openings sealed
 - (iii) Removing blockages
 - (iv) Alterations to gullies
 - (v) Connection to sewer
- (4) VAT is not included and must be added.

8. **Water services**

- (1) 6 (six) KI is provided free of charge for all households.
- (2) Council may charge the following tariffs:
 - (a) Availability charges
 - (b) Consumption charges
 - (i) Metered supply
 - (aa) A sliding scale will be applicable to domestic consumers and will be as follows:
 - 0 – 6KI
 - 7- 10 KI
 - 11 – 40 KI
 - Above 40 kl
 - (bb) With water restrictions an increased tariff may be charged on the following sliding scale:

0 – 6 KI
7 – 10 KI
11 – 40 KI
41 – 100 KI
Above 100 KI

- (c) Metered supply
- (i) With water restrictions the sliding scale will be the same as mentioned in section 8.2.2.1.2.
 - (d) Metered supply: Businesses and industries
 - (i) The Council may charge a uniform tariff per KI for businesses and industries.
 - (e) Charges for connections to the main.
 - (f) Charges for connection of water supply.
 - (g) Sundry charges:
 - (i) Testing of meters
 - (ii) Special readings
 - (iii) Any other services not mentioned
 - (h) Filling of a swimming pool.
 - (i) VAT is not included and must be added.

9. **Property tax**

- (1) A subsidy is granted to indigent persons as defined in the indigent Policy. Council may charge property tax on the site value only.
- (2) The different entities are charged differently on their own valuation rolls.
- (3) Council shall compile a valuation roll for the whole area so that the whole area will be charged uniformly.
- (4) Council may allow discounts on the following categories:
 - (a) Pension is based on annual income;
 - (b) Grand-in-Aid to registered welfare organisations, welfare organisations which performs charitable work, institution for veterans, amateur sport grounds, Boy Scouts or similar organisations and allowed institutions on defined in the Cultural Institutions Act, 1969.
- (5) Council may place a priority on property tax for collection of revenue not exceeding a 25% of the budgeted revenue.

BY-LAW RELATING TO UNSIGHTLY AND NEGLECTED BUILDINGS AND PREMISES.

The Municipal Manager of the PHOKWANE Local Municipal Council in terms of subsection 156(2) of the Constitution of the Republic of South Africa Act 1996, (Act 108 of 1996) read with section 13 of the Local Government: Municipal Systems Act (Act 32 of 2000), publishes the by-law as set forth hereafter as by-law made by the Council.

1. DEFINITIONS

In this by-law, unless the context proves otherwise means-

“building” has the meaning assigned thereto in section 1 of the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977) and includes fencing;

“Council the Phokwane Local Municipal Council and includes the Mayor, Political Office Bearers, Political Structures, Municipal Manager and any other official who has delegated powers in terms of section 59 of the Local Government: Municipal Systems Act (Act 32 of 2000);

“Municipal area” the area under the jurisdiction and control of the Council;

“premises” any land whatsoever, whether vacant, occupied or with buildings thereon, situated within the municipal area.

1. Where any premises, in the opinion of the Council –

(a) have a building thereon which is unsightly, neglected or offensive and which causes the value of surrounding properties to be detrimentally affected;

(b) are neglected and over-grown;

(c) have an unsightly accumulation of papers, cartons, garden refuse, rubble and/or other waste material thereon, and

(d) have an accumulation of motor wrecks or used motor parts thereon which –

- (i) detracts from the appearance of surrounding properties, or
- (ii) is offensive to the owners or occupiers of adjacent premises,

the Council shall give notice in writing to the owner or occupier of such premises requiring him to improve such building or the condition of such premises within a period of thirty days (30) so that the appearance or condition of such building or premises will comply with the standards required by the Council.

2. (1) If the owner fails to comply with the requirements of the notice served in terms of section 2 within

the period specified in such notice, such owner shall be guilty of an offence and, on conviction, be liable to a fine not exceeding R10 000 or imprisonment for a period not exceeding 18 months or to both such fine and such imprisonment, and in the case of a continuing offence, to an additional fine not exceeding R30 000 or an additional period of imprisonment not exceeding 20 days or to both such additional fine and additional imprisonment for each day during which such failure or offence continues.

- (2) The Council may, instead of instituting a prosecution and unless written objection from such owner has been received before the expiry date of the period specified on the notice served on him, assume that such owner has no objection and tacitly agrees that the Council may, without further notice, enter upon such premises and through its officials or a contractor whose tender the Council has accepted, and at the cost of such owner execute the work necessary to comply with the requirements of the said notice.
4. The by-laws of the former Municipal Councils of Jan kempdorp, Hartswater and Pampierstad related to matters contained in this by-law, are hereby repealed.

WATER SERVICES BY-LAW

The Municipal Manager of the PHOKWANE Local Municipal Council in terms of subsection 156(2) of the Constitution of the Republic of South Africa Act 1996, (Act 108 of 1996) read with section 13 of the Local Government: Municipal Systems Act (Act 32 of 2000), publishes the by-law as set forth hereafter as by-law made by the Council.

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CHAPTER I

General Provisions

Definitions

1. For the purpose of this by-law, unless the context otherwise indicates, means—

“Accommodation unit” in relation to any premises, a building or section of a building occupied or used or intended for occupation or use for any purpose;

“Act” the Water Services Act, 1997 (Act No 108 of 1997), as amended from time to time;

“approved” approved by an authorised officer;

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

“Building regulations” the National Building Regulations made in terms of the National Building Regulations and Building Standards Act, 1977 (Act No 103 of 1977);

“Chief Financial Officer” the officer in charge of the finance department or any other officer authorized to act on his/her behalf;

“Communication pipe” any pipe leading from a main to the premises of any consumer as far as the street boundary of such premises situated near to such main, or in the cases where the meter installed inside the premises of any consumer in terms of this by-law, as far as the inlet of the meter;

“Connecting point” the point which the drainage installation joins the connecting sewer;

“Connecting sewer” a pipe owned by the Council and installed by it for the purpose of conveying sewage from a drainage installation on a premises to a sewer beyond the boundary of those premises or within a servitude area or within an area covered by a way leave or by agreement;

“consumer” the occupier of any premises which the Council has contracted to supply with water or the owner thereof, or any person who has entered into a contract with the Council for the supply of water or who is lawfully obtaining water from the Council;

“Council” The Phokwane Local Municipal Council and includes the Mayor, Political Office Bearers, Political Structures, Municipal Manager and any other official who has delegated powers in terms of section 59 of the Local Government: Municipal Systems Act (Act 32 of 2000);

“Domestic purpose” includes every kind of household purpose, but shall not include the use of water for any engine or machine, or for any mining or quarrying operations, or for the flushing of any sewer or drain, or for any purpose connected with any trade, manufacture or business, or for the cleansing of any road, path or pavement, or for garden purposes or for the watering of any tennis court, bowling green or any other ground used in connection with public sporting purposes;

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

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

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

“Duly qualified sampler” a person who takes samples for analysis from the sewage disposal and storm water disposal systems and from public waters and who has been certified to do so by an authorised agent;

“effluent” any liquid whether or not containing matter in solution or suspension,

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

“Environmental cost” the full cost of all measures necessary to restore the environment to its condition prior to the damaging incident;

“Engineer” the engineer of the Council or any other officer authorized to act on his/her behalf;

“Fire hydrant” a potable water installation that conveys water for fire fighting purposes only;

“Fixed quantity water delivery system” a water installation, which delivers a fixed quantity of water to a consumer in any single day;

“Flood level (1 in 50 years)” that level reached by flood waters resulting from a storm of a frequency of 1 in 50 years;

“Flood plain (1 in 50 years)” the area subject to inundation by flood waters from a storm of a frequency of 1 in 50 years;

“High strength sewage” sewage with a strength or quality greater than standard domestic effluent;

“Industrial effluent” sewage with a strength or quality greater than standard domestic effluent;

“Installation work” work in respect of the construction of, or carried out on a water installation;

“main” any pipe, aqueduct or other work under the exclusive control of the Council and used by it for the purpose of conveying water to consumers, but shall not include any communication pipe;

“Measuring device” any method, procedure, process or device, apparatus, installation that enables the quantity of water services provided to be quantified and includes a method, procedure or process whereby quantity is estimated or assumed;

“meter” a water meter as defined by the Regulations published in terms of the Trade Metrology Act, 1973 (Act no 77 of 1973), or, in the case of water meters of size greater than 100mm, a device which measures the quantity of water passing through it;

“occupier” a person who occupies any premises or part thereof, without regard to the title under which he or she occupies;

“owner”

- The person in whom from time to time is vested the legal title to the premises;
- In a case where the person in whom the legal title to the premises is vested is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;
- In any case where the municipality or its authorized agent is unable to determine the identity of such person, a person who is entitled to the benefit of the use of such premises or a building or buildings thereon;
- In the case of premises for which a lease agreement of 30 years or longer has been entered into, the lessee thereof;
- In relation to:
 - A piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act No 95 of 1986), the developer or the body corporate in respect of the common property, or
 - A piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act No 95 of 1986), the person in whose name such section is registered under a sectional title deed and includes the lawfully appointed agent of such a person

“person” any natural person, local government body or like authority, a company incorporated under any law, a body of persons whether incorporated or not, a statutory body, public utility body, voluntary association or trust;

“pollution” the introduction of any substance into the water supply system, a water installation or a water resource that may directly or indirectly alter the physical, chemical or biological properties of the water found therein so as to make it-

(a) less fit for any beneficial purpose for which it may reasonably be expected to be used;

or

b) harmful or potentially harmful;
(i) to the welfare, health or safety of human beings;
(ii) to any aquatic or non-aquatic organism;

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

- a) A general plan or diagram registered in terms of the Land Survey Act, 1997 (Act No 8 of 1997), or in terms of the Deeds Registries Act, 1937 (Act No 47 of 1937); or
- b) A sectional plan registered in terms of the Sectional Titles Act, 1986 (Act No 95 of 1986);
- c) A register held by a tribal authority;

“Public notice” a notice in a newspaper in at least two of the official languages in general use within the province or area in question, and, where possible, the notice shall be published in a newspaper appearing predominantly in the language utilized in the publication of the notice;

“Sanitation services” has the same meaning assigned to it in terms of the Act and includes for purposes of this by-law water for industrial purposes and the disposal of industrial effluent;

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

“Sewage disposal system” the structures, pipes, valves, pumps, meters or other appurtenances used in the conveyance through the sewer reticulation system and treatment at the sewage treatment plant under the control of the Council and which may be used by it in connection with the disposal of sewage;

“Standard domestic effluent” domestic effluent with prescribed strength characteristics in respect of chemical oxygen demand and settleable solids as being appropriate to sewage discharges from domestic premises within the jurisdiction of Council or its authorized agent, but shall not include industrial effluent;

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

“tariff” the tariff of charges approved by Council;

“Trade premises” premises upon which industrial effluent is produced;

“Water supply services” has the same meaning assigned to it in terms of the Act and includes for purposes of this by-law water for industrial purposes and the disposal of industrial effluent;

“Wet industry” an industry which discharges industrial effluent; and

“Water installation” all pipes and apparatus used or intended to be used for or in connection with the use of water supplied by the Council and situated on the premises occupied or owned by the consumer;

“Water installation pipe” any pipe included in any water installation;

Dom cilium Citandi

2. For the purpose of the service of any notice, order or other document in terms of this by-law, the address of the consumer registered in the books of the Chief Financial Officer shall be deemed to be the domicile citandi of the consumer.

Infringement of by-law

3. Any owner or occupier having or using upon his/her premises, and any person providing, installing, laying down or connecting, or causing or permitting to be provided, installed, laid down or connected, upon any premises any water installation or part thereof or any meter or apparatus which fails to comply with the requirements of this by-law, shall be guilty of an offence in terms of this by-law.

Liability of consumer

4. Any breach of this by-law committed on the premises of any consumer shall be deemed to be a breach by such consumer unless and until he/she shall prove to the contrary.

Entry and inspections by officers

5. (1) The engineer or any other duly authorised officer of the Council may for any purpose connected with the carrying out of this by-law at all reasonable times or at any time in an emergency and without previous notice enter upon any premises and make such examination and enquiry thereon as he/she may deem necessary: Provided that upon entry on any premises such officer, if required, shall state the reason for such inspection, examination and enquiry.

(2) Should such officer consider it necessary for the purpose of examination or inspection or of carrying out any other work in terms of this by-law, he/she may at the expense of the consumer after having given 24 hours' notice, or at once without giving any notice if in his/her opinion immediate action is necessary, move any earth, concrete, brick, wood or metal work or any part of such premises.

(3) The Council shall not be liable to pay any compensation in respect of work carried out by its officers in terms of subsection (2): Provided that where any such inspection is made for the sole purpose of establishing a breach of this by-law and no such breach is discovered, the Council shall bear the expense connected with such inspection, together with that of restoring the premises to their former condition.

Water Audit

6. (1) Water users using more than 3 650 Kl per annum, excluding those comprising multiple dwelling units, must within one month after the end of each financial year of the Council undertake an annual water audit at their own cost.
- (2) A copy of the audit must be available for inspection by officials from the Department of Water Affairs and Forestry, the water board, if applicable, and the Council.
- (3) The audit must contain details in respect of –
 - (a) the amount of water used during the financial year;
 - (b) the amount paid for water for the financial year;
 - (c) the number of people living on the stand or premises;
 - (d) the number of people permanently working on the stand or premises;
 - (e) the seasonal variation in demand through monthly consumption figures;
 - (f) the water pollution monitoring methods;
 - (g) the current initiatives to manage demand for water;
 - (h) the plans to manage their demand for water;
 - (i) a comparison of the above factors with those reported in each of the previous three years (where available);
 - (j) estimates of consumption by various components of use; and
 - (k) a comparison of the above factors with those reported in each of the previous three years, where available.

Notification of boreholes

- 7 (1) The Council may, by public notice, require –
 - (a) the owner of any premises within the area of jurisdiction of the Council upon which a borehole exists or, if the owner is not in occupation of such premises, the occupier thereof, to notify it on the prescribed form of the existence of a borehole on such premises, and provide it with such information in respect thereof as it may require; and
 - (b) the owner or occupier of any premises who intend to sink a borehole on such premises to notify it on the prescribed form of such intention before work in connection therewith is commenced.
- (2) The Council may require the owner or occupier of any premises who intends to sink a borehole to undertake an environmental impact assessment for such intended borehole, to the satisfaction of the municipality or its authorized agent, before sinking the borehole.
- (3) Boreholes are subject to any requirements of the National Water Act, 1998 (Act No 136 of 1998).
- (4) The Council may by notice to an owner or occupier or by public notice require owners and occupiers on who has existing boreholes used for water services to:
 - (a) obtain approval from it for the use of a borehole for water services in accordance with Sections 6, 7 and 22 of the Act;
 - (b) impose conditions in respect of the use of a borehole for water services; and
 - (c) impose a fixed tariff in respect of the use of such a borehole.

Sampling of water

8. (1) The Council may take samples of water obtained from a source, authorized in terms of sections 6 or 7 of the Act, other than the water supply system for domestic purposes and cause the samples to be tested for compliance with any national standards prescribed in terms of section 9 of the Act.

CHAPTER II

Provisions relating to supply of water by the Council

Connections by the Council only

9. No connection shall be made to any main or communication pipe except by an authorised officer of the Council: Provided that the connecting up of the water installation to the communication pipe or in the case of a meter installed inside any premises, to the outlet pipe from the meter as provided by the Council, may be carried out by the owner or consumer.

Connection to other water supply systems

10. No water installation pipe, tank, cistern or other apparatus for storing or conveying water supplied by the Council shall be directly connected with any system or source of water supply other than that of the Council.

Unauthorized use of water

11. No person who has not entered into a contract with the Council for the supply of water and otherwise complied with the requirements of this by-law, shall take any water from or make or cause to be made any connection with any main, communication pipe, reservoir, hydrant, conduit pipe, cistern or other place containing water belonging to the Council except with the written permission of the Council first had and obtained.

Damage to water supply system

12. No person shall willfully or negligently damage or cause to be damaged any main, communication pipe, meter or other plant or apparatus belonging to the Council and use or intended to be used by it in connection with the supply of water.

Pollution of water supply

13. No person shall –
- (a) bathe in any stream, reservoir, aqueduct or other place which contains water belonging wholly or partly to the Council or is under the control or management of the Council and which is used for or in connection with the supply of water to the inhabitants of the area of supply or wash, throw, or cause or permit to enter therein any animal, unless stated to the contrary;
 - (b) throw any rubbish, dirt, filth or other deleterious matter into such stream, reservoir, aqueduct or other place, or wash or cleanse therein any clothe, wool, leather or skin of any animal, clothes or other matter;

- (c) cause or permit the water of any sink, sewer, drain, steam engine, boiler or other unclean water or liquid for the control of which he/she is responsible, to run or be brought into any such stream, reservoir, main, aqueduct or other place or do any other act whereby the water of the Council, intended for the supply to the inhabitants of the area of supply, may be polluted.

Owner to prevent pollution of water

14 An owner shall provide and maintain approved measures to prevent the entry of a substance, which may be a danger to health or adversely affect the pot ability of water or affect its fitness for use, into –

- (a) the water supply system; and
- (b) any part of the water installation on his or her premises.

Waste of water unlawful

15 (1) No consumer shall permit –

- (d) the purposeless or wasteful discharge of water from terminal water fittings;
- (e) pipes or water fittings to leak;
- (f) the use of maladjusted or defective water fittings;
- (g) an overflow of water to persist; or
- (h) an inefficient use of water to persist.

(2) An owner shall repair or replace any part of his or her water installation which is in such a state of disrepair that it is either causing or is likely to cause an occurrence listed in subsection (1).

CHAPTER III

Conditions of supply of water

Application for supply of water

- 16 (1) Application for the supply of water for any purpose whatsoever shall be made to and in a form prescribed by the Council from time to time and in which the applicant shall state for what purpose the water is required.
- (2) No supply of water shall be given unless and until the owner or occupier of the premises or some person acting on his/her behalf has completed a consumer's agreement in a form prescribed by the Council.
- (3) Upon the Council agreeing to supply water, an agreement in the form as prescribed by the Council shall be signed by the applicant, and no water shall be supplied unless and until such agreement is so signed.
- (4) The charge payable for water consumed shall be as prescribed in the tariff and it shall be a condition of the supply of water in terms of every agreement entered into in terms of subsection (3) that payment therefor by the consumer to the Council shall be affected in the manner prescribed in terms of subsection (5), read with subsection 36(2).

- (5) The Council may during the period between meter readings render to the consumer a provisional account in respect of part of such period, which part shall as nearly as practically possible be a period of 30 days, and the amount of such account shall be determined as provided in subsection (6) and shall as soon as possible after the meter reading at the end of such period render to the consumer an account based on his/her actual metered consumption during that period, giving credit to the consumer for any sum paid by him/her on a provisional account as aforesaid: Provided that an account may be rendered for fixed charges in terms of the tariff as and when the same becomes due.
- (6) The amount of a provisional account referred to in subsection (5) shall be determined by the Chief Financial Officer by reference to such previous consumption, if any, on the same premises as would constitute a reasonable guide to the quantity of water consumed over the period covered by the provisional account: Provided that where there has been no such previous consumption, the Chief Financial Officer shall determine the amount of the said account by reference to such consumption on other similar premises as would constitute the reasonable guide referred to.

Deposits

17. (1)(a) Except in the case of the government of the Republic of South Africa (including the Province of the Northern Cape and Transnet) or other class of consumer approved by the Council, every applicant for a supply shall, before such supply is given, deposit with the Council a sum of money on the basis of the cost of the maximum consumption of water which the applicant is in the Chief Financial Officer opinion likely to use during any two consecutive months: Provided that such sum shall not be less than is prescribed in the tariff.
 - (b) Notwithstanding the foregoing provisions of this section the Chief Financial Officer may, in lieu of a deposit, accept from an applicant a guarantee for an amount calculated in accordance with paragraph (a) and in the form prescribed by the Council, as security for the payment of any amount that may become due by the applicant for, or in respect of, the supply of water: Provided that no such guarantee shall be accepted unless the estimated monthly account in respect of the supply to the premises concerned amounts to at least R5 000-00.
- (2) The Chief Financial Officer may at any time when the deposit or guarantee is found to be inadequate for the purposes of subsection (1), require a consumer to increase the deposit made or guarantee furnished by him/her, in which event the consumer shall, within thirty days after being so required, deposit with the Council such additional sum or furnish such additional guarantee as the Chief Financial Officer may require, failing which the Council may discontinue the supply.
- (3) Any sum deposited by or on behalf of a consumer shall, on being claimed, be refunded within thirty days after the termination of the consumer's agreement after deducting any amount due by the consumer to the Council.
- (4) (a) Subject to the provisions of subsection (3), any person claiming a refund of a deposit or part thereof, shall either –
 - (i) surrender the receipt which was issued for payment of the deposit; or
 - (ii) if such receipt is not available, sign a receipt prescribed by the Council for the refund to him/her of such deposit or part thereof;

and satisfy the Chief Financial Officer that he/she is the person entitled to such refund.

- (b) If a deposit or part thereof has been refunded in accordance with paragraph (a), the Council shall be absolved from any further liability in respect thereof.
- (5) The consumer's agreement may contain a provision that any sum deposited by the consumer, a refund of which has not been so claimed within one year after either such agreement has been terminated or he/she has ceased for any reason to receive a supply in terms of such agreement, shall at the expiration of that period become forfeited to the Council.
- (6) Notwithstanding the provisions of subsection (5), the Council shall at any time pay –
 - (a) to the person who paid the deposit on his/her satisfying the Council of his/her identity and the amount; or
 - (b) to any other person who has satisfied the Council that he/she is entitled to have the payment made to him/her, an amount equal to the forfeited deposit.
- (7) If a consumer applies to the Council for a greater supply of water than he/she is receiving, the Chief Financial Officer may require the consumer to make an increased deposit or furnish an increased guarantee in terms of subsections (1) and (2) before such supply is given.
- (8) No interest shall be payable by the Council on the amount of a deposit held by it in terms of this section.

Special conditions or provisions relating to the supply of water

- 18. (1) The Council shall have the right to attach special conditions or make special provisions relating to the supply of water to any person or consumer or premises in any case where, by reason of the purpose for which the supply is desired, the nature or situation of the premises, the quantity to be supplied, the availability of supply or the method of supply, it is in the opinion of the Council necessary or desirable to attach special conditions or make special provisions relating to the supply.
- (2) Notwithstanding anything to the contrary in any other section of this by-law contained, it shall be lawful for the Council in making such special provisions to stipulate any or all of the following:
 - (a) Where a supply in bulk is given to any consumer outside the municipality, such consumer may be permitted by the Council to re-sell the water to other consumers resident outside the municipality.
 - (b) Where the Council permits any consumer to re-sell water, it may impose conditions fixing the maximum and minimum price at which the water may be resold by such consumer and may require that plans of any proposed water supply system and reticulation be submitted to the Council from time to time for approval as a condition precedent to authority to re-sell being given.
 - (c) Where any consumer is given a supply by means of more than one connection from the Council's mains, the Council may stipulate the manner in which and the times during which the supply from any one or each of such connections may be used by the consumer.

- (d) The Council may stipulate the maximum quantity to be supplied to any consumer and may fix the hours or periods during which any consumer shall be entitled to supply.
- (3) Save as is provided in subsection (2), the terms of any special conditions or provisions shall otherwise conform with the provisions of this by-law.

Cutting off supply of water

19. (1) Without paying compensation and without prejudice to its rights to obtain payment for water supplied to the consumer, the Council may cut off the supply of water to any consumer where such consumer has –
- (a) failed to pay any sum due to the Council in terms of this by-law;
 - (b) wilfully or negligently damaged or caused or permitted damage to be inflicted upon any main, communication pipe, meter or other plant or apparatus belonging to the Council and used or intended to be used by it in connection with the supply of water;
 - (c) committed a breach of any of the provisions contained in this by-law;
 - (d) tempered or interfered with or caused or permitted any tampering or interference with any plant or apparatus under the Council's control and used or intended to be used by it in connection with the supply of water: Provided that in cases falling under paragraphs (b), (c) and (d) not less than seven days' notice shall be given to any consumer prior to the cutting off of the supply of water.
- (2) The Council shall not be liable for damages to any consumer where it cuts off the supply of water in the bona fide belief that any of the circumstances set out in subsection (1) apply.
- (3) The consumer shall pay to the Council the fee as prescribed in the tariff for cutting off the supply of water in terms of this section.
- (4) In the event of the Council at any time resuming the supply of water to such consumer, the consumer shall pay to the Council such charges as are prescribed in the tariff, unless he/she establishes that the Council was not entitled in terms of subsection (1) to cut off the supply of water.
- (5) The cutting off supply of water or the limitation of water supply must be in terms of subsections 4 (3)(b) and (c) of the Act.

Termination of agreement

- 20 The Council or the consumer may at any time terminate any agreement entered into in terms of this by-law by giving not less than seven days' notice in writing to the other party thereto of the intention to do so.

Disconnection of supply of water on termination of agreement

- 21 Where an agreement for the supply of water between the Council and the consumer has been terminated, the Council shall be entitled to disconnect such supply: Provided that no such

disconnection shall be carried out where the new consumer accepts liability for payment for water consumed as from the date of the previous ordinary reading of the meter or for a special reading of the meter at the charge fixed in the tariff.

Water restrictions

- 22(1) The Council may by public notice to prevent the wasteful use of water in terms of section 15 or in the event of a water shortage, drought or flood –
- (a) prohibit or restrict the consumption of water in the whole or part of its area of jurisdiction in general or for –
 - (i) specified purposes;
 - (ii) during specified hours of the day or on specified days; and
 - (iii) in a specified manner; and
 - (b) determine and impose –
 - (i) limits on the quantity of water that may be consumed over a specified period
 - (ii) charges additional to those prescribed in respect of the supply of water in excess of a limit contemplated in subsection (1)(b)(i); and
 - (iii) a general surcharge on the prescribed charges in respect of the supply of water;
 - (c) impose restrictions or prohibitions on the use or manner of use or disposition of an appliance by means of which water is used or consumed, or on the connection of such appliances to the water installation.
- (2) The Council may limit the application of the provisions of a notice contemplated by subsection (1) to specified areas and categories of consumers, premises and activities, and may permit deviations and exemptions from, and the relaxation of, any of the provisions on reasonable grounds.
- (3) The Council may –
- (a) take, or by written notice require a consumer at his or her own expense to take, such measures, including the installation of measurement devices and devices for restricting the flow of water, as may in its opinion be necessary to ensure compliance with a notice published in terms of subsection (1); or
 - (b) discontinue or, for such period as it may deem fit, limit the supply of water to any premises in the event of a contravention on such premises or failure to comply with the terms of section (23); and
 - (c) where the supply has been discontinued, it shall only be restored when the prescribed charge for discontinuation and reconnecting the supply has been paid.
- (4) The provisions of this section shall also apply in respect of water supplied directly by the Council to consumers outside its area of jurisdiction, notwithstanding anything to the contrary in the conditions governing such supply, unless otherwise specified in the notice published in terms of subsection (1).

Power to serve and compliance with notices

- 23 (1) The Council may, by written notice, order an owner, consumer or any other person who fails, by act or omission, to comply with the provisions of this by-law or of any condition imposed thereunder to remedy such breach within a period specified in the notice, which period shall not be less than thirty days.

- (2) If a person fails to comply with a written notice served on him or her by the Council in terms of this by-law within the specified period, it may take such action that in its opinion is necessary to ensure compliance, including -
- (a) undertaking the work necessary itself and recovering the cost of such action or work from that owner, consumer or other person;
 - (b) limiting or discontinuing the provision of services; and
 - (c) instituting legal proceedings.
- (3) A notice in terms of subsection (1) will:
- (a) give details of the provision of the by-law not complied with;
 - (b) give the owner, consumer or other person a reasonable opportunity to make representations and state his or her case, in writing, to the Council within a specified period, unless the owner, consumer or other person was given such an opportunity before the notice was issued;
 - (c) specify the steps that the owner, consumer or other person must take to rectify the failure to comply;
 - (d) specify the period within which the owner, consumer or other person must take the steps specified to rectify such failure; and
 - (e) indicate that the Council:
 - may undertake such work necessary to rectify the failure to comply if the notice is not complied with and that any costs associated with such work may be recovered from the owner, consumer or other person; and
 - may take any other action it deems necessary to ensure compliance.
- (4) In the event of an emergency the municipality or its authorised agent may without prior notice undertake the work required by subsection (3)(e)(i) and recover the costs from such person.
- (5) The costs recoverable by the Council in terms of subsections (3) and (4) is the full cost associated with that work and includes, but is not limited to, any exploratory investigation, surveys, plans, specifications, schedules of quantities, supervision, administration charge, the use of tools, the expenditure of labour involved in in disturbing or rehabilitation of any part of a street or ground affected by the work and the environmental cost.

Failure to supply water

- 24 The Council shall not be liable for any failure to supply water or for any defect in the quality of the water supplied, however caused, or for the consequences thereof.

Water pressure

25. (1) Subject to the provisions of this by-law, no undertaking or guarantee shall be presumed on the part of the Council to maintain any specified pressure of water at any time at any point in the Council's water supply system.
- (2) Where application is made for a supply of water to or where a supply is required for any premises or part thereof situated above a level that can be served by the normal pressure in the Council's main, it shall be the duty of the applicant or consumer to provide and maintain a supply to such premises or part thereof: Provided that, subject to

the provisions of this section, the Council may grant a supply to such premises from its main where such supply is available on such conditions as the Council may impose.

- (3) (a) Where in the circumstances set out in subsection (2) it is necessary for the consumer to pump water to maintain the supply, any pump installed for the purpose shall not be connected to the Council's main.
- (b) The suction pipe of any such pump shall be connected to a storage tank supplied with water from the Council's main.
- (c) Such tank shall be constructed in accordance with the requirements of section 61 and shall have a minimum capacity of not less than one-eighth of the average daily requirement of the consumer, as determined by the engineer, or one hour's capacity of the pumping system, whichever is the greater.
- (d) Such tank shall be fitted with an inlet control valve of the correct size so set as to admit water to the tank from the Council's main at a rate equal to the average hourly requirement of the premises.
- (e) The said pump shall be self-priming, float or electrode controlled and fitted with electrical safety devices for the protection of the pump or pump drive motors, or both in the event of stop-page of the supply of water from the Council's main.
- (f) Before the installation of any such pumping system, full details thereof shall be submitted to the engineer for approval and authorisation.

Sale of water by consumers

26 No consumer shall –

- (a) sell any water supplied to him/her by the Council, except as provided in terms of section 18; or
- (b) take away or cause or permit to be taken away from his/her premises any such water except as provided for in section 46.

Special provisions governing the supply of water by portable meters

27. In addition to the provisions laid down in this by-law, the following special provisions shall apply to the supply of water by portable meter and shall be deemed to have been included in every agreement for such supply:

- (a) Where water is to be supplied by the Council from hydrants, the Council shall supply a portable meter for measuring such supply together with stand pipe, hydrant coupling, hose pipes and necessary unions for connection to the meter.
- (b) The consumer shall pay to the Council in advance the charge prescribed in the tariff in respect of each portable meter supplied, which charge shall be held by the Council as security for the due fulfilment of all provisions of any agreement relating to the supply of such meter and the payment by the consumer to the Council of the cost for all water supplied to him/her and all other charges due by him/her to the Council in terms of such agreement.
- (c) The charge for water so supplied and for the use of the portable meter shall be at the rate prescribed in the tariff.

- (d) All accounts for water so supplied shall be paid by the consumer to the Council within seven days of the date of rendition by the Council.
- (e) Where water is taken by the consumer from a hydrant without such water passing through a portable meter, or where water is wasted before passing through such portable meter, the charges prescribed in the tariff shall be paid by the consumer to the Council for every day during which water is so taken or such waste continues.
- (f) The consumer shall –
 - (i) Upon taking delivery of the portable meter, sign a receipt acknowledging such meter to be in good order and condition, and
 - (ii) maintain and return such meter in the same good order and condition, fair wear and tear excepted.
- (g) If the consumer fails to return the portable meter, he/she shall pay to the Council the cost of a new meter, or if he/she returns such meter in a damaged condition, he/she shall pay to the Council the cost of a new meter or the cost of repairs if such damaged meter can be satisfactorily repaired.
- (h) The consumer shall take delivery of and shall return the portable meter to the Council at such place as the engineer may from time to time direct.

Water supply for building purposes

28. (1) Where, upon the application of any owner, builder or other person, a supply of water for building purposes is laid on to any premises, the cost of providing and fixing the communication pipe and the meter shall be borne by such owner, builder or other person in accordance with the prescribed tariff.
- (2) Such owner, builder or other person shall pay for water so supplied according to the tariff.
 - (3) If suitable for the purpose, the same communication pipe as is supplied in terms of this section may be used for the permanent supply to the premises, but no connection in respect of such permanent supply shall be made with the water installation until all the provisions of this by-law have been complied with.

CHAPTER IV

General provisions relating to metered supplies

Provision of communication pipe by Council

29. (1) Upon an agreement having been entered into between the Council and any owner in regard to the supply of water to premises and after the relevant provisions of this by-law have been complied with, the Council shall provide, lay down and maintain a communication pipe to serve such premises: Provided that the position of the communication pipe shall be as determined by the engineer.
- (2) The sum payable by such owner in respect of such communication pipe shall be as prescribed in the tariff: Provided that in respect of any size or length of communication pipe not provided for in the tariff or in the cases where the tariff charge is insufficient to cover the cost of providing such communication pipe, the owner shall pay such sum as may be determined by the Council, having regard to the circumstances of the case.

- (3) Any amount due in terms of this section, shall be paid to the Chief Financial Officer in advance by the owner or consumer, as the case may be.

Separate communication pipes for individual premises

- 30 For the purpose of supplying water thereto, a separate communication pipe shall be provided in respect of each and every premises or portion thereof in separate occupation: Provided that –
- (a) one communication pipe only shall be permitted by the Council for the supply of water to a group or block of dwellings, flats, shops, offices or other buildings in single ownership where the owner or occupier thereof undertakes to pay for the water supplied to each of the buildings comprising such group or block;
 - (b) where, in terms of paragraph (a), more than one building is supplied from one communication pipe, a stop tap shall be fixed on each branch pipe leading therefrom to each such building for the purpose of turning off the supply of water to each such premises without interrupting the supply to the others;
 - (c) where a tap is fixed to a stand pipe from which water is intended to be supplied to more than one premises, such tap shall be an approved type of a self-closing tap.

Each premises to have one communication pipe only

- 31 No premises in single ownership shall be entitled to obtain a supply of water by means of more than one communication pipe: Provided that –
- (a) where it appears to the Council that hardship or grave inconvenience or other similar circumstance would otherwise result, the Council may permit such supply by means of more than one communication pipe;
 - (b) where more than one communication pipe is permitted in terms of paragraph (a), a charge shall be made in accordance with the tariff for each additional communication pipe and meter.

Provision of meters

- 32 All meters shall be supplied by the Council: Provided that the size of the meter to be installed shall be within the sole discretion of the engineer.

Fixing and position of meter

33. (1) The Council shall fix in the communication pipe a meter of a size to be determined by the engineer.
- (2) If so, required by the Council, the consumer shall provide a suitable and safe place within his/her premises in which to fix the meter and the Council may install the meter in such place.

- (3) Any maintenance necessary in that portion of the communication pipe between the street boundary and the meter within the premises shall be carried out by the Council at the consumer's expense.

Provision and position of stop cock

34. (1) The Council shall, for its exclusive use, install a stop cock between the meter and the main.
 - (2) The consumer shall, at his/her own expense, or the Council may in its discretion and at the consumer's expense and for his/her exclusive use, provide and install a stop cock at a suitable point on the communication pipe immediately inside the boundary of the property in the case of a meter installed outside the boundary, and in the case of a meter installed on the premises at a suitable point on the consumer's side of the meter.

Cost of installing meter

- 35 The consumer shall pay all charges in connection with the installation of any meter on his/her water installation as are prescribed in the tariff.

Ownership of meters

- 36 Any meter provided and installed by the Council in terms of this by-law, together with the fittings connected therewith, shall be and remain the absolute property of the Council, and such meter shall at all times be under the sole control of the Council.

Safe-keeping of meters

- 37 The consumer shall be responsible to the Council for the safe-keeping and condition of any meter installed upon his/her premises and shall be liable to the Council for any damage which may be done to or sustained by such meter.

Interference with or damage to meters

- 38 (1) No person other than the engineer or his/her duly authorised representative shall disconnect, interfere with or cause or permit any other person to disconnect or interfere with any meter or fittings connected therewith.
 - (2) No person shall wilfully damage any meter or fittings connected therewith.
 - (3) No person shall use or permit to be used on any water installation any fitting, machine or appliance which causes damage or is in the opinion of the Council likely cause damage to any meter.

Repairs to meters

39. In the event of repairs to any meter being found necessary, the Council shall affect such repairs to such meter as soon as possible.

Cost of maintenance and repair to meters

40. (1) The Council shall, at its own cost and expense, maintain and repair any meter provided to the extent of ordinary wear and tear.
- (2) Where any repairs have become necessary in consequence of such meter having been wilfully or accidentally damaged by the consumer, the consumer shall be liable for the cost of such repairs, including the cost of removal and re-installation thereof, or substitution if necessary, and such cost shall be payable by the consumer on demand by the Council.

Substitution of another meter

- 41 The Council may at any time at its own expense disconnect and remove any meter and install and substitute any other meter in its discretion.

Quantity of water registered and payment therefor

42. (1) The quantity of water which shall be registered by the meter as having been supplied to any consumer shall be deemed to be the quantity actually so supplied.
- (2) A consumer shall pay to the Council the amount of any account rendered to him/her in terms of subsection 17(5) within the period stated in the tariff account.
- (3) If the consumer fails to make payment within the period referred to in subsection (2), the Council may without further notice discontinue the supply of water to him/her.

Entry in books of Council binding

- 43 In the absence of evidence showing either that the entry in the books of the Council has been incorrectly made or that the meter was at a time of such reading in default, every consumer shall be bound by the entry in the books of the Council, and it shall not be necessary to produce the person who read the meter, or the person who made any particular entry, in order to prove such reading or entry.

Dissatisfaction with meter reading

- 44 (1) If any consumer is at any time dissatisfied with any particular reading of a meter supplied by the Council and is desirous of having such meter tested, he/she shall give written notice to the Council within seven days after receipt of notice from the Council of such reading, and shall at the same time deposit with the Council the amount prescribed in the tariff, and thereupon the meter shall be tested forthwith by the Council.
- (2) If such meter is found to be registering correctly, the Council shall retain the amount deposited with it.
- (3) If such meter is found to be registering incorrectly, the Council shall refund the deposit to the consumer and shall reaffix a meter in good working order without charge to the consumer, and the charge for water consumed during the three months preceding the reading in dispute, shall be adjusted in accordance with the degree of error found:

Provided that, where such meter has been installed for a period of less than six months, such adjustment shall be over half such lesser period.

- (4) The meter shall be considered to be registering correctly if no error of more than the percentage over or under registration, prescribed in tariff, is found at the rate of normal flow. Normal flow shall mean two-thirds of the maximum flow capacity of the meter.

Failure of meter to register

- 45(1) Where any meter is found to have ceased to register or is found to be faulty in any other respect, the Council shall repair or replace such meter as soon as possible.
- (2) Unless it can be proved to the satisfaction of the engineer that a lesser or greater quantity of water has been consumed, the quantity of water to be paid for by the consumer from the date of reading of the meter prior to its failure to register or to register correctly up to the time of its repair or replacement shall be estimated by the Council on the basis of-
- a) the average monthly consumption of water upon the premises served by the meter during the three months prior to the last registration, or if this is not possible,
 - b) the corresponding months consumption of water upon the premises in the previous year; or if this also is not possible,
 - c) the average monthly consumption of water upon the premises served by the meter over a period of three months after repair or replacement of the meter has been affected.

CHAPTER V

Provisions relating to consumer's water installation

Pipes across the street

- 46(1) No person shall, without the written permission of the Council first had been obtained and except under such conditions as the Council may prescribe, lay, fix, alter, construct or cause to be laid, fixed, altered or constructed any pipe, channel or conduit on, in or under any street, public place or lands vested in or under the control of the Council for the purpose of conveying water, whether such water is derived originally from a Council supply or from private sources of supply.
- (2) Any person receiving such permission from the Council shall, where a Council supply is available for the premises, pay to the Council such rental for the pipe line as is prescribed in the tariff, no additional charge shall be made for the pipe line.
- (3) Where no Council supply is available, any permission given shall be conditional upon the payment of the charges referred to in subsection (2) immediately upon a Council supply becoming available.
- (4) Any such permission may be withdrawn by the Council on not less than one month's notice in writing under the hand of the engineer.

Provision of water installation

47 Every owner or consumer shall, at his/her own expense, provide, install, lay down and maintain his/her own water installation.

Covering of water installation

48 When any water installation is being or has been installed or any alteration or extension of any existing water installation is being or has been carried out, no person shall cover any part of such installation, alteration or extension, or cause, permit or suffer it to be covered, until it has been inspected and approved by the Council.

Notice to inspect

49 When any work as referred to in section 48 has been carried out, it shall be the duty of the owner or of any other person occupying or in control of the premises to notify the Council in writing of the fact that the work is ready for inspection by it in terms of that section.

Inspection and approval of water installation and alterations thereto

- 50(1) No water installation shall be placed in use unless and until it has been inspected and a certificate of approval has been issued by the engineer or his/her duly authorised representative.
- (2) Every additional fitting of alteration to an existing water installation already connected to the Council's supply system, shall be subject to inspection by and approval of the engineer or his/her duly authorised representative, and shall in the event of a certificate of approval not being issued, be altered to comply with this by-law or be removed immediately.

Preparation of water installation for and installation of meter

- 51(1) Where the Council agrees to supply water by meter to any premises not previously so supplied, the consumer shall, at his/her own expense, prepare his/her water installation for the installation of the communication pipe and meter.
- (2) After the water installation has been prepared and approved by the engineer or his/her duly authorised representative, and after payment of the charges prescribed in the tariff, the Council shall connect the water installation to the communication pipe.

Joints

52 No joints except standard screwed joints, wiped plumbing or other joints approved by the Council, shall be used on any water installation.

Taps, ball valves and flushing valves

53 No tap, valve, water-mixer or other device for controlling or regulating the flow, pressure or temperature of water or other article shall be installed in any water installation unless:

- (a) it has been tested, approved and stamped by the Council; or
- (b) it bears the appropriate standardization mark of the South African Bureau of Standards; or
- (c) where for any reason not connected with the quality thereof, the said Bureau is unable or unwilling to place its standardization mark thereon but the Council is satisfied by means of tests carried out by the Council or any other competent authority that it complies with the requirements of the relevant standard specification of the Bureau notwithstanding that it does not bear the mark of the Bureau, and the Council has accordingly placed its stamp of approval thereon; or
- (d) it is certified or approved by the Agreement Board of South Africa and the Council has accordingly placed its stamp of approval thereon.

Depth of water installation pipes below ground

54 All water installation pipes laid in the ground shall have a minimum cover of 400mm.

Laying of pipes in places where pollution might result

55 No person shall lay or install any pipe which is to be supplied with water by the Council, through, in or into a sewer, drain, ash pit, manure hole or other place where, in the event of the pipe becoming unsound, the water conveyed through such pipe would be liable to become polluted or to escape without observation, or make use for the above purpose of any pipe so laid or installed: Provided that where it is impractical to lay or install such pipe in any other manner than aforesaid, the part thereof so laid or installed shall be carried through a cast iron tube or box of sufficient length and strength and of such construction as will afford proper protection to the pipe in the interior thereof and render any leakage or waste therefrom readily perceptible.

Leakage of taps or pipes

- 56(1) No person shall cause or permit any pipe, tap or fitting to leak, and no tap or fitting shall be installed in such position that any leakage cannot readily be detected.
- (2) No consumer shall be entitled to any rebate in respect of the wastage of water due to faulty fittings or undetected leakage in any part of the water installation.
- (3) Any work or repair, digging or replacement, or any other operation which the Council undertakes to, or in respect of, its mains, including stop cocks, in order to enable a consumer to carry out repairs or other work to his/her own water installation, shall be undertaken by the Council at the consumer's expense.

Pipes and stand pipes to be securely fixed

- 57(1) All pipes, except those laid in the ground, shall be securely fixed at frequent intervals to that portion of the wall or other rigid portion of the structure along which they pass.
- (2) All stand pipes or other pipes projecting above the ground and not otherwise secured to any structure shall be securely fixed to a stake securely driven into the ground, or by

other means approved by the engineer, in such a manner as to prevent undue movement of such stand pipe or pipes.

Cistern or tank in ground

58 No cistern or tank buried or installed in any excavation in the ground shall be used for the storage or reception of water supplied by the Council and intended for human consumption.

Taps for domestic use

59 Other than those discharging from the hot water system, taps to supply water for domestic purposes in dwelling houses or residential buildings or for drinking purposes or any other type of premises shall be connected to a water installation pipe at a point before such pipe enters a cistern or tank and shall not be supplied from any cistern or tank: Provided that in buildings where a water supply is required above the level at which a regular and adequate supply is available from the mains, it may be taken from a tank or cistern which shall be constructed in accordance with the provisions of this by-law.

Connection of sundry apparatus

60(1) No person shall cause or permit any water installation pipe to be connected directly to any water closet, urinal, steam boiler or trade vessel or apparatus.

(2) Every water closet, urinal, steam boiler, trade vessel or apparatus shall be fed separately and directly from a cistern installed solely for that purpose: Provided that the Council may approve of any such fitting being connected direct to the water installation without the interposition of a cistern or break-pressure tank, where adequate means for the prevention of reverse flow or re-entry of water from such fitting to the water installation are provided.

Cistern or tank

61(1) No person shall install, fit, use or cause or permit to be installed, fitted or used upon any premises a cistern or tank for the reception or storage of water, other than a cistern used for flushing water closets or other sanitary fittings, unless:

- (a) the cistern or tank is constructed of a material which in the opinion of the engineer is sufficiently strong for the purpose and capable of resisting corrosion;
- (b) the cistern or tank is watertight, vermin proof and properly covered and ventilated;
- (c) the cistern or tank is provided with access covers which shall be bolted down or locked in position at all times, except when opened for inspection;
- (d) the inlet pipe to the cistern or tank is provided with a ball, tap or check valve of a type approved by the engineer;
- (e) the cistern or tank is so placed that it may be readily drained and inspected and cleansed inside and outside;

- (f) a stop-cock is fitted to the outlet pipe near to each cistern or tank so that repairs to any pipe leading from or to apparatus fed by the cistern or tank can be affected without emptying the latter;
 - (g) a brass sampling cock is fitted to the cistern or tank to enable the engineer to draw samples of the water stored therein when necessary for testing purposes;
 - (h) the cistern or tank is provided with an adequate drainage system to ensure that the premises are not flooded in the event of leakage or accidental overflow, the capacity of such drainage system to be such that it will be capable of discharging water at a rate at least equal to the rate of flow of the incoming supply and the outlet of the drainage discharge pipe to be so situated that the discharge of water may be readily detected.
- (2) In the event of water stored in the cistern or tank becoming contaminated in any way, the consumer shall on instructions from the engineer take immediate steps to drain the cistern or tank, clean it and disinfect it to the standards set by the engineer before re-filling and replacing in service.
 - (3) When a cistern or tank on account of age or deterioration or for any other reason, no longer complies with the requirements of this section, the consumer shall adequately repair or entirely replace the tank or cistern within 60 days of receipt or written notice from the engineer to do so.
 - (4) When a continuous supply of water to the premises is required, the required cisterns or tanks shall be provided in duplicate.

Overflow pipe to cistern or tank

62 Every cistern or tank shall be provided with an overflow or waste pipe, the situation of which shall admit of the discharge of water being readily detected.

Capacity of cistern

63 Every steam boiler and any premises which require, for the purpose of the work undertaken on the premises, a continuous supply of water, shall have a cistern holding not less than half a day's supply calculated according to the average daily consumption.

Water-heating apparatus

64(1) Every boiler, hot-water tank or other water-heating apparatus connected to a water installation pipe shall be of a type, design and material tested and approved by the Council and shall be provided with an unobstructed outlet or expansion pipe, safety valve or other pressure release device which is adequate for the release of excess pressure, and the design, specification and position of which have been approved by the Council and which releases either in to the open air in a position where water discharging can easily be detracted, or into the cistern supplying the water heating apparatus with water at a level above the level of the water in the cistern.

- (2) No person shall obstruct or perform any act which prevents or is likely to prevent the effective operation of any outlet of expansion pipe, safety valve or device referred to in subsection (1).

- (3) A permanent notice shall be displayed in a conspicuous position on every such water heating device directing attention to the danger of obstructing the outlet or other pipe or devise, as the case may be.

Material of circulating or supply pipes

- 65 Circulating or supply pipes for hot water may be of lead, galvanized iron or copper, except that were used for heating purposes only the pipes may be of black iron.

Distance between water installation and electric wires

- 66(1) No portion of the water installation shall, except where it is part of a specifically approved water installation, be laid, installed or maintained within 300 mm of, or be in metallic contact with, any electrical apparatus: Provided that this requirement shall not be taken as preventing electrical bonding as required by any by-law or regulations for the supply and use of electrical energy and for the wiring of premises.
- (2) No tap, valve or similar apparatus shall be laid, installed, fixed or maintained within 2 m of an electrical socket outlet, appliance or distribution board without the prior written approval of the head of the Council's electricity department.

CHAPER VI

Special provisions relating to fire extinguishing services

Special provisions

- 67 Notwithstanding anything to the contrary contained in this Chapter, the provisions contained in the preceding Chapters shall mutatis mutandis apply to the supply of water for fire extinguishing service and shall be deemed to have been included in every agreement for such supply.

Payment for services

- 68 The consumer and the owner of premises shall be jointly and severally liable to pay the charges prescribed in the tariff in respect of any fire-extinguishing installation or appliance use or installed upon such premises.

Communication pipes for fire-extinguishing services

- 69(1) All communication pipes which are intended for preventive or automatic use in case of fire shall be laid by the Council as far as the boundary of the consumer's property.
- (2) Such communication pipes shall be used only for fire-extinguishing purposes.
- (3) No take-off of any kind from any such communication pipe shall be made nor shall any water therefrom be used other than in connection with automatic sprinklers and drenchers, hydrant connections or hose reel connections or for the pressure tank connected therewith and such tank shall be controlled by a suitable ball tap.

- (4) A separate communication pipe shall be laid and used for every sprinkler, hydrant and domestic supply installation.

Valves in communication pipes

70 Every communication pipe shall be fitted with a proper sluice valve which shall be:

- (a) supplied by the Council at the expense of the consumer;
- (b) installed between the consumer's property and the main;
- (c) of the same diameter as the communication pipe; and
- (d) installed in such position as may be determined by the engineer.

Extension of system

71 Without the written consent of the Council no further sprinklers shall be added or connected to any existing fire-extinguishing system after such system has been connected to the main.

Extension of system to other premises

72 No extension or connection from any fire-extinguishing system to other premises shall be made, and in the event of any such connection or extension being made, the Council shall entitle to enter upon such premises and take all steps necessary to remove such connection or extension at the cost of the person responsible for such extension or connection.

Inspection and approval of fire-extinguishing system

73 No water shall be supplied to any fire-extinguishing system until it has been inspected and the engineer or his/her duly authorized representative has certified in writing that such water installation complies to the requirements of this by-law and the work has been carried to his/her satisfaction.

Connection to be at pleasure of the Council

- 74(1) The Council shall be entitled in its absolute discretion to grant or refuse an application for the connection of a fire-extinguishing installation to its main.
- (2) If in its opinion a fire-extinguishing installation which it has allowed to be connected to its main is not being kept in proper working order or in otherwise not being properly maintained, the Council shall be entitled either to require the installation to be disconnected from the main or itself to carry out the work of disconnecting it at the consumer's expense.

Meters in fire-extinguishing communication pipes

75 The Council shall be entitled to install a water meter in the fire-extinguishing communication pipe and the owner of the premises shall be liable for the whole of the cost in so doing if it appears to the Council that water has been drawn from the pipe otherwise than for the purpose of extinguishing a fire.

Provision of pressure gauge

- 76 A pressure gauge indicating the water pressure in kPa shall be fixed on all fire-extinguishing systems inside the premises of the consumer.

Installation of reflux valve

- 77(1) When a fire-extinguishing installation includes a fire pump connection, a reflux valve of a type approved by the Council shall be fitted on the premises in an accessible position permitting of its ready inspection, repair and removal.
- (2) The said reflux valve shall be used to shut off the domestic supply from the Council's main whenever or for so long as the fire-pump connection is in use.
- (3) The said reflux valve shall be serviced as least once annually by a registered bona fide firm approved by the engineer as being capable of undertaking such work.
- (4) When called upon to do so by the engineer, the consumer shall produce a certificate from the said firm that the service has been done.

Sprinkler extinguishing installation

- 78 A sprinkler installation may be installed in direct communication with the main, but the Council shall not be deemed to guarantee any specified pressure of water at any time.

Header tank or double supplies form mains

- 79(1) Unless a duplicate supply from a separate main is provided for the sprinkler installation, the consumer shall install a header tank at such an elevation as will compensate for any cessation or reduction of pressure in the Council's main.
- (2) The main pipe leading from the header tank to the sprinkler installation may be in direct communication with the main: Provided that in such case it is fitted with a reflux valve which will close against the main and open to that of the tank should the pressure in the main not be available for any reason.
- (3) An overflow pipe shall be fitted to such tank, which pipe shall discharge in such a position as to be readily observable, and shall not be led away by any down pipe to any drain.
- (4) Where a duplicate supply from a separate main is provided, each supply pipe shall be fitted with a reflux valve situated on the premises.
- (5) The reflux valves installed in terms of subsections (2) and (4) shall be serviced annually as prescribed in subsection 77(3).
- (6) The header tank shall be drained and refilled at least once per annum and the engineer shall be advised at least 48 hours before the tank is due to be drained to enable an inspection to be arranged and made, if necessary.

Annual charges for sprinkler and drencher installation

- 80(1) The annual charges prescribed in the tariff for the inspection and maintenance of the communication pipes leading from the Council's main to the boundary of a stand, erf or other area of land shall be payable in advance and shall become due in respect of every such pipe as soon as the Council has notified the owner of the land that the pipe has been laid and is ready for connection to a fire-extinguishing installation on the land.
- (2) The tariffs in terms of subsection (1) shall cover also the emptying and refilling of any tanks which may be necessary.
- (3) The tariffs to be paid in terms of subsection (1) shall be calculated according to the volume of the tank, regard being had to the level to which the tank is filled.

Annual charges for private hydrant installations

- 81 The annual charges in terms of the tariff for the maintenance of connections and the inspection of private hydrant installations, other than sprinklers, shall be paid in advance.

Sealing of private fire hydrants

- 82(1) All private hydrants shall be sealed by the Council and such seals shall not be broken by any person other than the Council's officers in the course of testing, except for the purpose of opening the hydrant in case of fire.
- (2) The cost of resealing such hydrants shall be borne by the consumer except when such seals are broken by the Council's officers for testing purposes.
- (3) Any water consumed after the breaking of the seal, other than in the course of testing by the Council or in case of fire, shall be paid for by the consumer at the rates prescribed in the tariff for domestic purposes. The quantity thus consumed shall be determined by the engineer.

CHAPTER VII

Specifications

Diameter of pipes

- 83(1) All diameters of pipes referred to in this Chapter relate to internal dimensions.
- (2) No water installation pipes shall be less than 12 mm in diameter.

Material of water installation pipes

- 84 All water installation pipes shall be of galvanized iron, lead or copper: Provided that:

- (a) piping of other suitable material may be used subject to the written permission of the engineer first had been obtained;
- (b) piping of not less than 75 mm diameter may be or iron or steel coated internally and externally with Dr Angus Smith's or other suitable coating approved by the engineer.

Iron pipes

- 85 All steel or iron pipes shall be in accordance with the relevant South African Bureau of Standards Specification for medium or heavy pipes or other recognized standard specification approved by the Council.

Lead pipes

- 86 All led pipes shall be in accordance with the relevant South African Bureau of Standards Specification or other recognized standard specification approved by the Council for a working pressure of 750 kPa and shall, in addition, comply with the requirements of section 82.

Copper pipes

- 87 All copper piping shall be in accordance with the relevant South African Bureau of Standards Specification or other recognized standard specification approved by the Council.

Pipes and fittings to withstand 2 000 kPa pressure

- 88 All communication pipes, water installation pipes and fittings shall be capable of withstanding an internal pressure of 2 000 kPa.

Taps, Ball valves and Flushing valves

- 89(1) (a) Unless otherwise specified the component parts of flushing valves shall be of brass or gunmetal, or if hot pressings, of brass or manganese bronze, or in either case of an equally suitable corrosion-resisting alloy or other approved material.
- (b) All flushing valves shall be of a waste-preventing type, shall have a flushing capacity as provided in the Council's and, subject to the provisions of section 60, shall be connected to the flush pipe.
- (c) Parts of flushing valves intended for screwing shall have standard metric right hand threads and parts of all fittings of the same size and intended for the same purpose shall be interchangeable.
- (d) All flushing valves shall be tested to withstand a pressure of 2 000 kPa without leaking or sweating.
- (e) The name or registered trade-mark of the makers shall be stamped on all flushing valves.

- (f) Self-closing taps which are of a non-concussive type approved by the Council and which will not cause damage to the meter and fittings and which have been tested, approved and stamped may be installed.
 - (g) The external form of bath or wash hand basin taps shall be optional to suit any particular style of bath or wash hand basin.
- (2) Without prejudice to the provisions of section 53, the fees prescribed in the tariff shall be payable for the testing and stamping of taps, ball valves, flushing valves and other fittings.

CHAPTER VIII

Sanitation

Standards for sanitation services

- 90 Sanitation services provided by the Council will comply with the minimum standards set for the provision of sanitation services in terms of section 9 of the Water Services Act (Act 108 of 1997).

Objectionable discharge to sewage disposal system

- 91(1) No person shall discharge, or permit the discharge or entry into the sewage disposal system of any sewage or other substance –
- (a) which does not comply with the standards and criteria prescribed in sections 106 and 107 below;
 - (b) which contains any substance in such concentration as will produce or be likely to produce in the effluent produces for discharge at any sewage treatment plant or in any public water any offensive, or otherwise undesirable taste, colour, odour, temperature or any foam;
 - (c) which may prejudice the re-use of treated sewage or adversely affect any of the processes whereby sewage is purified for re-use, or treated to produce sludge for disposal;
 - (d) which contains any substance or thing of whatsoever nature which is not amenable to treatment to a satisfactory degree at a sewage treatment plant or which causes or is likely to cause a breakdown or inhibition of the processes in use at such plant;
 - (e) which contains any substance or thing of whatsoever nature which is of such strength, or which is amenable to treatment only to a degree as will result in effluent from the sewage treatment plant not complying with standards prescribed under the National Water Act, 1998 (Act No. 36 of 1998);
 - (f) which may cause danger to the health or safety of any person or may be injurious to the structure of materials of the sewage disposal system or may prejudice the use of any ground used by the Council for the sewage disposal system, other than in compliance with the permissions issued in terms of this by-law; and
 - (g) which may inhibit the unrestricted conveyance of sewage through the sewage disposal system.
- (2) No person shall cause or permit any storm water to enter the sewage disposal system.
- (3) The Council may, by written notice, order the owner or occupier to conduct, at his or her cost, periodic expert inspections of the premises in order to identify precautionary

measures which would ensure compliance with this by-law and to report such findings to an authorized agent.

- (4) If any person contravenes any provisions of subsection (1) or subsection (2) he or she shall within twelve hours, or earlier, if possible, advise the Council of the details of the contravention and the reasons for it.

Application for infrastructure

- 92(1) If an agreement for on-site sanitation and associated services exists and no infrastructure in connection therewith exists on the premises, the owner must immediately make application on the approved form and –
 - (a) pay the prescribed tariff for the installation of necessary infrastructure; or
 - (b) with the approval of the Council and at the request of the owner, install the connecting sewer or on-site sanitation services in accordance with the specifications of the Council.
- (2) A Council may specify the type of on-site sanitation services to be installed.

Services associated with on-site sanitation services

- 93(1) The removal or collection of conservancy tank contents, night soil or the emptying of pits will be undertaken by council or its authorized agent in accordance with a removal and collection schedule determined by the Council.
- (2) Copies of the collection and removal schedule will be available on request.

Charges in respect of services associated with on-site sanitation services

- 94(1) Charges in respect of the removal or collection of conservancy tank contents, night soil or the emptying of pits will cover all the operating and maintenance costs in the removal of the pit contents, transportation to a disposal site, the treatment of the contents to achieve a sanitary condition and the final disposal of any solid residues.
- (2) Tariffs in respect of the removal or collection of conservancy tank contents, night soil or the emptying of pits will be based on the volume removed by vacuum tank or otherwise.
- (3) If the volume of conservancy tank contents, night soil or the emptying of pits removed or collected cannot be quantified the Council may charge a fixed tariff as prescribed.
- (4) Tariffs may be in the form of a monthly contribution or it may be levied as a single payment when the service is rendered.

Provision of a connecting sewer

- 95(1) If an agreement for the use of the sewage disposal system exists and no connecting sewer exists in respect of the premises, the owner must immediately make application on the approved form and –
 - (a) pay the prescribed tariff for the installation of such a connecting sewer; or
 - (b) with the approval by the Council and at the request of the owner, install the connecting sewer in accordance with any specifications of the council or its authorized agent.

- (2) If an application is made for use of the sewage disposal system to a premises which is so situated that it is necessary to extend the sewer in order to connect the sewage disposal system to the premises, the Council may agree to the extension subject to such conditions as it may impose.

Location of connecting sewer

- 96(1) A connecting sewer provided and installed by the Council or owner in terms of section (95) shall –
- (a) be located in a position agreed to between the owner and the Council agent and be of a size determined by an authorized officer;
 - (b) terminate at a connection point approximately 1 meter inside the premises from the boundary of the land owned by or vested in the Council over which it has a servitude or other right or when subsection (3) applies, at the connecting point designated in terms of that subsection;
- (2) In reaching agreement with an owner concerning the location of a connecting sewer, the Council shall ensure that the owner is aware of
- (a) practical restrictions that may exist regarding the location of a connecting sewer pipe;
 - (b) the cost implications of the various possible locations of the connecting sewer;
 - (c) whether or not the Council requires the owner to fix the location of the connecting sewer by providing a portion of his or her water installation at or outside the boundary of his or her premises, or such agreed position inside or outside his or her premises where the connection is required, for the Council to connect to such installation.
- (3) A Council may at the request of any person agree, subject to such conditions as he or she may impose, to a connection to a sewer other than that which is most readily available for the drainage of the premises; provided that the applicant shall be responsible for any extension of the drainage installation to the connecting point designated by an authorized officer and for obtaining at his or her cost, such servitudes over other premises as may be necessary.
- (4) An owner must pay the prescribed connection tariff.
- (5) Where an owner is required to provide a sewage lift as provided for in terms of the Building Regulations the rate and time of discharge into the sewer shall be subject to the approval of the Council.

Provision of one connecting sewer for several consumers on same premises

- 97(1) Notwithstanding the provisions of section 95 only one connecting sewer to the sewage disposal system may be provided for the disposal of sewage from any premises, irrespective of the number of accommodation units of consumers located on such premises.
- (2) Where the owner, or the person having the charge or management of any premises on which several accommodation units are situated, requires the disposal of sewage from such premises for the purpose of disposal from the different accommodation units, the Council may, in its discretion, provide and install either –

- (a) a single connecting sewer in respect of the premises as a whole or any number of such accommodation units; or
 - (b) a separate connecting sewer for each accommodation unit or any number thereof.
- (3) Where the Council or its authorized agent has installed a single connecting sewer as contemplated in subsection (2)(a), the owner or the person having the charge or management of the premises, as the case may be, -
- (a) must if the Council so requires, install and maintain on each branch pipe extending from the connecting sewer to the different accommodation units –
 - (i) a separate connecting sewer; and
 - (ii) an isolating valve;
 - (b) will be liable to the Council for the tariffs for all sewage disposed from the premises through such a single connecting sewer, irrespective of the different quantities disposed by the different consumers served by such connecting sewer.
- (4) Notwithstanding subsection (1), the Council may authorize that more than one connecting sewer be provided on the sewage disposal system for the disposal of sewage from any premises comprising sectional title units or if, in the opinion of the council or its authorized agent, undue hardship or inconvenience would be caused to any consumer on such premises by the provision of only one connecting sewer.
- (5) Where the provision of more than one connecting sewer is authorized by the Council under subsection (4), the tariffs for the provision of a connecting sewer is payable in respect of each sewage connection so provided.

Interconnection between premises

- 98 An owner of premises shall ensure that no interconnection exists between the drainage installation on his or her premises and the drainage installation on other premises, unless he or she has obtained the prior written consent of the Council and complies with any conditions that it may have imposed.

Disconnection of drainage installation from connecting sewer

- 99(1) The Council may disconnect a drainage installation from the connecting sewer and remove the connecting sewer if –
- (a) the agreement for provision has been terminated and it has not received an application for subsequent provision to the premises served by the sewer within a period of 90 days of such termination; or
 - (b) the building on the premises concerned has been demolished.

Acceptance of sewage delivered by road haulage

- 100 A Council may, at its discretion, and subject to such conditions as it may specify, accept sewage for disposal delivered to the council's sewage treatment plants by road haulage.

Written permission for delivery of sewage by road haulage

- 101(1) No person shall discharge sewage into the Councils' sewage treatment plants by road haulage except with the written permission of the Council and subject to such period and any conditions that may be imposed in terms of the written permission.
- (2) The charges for any sewage delivered for disposal to the Councils' sewage treatment plants shall be assessed by the Council in accordance with the prescribed tariffs.

Conditions for delivery of sewage by road haulage

- 102(1) When sewage is delivered by road haulage –
- (a) the time of delivery shall be arranged with the Council; and
 - (b) the nature and composition of the sewage shall be established to the satisfaction of the Council prior to the discharge thereof and no person shall deliver sewage that does not comply with the standards laid down in terms of this by-law.

Withdrawal of permission for delivery of sewage by road haulage

- 103(1) The Council may withdraw any permission, after giving at least 14 (fourteen) days written notice if its intention to a person permitted to discharge sewage by road haul if the person –
- (a) fails to ensure that the sewage so delivered conforms to the standards prescribed in Schedule "A", as applicable, or in the written permission; or
 - (b) fails or refuses to comply with any notice lawfully served on him or her in terms of these by-laws or contravenes any provisions of this by-law or any condition imposed on him or her in terms of any permission granted to him or her; and
 - (c) fails to pay the assessed tariffs in respect of any sewage delivered.

Application for disposal of industrial effluent

- 104(1) A person must apply in writing on the prescribed form for the permission to discharge industrial effluent into the sewage disposal system of the Council.
- (2) The Council may, if in its opinion the capacity of a sewage disposal system is sufficient to permit the conveyance and effective treatment and lawful disposal of the industrial effluent, for such period and subject to such conditions it may impose, grant written permission to discharge industrial effluent.
- (3) Any person who wishes to construct or cause to be constructed, a building which shall be used as a trade premises, shall at the time of lodging a building plan in terms of section (4) of the National Building Regulations and Building Standards Act, 1977 (Act No 103 of 1977), also lodge applications for the provision of sanitation services and for permission to discharge industrial effluent in terms of subsection (1).

Prohibition of discharging industrial effluent without permission

- 105(1) No person shall discharge or cause or permit to be discharged into the sewage disposal system any industrial effluent except with and in terms of the written permission of the Council and in accordance with the provisions of this part.
- (2) A person to whom such permission is granted shall pay to the Council any prescribed tariffs.

Quality standards for disposal of industrial effluent

- 106(1) A person to whom permission has been granted in terms of section 105 must ensure that no industrial effluent is discharged into the sewage disposal system of the Council unless it complies with the standards and criteria set out in Schedule A.
- (2) The Council may by writing in the permission concerned, relax or vary the standards in Schedule A, provided that the Council is satisfied that any such relaxation represents the best practicable environmental option.
- (3) In determining whether relaxing or varying the standards in Schedule A represents the best practicable environmental option a Council will consider –
- (a) whether the applicant's undertaking is operated and maintained at optimal levels;
 - (b) whether technology used by the applicant represents the best available option to the applicant's industry and, if not, whether the installation of such technology would entail unreasonable cost to the applicant;
 - (c) whether the applicant is implementing a program of waste minimization which complies with national and local waste minimization standards to the satisfaction of the Council;
 - (d) the cost to the Council of granting the relaxation or variation; and
 - (e) the environmental impact or potential impact of such a relaxation or variation.
- (4) Test samples may be taken at any time by a duly qualified sampler to ascertain whether the industrial effluent complies with Schedule A or any other standard laid down in a written permission.

Conditions for disposal of industrial effluent

- 107(1) The Council may in the written permission or at any time, by written notice, require a person to –
- (a) subject the industrial effluent to such preliminary treatment as in the opinion of the Council will ensure that the industrial effluent conforms to the standards prescribed in Schedule A before being discharged into the sewage disposal system;
 - (b) install such equalizing tanks, valves, pumps appliances, meters and other equipment as in the opinion of the council or its authorized agent will be necessary to control the rate and time of discharge into the sewage disposal system in accordance with the conditions imposed by it;
 - (c) install for the conveyance of his or her industrial effluent into the sewage disposal system at a given point, a drainage installation separates from the drainage

installation for waste water and standard domestic effluent and may prohibit such person from disposing of his or her industrial effluent at any other point and from disposing at his or her waste water and standard domestic effluent by means other than into a sewage disposal system;

- (d) construct on any pipe conveying his or her industrial effluent to any sewer, a service access hole or stop-valve in such position and of such dimensions and materials as the Council may prescribe;
 - (e) provide all such information as may be required by the Council to enable it to assess the tariffs due to the Council;
 - (f) provide adequate facilities such as level or overflow detection devices, standby equipment, overflow catch-pits, or other appropriate means to prevent a discharge into the sewage disposal system which is in contravention of this by-law;
 - (g) cause any meter, gauge or other device installed in terms of this section to be calibrated by an independent authority at the cost of that person at such intervals as required by the Council and copies of the calibration to be forwarded to it; and
 - (h) cause his or her industrial effluent to be analyzed as often and in such manner as may be prescribed by the Council and provide it with the results of these tests when completed.
- (2) The cost of any treatment, plant, works or analysis which the permit holder may be required to carry out, construct or install in terms of subsection (1) shall be borne by the permit holder concerned.
- (3) The written permission of the Council must be obtained for any proposed changes to the composition of industrial effluent discharged into the sewage disposal system.
- (4) In the event that industrial effluent that does not comply with the standards in Schedule A or the written permission issued in respect of that process or premises, is discharged into the sewage disposal system, the municipality or its authorized agent must be informed of the incident and the reasons therefore within twelve hours of such discharge.

Withdrawal of written permission for disposal of industrial effluent

- 108(1) The Council agent may withdraw any permission, after giving at least 14 (fourteen) days written notice if its intention to a person permitted to discharge industrial effluent into the sewage disposal system if the person –
- (a) fails to ensure that the industrial discharged conforms to the industrial effluent standards prescribed in Schedule A of this by-law or the written permission;
 - (b) fails or refuses to comply with any notice lawfully served on him or her in terms of this by-law or contravenes any provisions of these by-laws or any condition imposed in terms of any permission granted to him or her; or
 - (c) fails to pay the assessed tariffs in respect of any industrial effluent discharged.
- (2) The Council may on withdrawal on any written permission –
- (a) in addition to any steps prescribed in this by-law, and on 14 (fourteen) days' written notice authorize the closing or sealing of the connecting sewer of the said premises to any sewer for such charge as may be prescribed;
 - (b) refuse to accept any industrial effluent until it is satisfied that adequate steps to ensure that the industrial effluent to be discharged conforms with the standards prescribed in this by-law.

Measurement of quantity of standard domestic effluent discharged

- 109(1) The quantity of standard domestic effluent discharged shall be determined by a percentage of water supplied by the Council; provided that where the Council is of the opinion that such a percentage in respect of specific premises is excessive, having regard to the purposes for which water is consumed on those premises, the council or its authorized agent may reduce the percentage applicable to those premises to a figure which, in its opinion and in the light of the available information, reflects the proportion between the likely quantity of sewage discharged from the premises and the quantity of water supplied thereto.
- (2) Where a premises is supplied with water from a source other than or in addition to the Council water supply system, including abstraction from a river or borehole, the quantity will be a percentage of the total water used on that premises as may be reasonably estimated by the Council.

Measurement of quantity of industrial effluent discharged

- 110(1) The quantity of industrial effluent discharged into the sewage disposal system shall be determined
- (a) where a measuring device is installed by the quantity of industrial effluent discharged from a premises as measured through that measuring device; or
- (b) until such time as a measuring device is installed by a percentage of the water supplied by the Council to that premises.
- (2) Where a premises is supplied with water from a source other than or in addition to the Council water supply system, including abstraction from a river or borehole, the quantity will be a percentage of the total water used on that premises as may be reasonably estimated by the council or its authorized agent.
- (3) Where a portion of the water supplied to the premises forms part of the end product of any manufacturing process or is lost by reaction or evaporation during the manufacturing process or for any other reason, the council or its authorized agent may on application reduce the assessed quantity of industrial effluent.

Reduction in the quantity determined in terms of Section (109) and 110 (1)(a)

- 111(1) A person shall be entitled to a reduction in the quantity determined in terms of sections 109 and 110(1)(a) in the event that the quantity of water on which the percentage is calculated was measured during a period where water was wasted on a leakage was undetected if the consumer demonstrates to the satisfaction of the Council that the said water was not discharged into the sewage disposal system.
- (2) The reduction in the quantity shall be based on the quantity of water loss through leakage or wastage during the leak period.
- (3) The leak period shall be either the measuring period immediately prior to the date of repair of the leak or the measurement period during which the leak is repaired, whichever results in the greater reduction in the quantity.
- (4) The quantity of water loss shall be calculated as the consumption for the leak period less an average consumption, based on the preceding 3 (three) months, for the same length of time. In the event of no previous consumption history being available the average

water consumption will be determined by the Council, after due consideration of all relevant information.

- (5) There shall be no reduction in the quantity if the loss of water directly or indirectly resulted from the consumer's failure to comply with or is in contravention of this by-law.

Construction or installation of drainage installations

112(1) Any drainage installation constructed or installed must comply with any applicable specifications in terms of the Building Regulations and any standards prescribed in terms of the Act.

- (2) (a) Where the draining installation is a pit latrine it must be of the ventilated improved pit latrine type or equivalent having –

- (i) a pit of 2 m capacity;
- (ii) lining as required;
- (iii) a slab designed to support the superimposed loading; and
- (iv) protection preventing children from falling into the pit;

- (b) The ventilated improved pit latrine must conform with the following specifications

- (i) the pit must be ventilated by means of a pipe, sealed at the upper end with durable insect proof screening fixed firmly in place,
- (ii) the ventilation pipe must project not less than 0.5m above the nearest roof, must be of at least 150mm in diameter, and must be installed vertically with no bend;
- (iii) the interior of the closet must be finished smooth so that it can be kept in a clean a hygienic condition. The superstructure must be well-ventilated in order to allow the free flow of air into the pit to be vented through the pipe;
- (iv) the opening through the slab must be of adequate size as to prevent fouling. The rim must be raised so that liquids used for washing the floor do not flow into the pit. It shall be equipped with a lid to prevent the egress of flies and other insects when the toilet is not in use;
- (v) must be sited in a position that is independent of the residential structure;
- (vi) must be sited in positions that are accessible to road vehicles having a width of 3.0m in order to facilitate the emptying of the pit;
- (vii) in situations where there is the danger of polluting an aquifer due to the permeability of the soil, the pit must be lined with an impermeable material that is durable and will not crack under stress;
- (viii) in situations where the ground in which the pit is to be excavated is unstable, suitable support is to be given to prevent the collapse of the soil,
- (ix) any ventilated pit latrine should not usually be used by more than one household; and
- (x) access to water for washing hands.

Drains in streets or public places

113 No person shall for the purpose of conveying sewage derived from whatever source, lay or construct a drain on, in or under a street, public place or other land owned by, vested

in, or under the control of the Council, except with the prior written permission of the council and subject to such conditions as it may impose.

Construction by Council or its authorised agent

- 114 The Council may agree with the owner of any premises that any drainage work which such owner desires, or is required to construct in terms of this by-law or the Building Regulations, will be constructed by the Council against payment, in advance or on demand, of all costs associated with such construction.

Maintenance of drainage installation

- 115(1) The owner or occupier of any premises must maintain any drainage installation and any sewer connection on such premises.
- (2) Any person who requests the council or its authorized agent to clear a drainage installation will be liable to pay the prescribed tariff.
- (3) A Council may, on the written application of the owner or occupier of any premises, inspect and test the drainage installation of such premises or any section thereof and recover from the owner or occupier the cost of such inspection and test, calculated at the rate specified in the prescribed tariff.

Installation of pre-treatment facility

- 116 A Council may require that any new premises must be provided with a minimum pre-treatment facility of a type specified by it prior to that premises being connected to the sewage disposal system.

Protection from ingress of floodwaters

- 117 Where a premises is situated in the 1 in 50 years flood plain the top level of service access holes, inspection chambers and gullies is to be above the 1 in 50 years flood level, except, in the case of service access holes and inspection chambers, where the cover is secured in place by approved means.

CHAPTER IX

Offences and Penalties and Repeal of by-laws

Offences and penalties

- 118 Any person contravening or failing to comply with any provision of this by-law shall be guilty of an offence and liable on conviction to a fine not exceeding R 10 000.00 or to imprisonment for a period not exceeding 24 months and in the case of a continuing offence, to a further fine not exceeding R 1000.00 for every day during the continuance of such offence after a written notice from the Council has been issued, and for a second or subsequent offence liable on conviction to a fine not exceeding R10 000.00 or to imprisonment for a period not exceeding 24 months.

Repeal of by-laws

119 The Water by-laws of the former Municipal Councils of Jan Kempdorp, Hartswater and Pampierstad are hereby repealed.

SCHEDULE A: Acceptance of industrial effluent for discharge into the sewage disposal system

Quality standards

No industrial effluent shall be accepted for discharge into the sewage disposal system unless it complies with the following conditions.

The effluent shall not contain concentrations of substances in excess of those stated below: -

Large Works general quality limits are applicable when an industry's effluent discharges in a catchment leading to a sewage works of greater than 25M/d capacity. Small Works quality limits apply for catchments leading to sewage works with less than 25M/d capacity.

GENERAL QUALITY LIMITS	LARGE WORKS >25M/d	SMALL WORKS <25M/d	UNITS
1. Temperature (C)	> 44 C	> 44 C	Degrees Celsius
2. pH	6 > pH > 10	6,5 < pH < 10	pH units
3. Oils, greases, waxes of mineral origin	50	50	mg/
4. Vegetable oils, greases, waxes	250	250	mg/
5. Total sugar and starch (as glucose)	1 000	500	mg/
6. Sulphates in solution (as SO = 4)	250	250	mg/
7. Sulphides, hydrosulphides (as S=) and polysulphides	1	1	mg/
8. Chlorides (as C -)	1 000	500	mg/
9. Fluoride (as F -)	5	5	mg/
10. Phenols' (as phenol)	10	5	mg/
11. Cyanides (as CN -)	20	10	mg/
12. Settable solids	Charge	Charge	m/
13. Suspended solids	2 000	1 000	mg/
14. Total dissolved solids	1 000	500	mg/
15. Electrical conductivity	-	400	MS/m
16. Anionic surfactants	-	500	mg/
17. C O D	Charge	Charge	mg/
HEAVY METAL LIMITS			
18. Copper (as Cu)	50	5	mg/
19. Nickel (NI)	50	5	mg/
20. Zinc (Zn)	50	5	mg/
21. Iron (Fe)	50	5	mg/
22. Boron (B)	50	5	mg/
23. Selenium (Se)	50	5	mg/
24. Manganese (Mn)	50	5	mg/
25. Lead (Pb)	20	5	mg/
26. Cadmium (Cd)	20	5	mg/

27	Mercury (Hg)	1	1	mg/
28	Total Chrome (Cr)	20	5	mg/

GENERAL QUALITY LIMITS	LARGE WORKS >25M/d	SMALL WORKS <25M/d	UNITS
29 Arsenic (As)	20	5	mg/
30 Titanium (Ti)	20	5	mg/
31 Cobalt (Co)	20	5	mg/
TOTAL METALS	100	20	mg/

Special limitations

1. No calcium carbide, radioactive waste or isotopes
2. No yeast and yeast wastes, molasses spent or unspent
3. No cyanides or related compounds capable of liberating HCN gas or cyanogens
4. No degreasing solvents, petroleum spirit, volatile flammable solvents or any substance which yields a flammable vapour at 21 C

BY-LAW RELATING TO THE PHOKWANE NATURE RESERVE

The Municipal Manager of the PHOKWANE Local Municipal Council in terms of subsection 156(2) of the Constitution of the Republic of South Africa Act 1996, (Act 108 of 1996) read with section 13 of the Local Government: Municipal Systems Act (Act 32 of 2000), publishes the by-law as set forth hereafter as by-law made by the Council.

1. In this by-law, unless inconsistent with the context means
 - “Authorized officer” an officer appointed in terms of section 4:
 - “Council” the PHOKWANE Local Municipal Council and includes the Mayor, Political Office Bearers, Political Structures, Municipal Manager and any other official who has delegated powers in terms of section 59 of the Local Government: Municipal Systems Act (Act 32 of 2000);
 - “Nature reserve” the PHOKWANE Nature Reserve established in terms of _____, or amendments thereto promulgated from time to time, and
 - “vehicle” and “motor vehicle” have the meanings assigned thereto in the National Road Traffic Act, 1996.
2. No person shall enter the nature reserve unless he is the holder of a permit issued by the Council authorizing him/her to do so.
3. Any person who:
 - (a) introduces into, or is in possession of any flora, fauna, weapon, trap, explosive or poison within the nature reserve;
 - (b) removes from the nature reserve any flora, fauna, nests, objects of historical archaeological or scientific interest, or any property therein belonging to the Council;
 - (c) damages, injures or destroys any flora, fauna or nests within the nature reserve;
 - (d) damages, destroy or defaces in any manner any natural object or any property belonging in the Council, within the nature reserve;
 - (e) without authority within the nature reserve lights or assists in lighting or uses, rekindles or adds fuel to any fire;
 - (f) with authority, fails to control properly or after use fails to extinguish a fire;
 - (g) throws down or drops in the nature reserve any burning match or other burning material capable of spontaneous combustion or self-ignition;
 - (h) introduces, into, operates or uses, or causes to be operated or used, within the nature reserve, any vehicle except upon such roads as are specifically open to vehicular traffic;

- (i) discards any refuse whatsoever within the nature reserve except by depositing it in receptacles provided for that purpose;
- (j) in any way pollutes or throws anything into water within the nature reserve;
- (k) allows any unattended dog or live-stock to stray or trespass in or into nature reserve;
- (l) damages or climbs over or through any wire fences or any other fences within or enclosing the nature reserve;
- (m) walks anywhere except upon the roads or footpaths provided within the nature reserve (where no footpaths exist, access over the veld shall be permitted);
- (n) creates any disturbance, nuisance, impediment or hindrance which may give offence to any person within the nature reserve, and
- (o) fails to comply, or complies in any manner intended to deceive, with an instruction or direction given by an authorized officer or obstructs, hinders or interferes with the authorized officer in the exercise of any of his/her powers or duties under this by-law;

shall be guilty of an offence.

4. The Council may appoint such officers as it may deem necessary for the supervision and control of the nature reserve. Every officer appointed in terms of this section shall be furnished with a certificate of appointment by the Municipal Manager and such officer shall on demand by any person within the nature reserve, or desirous of entering the nature reserve produce for inspection his/her certificate of appointment, unless such officer is in uniform.
5. An authorized officer may:
 - (a) upon reasonable grounds of suspicion that any person has offended against the provisions of this by-law require the persons suspected of such offence to give his/her name and place of abode and/or seize all nets, implements, appliances or tools whatsoever which to the knowledge or reasonable belief of the officer are being or have been or are about to be used for any purpose contrary to the provisions of this by-law;
 - (b) demand from any person engaged in the performance of any act in respect of which a permit is required in terms of this by-law the production of such permit and any person who upon demand is unable, or refuses, to produce such permit shall be guilty of an offence, and
 - (c) pursue any enquiry which may be deemed by him/her to be necessary to ascertain whether the provisions of this by-law are being complied with.
- 6 Any person contravening or failing to comply with any provision of this by-law shall be guilty of an offence and liable on conviction to a fine not exceeding R3000.00 or to imprisonment for a period not exceeding 6 months and in the case of a continuing offence, to a further fine not exceeding R500.00 for every day during the continuance of such offence after a written notice from the Council has been issued, and for a second or subsequent offence liable on conviction to a fine not exceeding R3000.00 or to imprisonment for a period not exceeding 6 months.

- 7 The by-laws of the former Municipal Councils of Jan kempdorp, Hartswater and Pampierstad relating to matters contained in this by-law, are hereby repealed.

SWIMMING BATH BY-LAW

The Municipal Manager of the Phokwane Local Municipal Council in terms of subsection 156(2) of the Constitution of the Republic of South Africa Act 1996, (Act 108 of 1996) read with section 13 of the Local Government: Municipal Systems Act (Act 32 of 2000), publishes the by-law as set forth hereafter as by-law made by the Council.

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

“bath” any swimming bath owned by or under the lawful management or control of the Council and available for use by the public, and includes all dressing rooms, cubicles, and other facilities used in connection therewith

“Council” the PHOKWANE Local Municipal Council and includes the Mayor, Political Office Bearers, Political Structures, Municipal Manager and any other official who has delegated powers in terms of section 59 of the Local Government: Municipal Systems Act (Act 32 of 2000);

“Superintendent” the employee of the Council who is in charge of a bath.

2. (1) No person other than the Superintendent or other municipal employee or the lessee of the restaurant or an employee of the lessee in the course of his/her duties, or a political office bearer for any purpose of the Council, shall enter a bath, nor shall any person bathe in the bath or the children’s bath contained therein, except on such days and at such times and on such conditions as shall be laid down by the Council from time to time.
 - (2) A notice setting forth the days and hours during which a bath shall normally be open to the public, shall be posted by the Council in a prominent place at or near the entrance thereto.
 - (3) Notwithstanding the fixing by the Council of the days and hours of normal opening as provided in the preceding subsections the Council may close a bath to the public for a specified time and purpose during the open hours; provided that a notice to that effect is posted at the same place as the notice referred to in subsection (2). When a bath is closed to the public to enable a swimming gala to be held or for the special purposes of a swimming club or other organization or school, as the case may be, the public may be admitted as spectators or bathers under such conditions and terms of admission as shall be determined by the organizers of such swimming gala, swimming club or other organization or school with the approval of the Council.
3. (1) No person shall enter a bath during the open hours unless he/she shall first have obtained a ticket or coupon, and in respect of such ticket or coupon shall have paid the relative charge displayed in terms of section 13; provided that the Council, through the Superintendent, may at its discretion refuse any person admission to a bath.
 - (2) Any person who has been refused admission to a bath or, having gained admission, is ordered by the Superintendent to leave the bath, shall have the right to appeal to the Council against the decision of the Superintendent.
 - (3) Any person who has paid for admission and who is subsequently ordered to leave a bath shall not be entitled to a refund of his/her entrance money.

(4) Children under the age of six years will be admitted to a bath only if accompanied by a parent or some other responsible person.

4. (1) The Council shall provide at a bath such dressing rooms or cubicles as it may deem necessary

which persons attending for the purpose of bathing shall change from their ordinary clothes into bathing costumes and *vice versa*. The Council shall also provide such sanitary conveniences and other facilities as it may deem necessary.

(2) Separate dressing rooms or cubicles, sanitary conveniences and other facilities shall be provided for both sexes and notices shall be erected stating the gender which shall be entitled to use the respective dressing rooms or cubicles, sanitary conveniences or other facilities. No person shall enter any such dressing rooms or cubicles or other accommodation which shall have been appropriated or set apart for the use of the opposite gender.

(3) The Council shall provide portable containers or baskets in which the clothes and effects of a bather may be deposited. Such containers or baskets, when in use, shall be deposited by the bather concerned for safekeeping in a room set aside by the Council for the purpose. Such room shall be in charge of a municipal employee or attendant, who shall issue a receipt for the container or basket to the bather in the form of a token with a number inscribed on it and corresponding with the number inscribed on the container or basket handed in by the bather. The bather may only redeem the container or basket containing his/her clothes or effects, by returning to the attendant or municipal employee in charge of such room the token issued to him/her as a receipt for the container or basket containing his/her clothes or effects. No person other than a municipal employee or the attendant concerned shall enter the room set aside by the Council for the safekeeping of bathers' clothes and effects.

(4) Should a bather lose any token issued to him/her in terms of subsection (3), he/she may obtain the clothes and effects deposited upon making a statement in writing, in which he/she shall describe to the satisfaction of the Superintendent the manner of the loss of the token and the clothes and effects deposited by him/her. The said statements shall also indemnify the Council against all claims by other persons in respect of such clothes and effects delivered without the production of the original token. In addition to the charges laid down in terms of section 13 such bather shall pay the Council the sum of R10-00 in respect of the token that has been lost.

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(5) The Council shall not be liable for damages in cases where the token issued in terms of subsection (3) has been lost or stolen and the clothes and effects have been claimed and handed over to some person other than the owner on production of the token issued by the Council.

(6) No person shall use any dressing room or cubicle other than that which may be indicated to him/her by the Superintendent and no person shall without the consent of the occupier or the Superintendent enter or seek to enter any dressing room or cubicle which is already occupied. No person shall occupy or use any dressing room for a longer period than that determined by the Superintendent nor shall any person loiter in such dressing room or cubicle or in the doorways or passages leading thereto after the expiration of the period of occupation or use as determined by the Superintendent. No person shall forcibly or by other improper means seek admission to any dressing room or cubicle.

(7) No person having changed in a dressing room or cubicle from his/her ordinary clothes into a bathing costume, shall leave the dressing room or cubicle in order to bathe without first having properly and sufficiently washed himself/herself under the showers provided

for the purpose. No person shall use any soap in the bath or children's bath, or willfully foul or pollute water in such bath, or expectorate in or upon any part of such bath or buildings or enclosure.

- (8) No person shall bathe at a bath unless decently and adequately clothed in a bathing costume, nor shall any person appear anywhere exposed to public view at a bath unless either wearing such a bathing costume or otherwise properly and decently dressed. It shall be lawful for the Superintendent to call upon any person who in his/her opinion is contravening the provisions of this section immediately to vacate a bath without refunding the charge paid for admission thereto; provided that this shall not absolve any such person from being liable to the penalty provided for a contravention of this by-law.
5. No person shall at a bath –
- (a) damage or deface any dressing room, cubicle, sanitary convenience, fence or other part of a bath;
 - (b) commit any nuisance, or write or scribble on any wall or other part of a bath;
 - (c) throw or deposit any filth or refuse except in such receptacles as may be provided for the purpose;
 - (d) remove, take away, throw down, damage or destroy any furniture, fitting, towel, costume or other article or thing appertaining to or used at a bath and which is the property of the Council;
 - (e) by any disorderly or improper conduct, disturb, injure or molest any other person or obstruct any Superintendent in the execution of his/her duty, and no person shall use any indecent, offensive or profane language or behave in an indecent or offensive manner.
6. No person who is in a state of intoxication or under the influence of drugs or whom the Superintendent upon reasonable grounds believes to be in such a state, shall be admitted to a bath. Where such person has been inadvertently admitted, he/she shall vacate such bath without delay on being ordered to do so by the Superintendent. No intoxicating liquor shall be taken to or be consumed at a bath.
7. No dogs shall be allowed at a bath.
8. No person shall at any time enter a bath while knowingly suffering from any contagious or infectious disease or from any abnormal discharge from the eyes, nose, ears or throat, or from a discharging sore.
9. The Council in the absence of proof of negligence on its part or on the part of its employees, shall not be responsible for the loss or theft of clothing or effects of any description left by any person in the dressing rooms or cubicles or elsewhere in a bath, and the Council shall not be responsible for any injuries sustained or illness contracted or alleged to have been sustained or contracted, as the case may be, by any person at a bath.
10. (a) No person shall play water-polo at a bath except at such times and under such conditions as shall be fixed by the Council or the Superintendent, nor shall any person play any other game likely to cause injury or discomfort to bathers or spectators.
- (b) The use of a surfboard, canoe, boat, punt, raft or other thing which may cause injury, shall be prohibited at a bath except with the express permission of the Superintendent and under such conditions as the Superintendent may impose.

11. No person shall interfere with or molest any animal or bird kept on the premises on which a bath is situated, nor shall any person interfere with plant or pick any flower, slip or cutting.
12. No person shall gamble at a bath.
13. The Council shall from time to time decide on the charges for admission to a bath and such charges shall be prominently displayed at the office where the admission charges are paid.
14. Any person contravening any of the provisions of this by-law and any person whom the Superintendent reasonably suspects of having committed any other offence at a bath, shall immediately leave the bath when ordered to do so by the Superintendent and, should he/she fail to do so, shall be guilty of an offence and in addition the Superintendent shall have the right to summarily to eject such person from a bath.
15. Any person contravening any of the provisions of this by-law shall be guilty of an offence and shall on conviction be liable to a penalty not exceeding R 3000.00.
16. The Swimming Bath by-laws of the former Municipal Councils of Jan kempdorp, Hartswater and Pampierstad are hereby repealed.

BY-LAW REGARDING PROHIBITION AND CONTROL OVER THE DISCHARGE OF FIREWORKS.

The Municipal Manager of the PHOKWANE Local Municipal Council in terms of subsection 156(2) of the Constitution of the Republic of South Africa Act 1996, (Act 108 of 1996) read with section 13 of the Local Government: Municipal Systems Act (Act 32 of 2000), publishes the by-law as set forth hereafter as by-law made by the Council.

1. DEFINITIONS

In this by-law, unless the context proves otherwise means-

- (i) **"Act"** the Explosives Act, 1956 (Act no. 26 of 1956)
- (ii) **"Council"** the Phokwane Local Municipal Council and includes the Mayor, Political Office Bearers, Political Structures, Municipal Manager and any other official who has delegated powers in terms of section 59 of the Local Government: Municipal Systems Act (Act 32 of 2000);
- (iii) **"fireworks"** **firework** composition and manufactured fireworks as defined in Divisions 1 and 2 in Regulation 1.10 and miscellaneous materials as defined in Regulation 1.11 issued in terms of the Act, as set out hereunder, as well as all new firework- and firework related inventions, developments and products obtained by any person in any way whatsoever or that enters the market in a legal or illegal way.

Division1: comprise firework composition, which term shall mean any chemical compound or mechanically mixed preparation of an explosive or inflammable nature that is used for the purpose of making manufactured fireworks and is not included in any other class of explosive, and also any star and any coloured fire composition that is not included in Division 2; and

Division2: comprise manufactured fireworks, which term shall mean an explosive of any class and any firework composition, when such explosive or composition is enclosed in a any case or contrivance or is otherwise manufacturer or adapted for the production of pyrotechnic effects or pyrotechnic signals or sound signals, such as flights of rockets, mines, rockets, serpents, shells, rocket distress signals. Very's signals, wheels and coloured fire compositions when such compositions are of a nature not liable to spontaneous combustion, and in a quantity not exceeding 500 grams enclosed in a substantially constructed, hermetically close metal case; and also

Manufactured fireworks that are not liable to explode violently and which do not contain their own means of ignition shall be classed as "Shop Goods", such as firework showers, flashlight powders, fountains, golden rain, gerbs, lawn lights, pin wheels, devil among tailors, Roman candles, sparklers, toy caps, volcanoes, Chinese crackers when the length does not exceed 80 millimeters, and mines, Jack-in-the-boxes and Feu de Joie, not exceeding 500 grams gross mass and rockets not exceeding 120 grams: and also

Miscellaneous materials not included in any of the other classes, which have been declared explosive, e.g., matches, Bengal matches, chlorates and ammonium nitrate.

- (iv) **"Firework display"** **fireworks** discharged by any person or body for either religious or festivity celebration purposes for own pleasure or the pleasure of others;

- (v) **"Licensed dealer"** a dealer who is in terms of section 4 of the Act licensed to deal in fireworks.
- (vi) **"Municipal area"** the area under jurisdiction of the PHOKWANE Local Municipal Council.
- (vii) **"Municipal Manager"** a person contemplated in section 82 of the Local Government: Municipal Structure Act, (Act 117 of 1998)

2. PROHIBITION OF KEEPING, STORAGE AND POSSESSION OF FIREWORKS

No Person shall keep, possesses or store any fireworks within the municipal area, save for-

- (i) a licensed dealer;
- (ii) a person who bona fide transports fireworks to an area where this by-law does not apply; or
- (iii) persons or bodies who obtained permission as envisaged in section 4; or
- (iv) religious group members after permission as envisaged in section 4 has been granted and the applicant supplied the Municipal Manager with a list containing the names of the heads of family which will participate in the religious celebration.

3. PROHIBITION OF USE AND DISCHARGE OF FIREWORKS

No person shall discharge or cause to be discharged any fireworks within the municipal area.

4. PERMISSION FOR DISCHARGE OF FIREWORKS

- (1) Notwithstanding the provision in subsection (3) the Municipal Manager may grant permission for the discharge of fireworks and he/she may, besides the conditions imposed in section 7, impose in terms of section 8 any further conditions he/she deems necessary.
- (2) Persons or bodies who wish to discharge fireworks for religious - or festive celebration purposes, shall acquire prior permission from the Municipal Manager.
- (3) Permission is subject to strict compliance with the conditions imposed in section 7 and such other conditions as the Municipal Manager determine in terms of section 8

5. APPLICATION FOR PERMISSION

Application for permission to discharge fireworks for religious or festive celebration purposes shall be made to the Municipal Manager in writing 30 days prior to the envisaged date and shall set forth-

- (a) The name of the person or organization sponsoring the display together with the names of the persons actually in charge of the firing of the display who shall be at least 18 years of age and competent for the work;
- (b) The occasion to be celebrated;
- (c) The date and time of day at which the display is to be held;
- (d) The exact location planned for the display;
- (e) A description setting forth the age and qualifications of persons who shall be in charge of the actual discharging of the fireworks;

- (f) The numbers and kinds of fireworks to be discharged and the value of the display;
- (g) The manner and place of storage of such fireworks prior to the display; and
- (h) A site plan of the grounds on which the display is to be held showing-
 - (i) The point at which the fireworks are to be discharged, which shall be at least 100m from the nearest building, road or railway, and at least 20m from the nearest upper surface telephone-, telegraph-, or powerline, tree or other overhead obstruction;
 - (ii) The direction in which aerial fireworks, if any, are to be fired;
 - (iii) The area to be kept clear of persons which shall extend at least 50m from the front and the sides of the point at which the fireworks are to be discharged;
 - (iv) The area to be kept clear on which falling residue from aerial fireworks is expected to drop, which shall extend for at least 100m to the rear of the firing point; and
 - (v) The location of all buildings and roads within 200m of the firing site and all trees, telegraph or telephones lines or other overhead obstructions at or adjacent to the firing site.

6. GRANTING OF PERMISSION

- (1) After receipt of an application as envisaged in subsection 5(a), the Municipal Manager shall, in his/her sole discretion approve or disapprove of the application.
- (2) In the event of the Municipal Manager disapproving of the application, he/she shall furnish written reasons for such disapproval and grant the applicant at least two days to improve his/her application.
- (3) In the event of the Municipal Manager approving the application, he/she shall if applicable, supply civil aviation with a copy of the application for permission and the conditions imposed.

7. CONDITIONS

- (1)
 - (a) The Municipal Manager shall oversee or render assistance at the display and his/her instructions must be complied with by any person present at the display.
 - (b) Costs incurred for overseeing or rendering assistance at the display shall be born by the applicant. Costs shall be as determined from time to time.
- (2) The display may not start before and may not continue after the prior determined time.
- (3) Safety distances in accordance with the size of the display and the area where it shall occur, shall be strictly adhered to.
- (4) The area where the display occurs shall be kept free of all flammable and combustible material.
- (5) No person shall willfully enter upon or remain in that area reserved for receiving falling residue from aerial fireworks.
- (6) No unauthorized person shall willfully proceed beyond the area demarcated by the organizers of the display for spectators.

8. ADDITIONAL CONDITIONS

- (1) The Municipal Manager may-
- (a) with due observance of the information in the application envisaged in section 5, impose conditions he/she deems necessary additional to those referred to in section 7;
 - (b) indicate another area or venue than the one applied for from where the fireworks should be discharged;
 - (c) summons the applicant to give prior written notice to persons who may be affected by the display or to place an advertisement in the newspaper or newspapers as instructed by the Municipal Manager or to give both such written notice and place an advertisement; and
 - (d) affix on the site plan the position of emergency vehicles, the access and exit routes to and from the area where the discharge occurs which emergency vehicles shall use, the situation of fire hydrant ends, water ends and other fire fighting equipment that should be kept free from obstruction.

9. PENALTIES

Any person who contravenes a provision of sections 2, 3, 7 or 8 shall be guilty of an offence and on conviction be liable to a fine not exceeding R 3000.00 or imprisonment for a period not exceeding SIX months or to such imprisonment without the option of a fine or to both such fine and such imprisonment and, in case of a continuing offence, to an additional fine not exceeding R 3000.00 or additional imprisonment for a period not exceeding SIX months 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.

10. REPEAL OF BY-LAWS

The by-laws of the former Municipal Councils of Jan Kempdorp, Hartswater and Pampierstad related to matters contained in this by-law, are hereby repealed.

THE IMPOUNDMENT OF ANIMALS

Purpose of By-law

To achieve a safe and healthy environment for the benefit of residents within the municipality's area of jurisdiction.

To provide for procedures, methods and practices to regulate the impoundment of animals.

Definitions

1. In this by-law, words used in the masculine gender include the feminine; the singular includes the plural and *vice versa*; the Afrikaans text shall prevail in the event of an inconsistency between the different texts; and unless the context otherwise indicates: –
"animal" means any equine, bovine, sheep, goat, pig, fowl, ostrich, dog, cat or other domestic animal or bird, or any wild animal, wild bird or reptile which is in captivity or under the control of any person;
"cattle" means bulls, cows, oxen, heifers, steers and calves;
"goat" means an adult male or female goat, a wither and a kid;

"horse" means a stallion, mare, gelding, colt, filly, donkey and mule, "municipality" means the municipality of Phokwane established in terms of section 12 of the local Government : Municipal Structure Act, 1998 (Act 117 of 1998), and includes any political structure, political office bearer, councilor, duly authorized agent thereof or any employee thereof acting in connection with this by-laws by virtue of a power vested in the municipality and delegated or sub-delegated to such political office bearer, councilor, agent or employee,

"Occupant" means any person in actual occupation of land or entitled as owner to occupy land,

"Owner", in relation to an animal, includes any person having possession, charge, custody or control of such animal,

"Pound" means a fenced-off area consisting of one or more camps under the control of a pound master,

Which was created for the housing and care of stray animals which are astray, lost or at large,

"Pound master" means a person who may be either-

(a) A part-time or full-time employee of a municipality, or

(b) Appointed under a service-delivery agreement to keep and operate a pound,

"Sheep" means a ram, an ewe, a weather and a lamb,

"Stallion" means a male horse, donkey or mule not castrated or partially castrated,

"Proprietor" means any owner, lessee, or occupant of land,

"Stock inspector" means a person competent and qualified to inspect stock and who has been appointed by the Department of Agriculture for this purpose,

"Veterinary surgeon" means a person who is qualified as such in accordance with the provision of the veterinary and para- veterinary professions Act, 1982 (Act 19 of 1982).

Impoundment for trespassing

2. Any person may impound an animal found abandoned upon any street, road reserve or other public place.

Pound to which animal are to be sent

3. Any proprietor upon whose land any animals are found trespassing may send such animals to such pound as is nearest by a passable road or thoroughfare to the land trespassed upon, or such other pound designated by the municipality.

Offer by owner before impoundment of animals

4. The owner of any animals liable to impoundment for trespassing may, before the animals are removed from the property trespassed upon, offer to the person complaining of the trespassing a sum of money in compensation of the damage suffered by him. Such offer shall be made to the complainant himself or to his servant or agent charged with the duty of taking the animals to the pound.

Receiving of animals by pound master

- 5.(1) It shall be the duty of every pound master to receive into his charge all animals brought to his pound, during such hour as the municipality may determine, by the proprietor, or by any person authorized in writing thereto by such proprietor or caretaker, to be impounded for having been found trespassing upon the land of such proprietor.
- (2) Any pound master who unreasonably refuses or fails to receive animals brought to his pound as aforesaid shall be guilty of an offence and shall, be liable for any damage caused to the owner of the sad animals, or to any other person, by reason of such refusal of failure, provided that, if any animal suffering from any contagious disease is brought to the pound, such animal shall be kept separate from all other impounded animals and the pound master cause such animals to be put down under the provisions of section 8.

Receipt for Impounded Animals

6. Every pound master shall give the person delivery animals into his charge a written receipt, indicating the number and description of the animals so delivered, and specifying the trespassing for which the said animals, as reported, are to be impounded.

Number of Enclosures

7. Every pound master shall maintain in good repair and, as far as possible, free from all infection, not less than five separate enclosures for-
 - (a) Ostriches and horses;
 - (b) Cattle
 - (c) Sheep, goats and pigs
 - (d) Canine; and
 - (e) Feline;

Provided that municipality may in regard to any pound in its area permission to the pound master to maintain a smaller number of enclosures thereon.

Putting down of Dangerous or Contagious Animals

8. A pound master may cause any impounded animal suffering from a contagious disease, or which may prove dangerous to human life or other animals impounded to be put down, provided that no such animal shall be put down unless a veterinary surgeon has examined it and has agreed with the pound master as to the necessity for it being put down.

Notice of Impounded Animals

9. Every pound master who knows the name of the owner of any animal impounded in his pound shall forthwith give written notice to such owner that the said animal has been impounded.

Keeping of Pound Register

10. (1) Every pound master shall keep a pound register with the following particulars-
 - (a) The date when, and the cause for which, all animals received by him are impounded;
 - (b) The number and description of such animals;
 - (c) The name and residence of the person impounding such animals, and the name residence of the owner or supposed owner;
 - (d) The date and particulars of the release of sale of the animals, as the case may be; and
 - (e) Any other matters which he may be directed by the municipality to ascertain and record.
- (2) The entries under subsection (1) (a), (b) and (c) shall be made at the time the animals are impounded and the entries under subsection (1) (d) and (e) shall be made as soon as the pound master obtains the necessary information; provided that no entry shall be made after a dispute has arisen.
- (3) In case of the death of injury of any impounded animal, the pound master shall enter in his pound register a description of such animal and because of its death of injury.

Inspection of and Extract from Pound Register

11. Every pound register shall be kept at the pound or any other approved place and shall at all reasonable times be open for inspection, free of charge, to any authorized officer of the municipality, veterinary surgeon, stock inspector, and any member of the police service of the public.

Submission of Pound Register after Pound Sale

12. Every pound master shall within a fortnight after the date of each pound sale submit to the municipality a copy of all entries in his pound register made since the date of the preceding submission. The municipality shall preserve all such copies for inspection by any person desirous of seeing them.

Inspection of Pound Register at Place of Sale

13. Whenever a sale of impounded animals is to take place, the pound master or a person authorized to conduct the sale, shall take pound register with him to the sale, and such register shall be open for inspection, free of charge, at the place of sale to all person desirous of inspecting it.

Pound Master`s Fees

- 14.(1) The municipality may fix fees and charges or tariffs for the keeping of animals in a pound and may, in determining such fees and charges or tariffs, distinguish between different kinds of animals and provide for the keeping and feeding of animals in separate enclosures.
- (2) Every pound master shall be entitled to claim the fees and charges or tariffs determined by the municipality in terms of subsection (1) for every animal impounded by him in terms of this by-law.

Fees Payable

15. (1) The fees and charges or tariffs determined by the municipality in terms of section 14 shall be paid to be the pound master by the owner of the animals impounded, and the said fees and charges or tariffs, together with any costs which the pound master may have incurred and such animals may be detained by the pound master in security of payment of the said fees and charges or tariffs, provided that-
 - (a) If the value of the animals impounded is in excess of the total amount due thereon, as determined in terms of this by-law, and if the owner is unable to pay the said amount, the pound master shall detain only so many of the said animals as may be sufficient to secure the total amount due for all the animals, and shall deliver the remainder of the animals to the said owner;
 - (b) Any pound master who retains any greater number of such animals than is reasonably necessary to secure such amount shall be liable to the owner for any damage sustained by him on account of such retention.
- (2) If the pound master is an official of the municipality, he shall pay fees and charges or tariffs received by him in terms of this by-law into revenue of the municipality.
- (3) No pound master shall release any impounded animal until the prescribed and charges or tariffs have been paid to him.

Notice if Sale

16. Every pound master shall-
 - (1) Whenever any impounded animal has not been released within six days from the date of its impoundment, forward to the municipality in whose area of jurisdiction the pound is situated, a notice setting forth the species, marks and disguising features (if any) of such animal, and in regard to horses and cattle their colour also, and stating that the animal mentioned therein will be sold at the next sale of impounded animals, as well as the time and place of such sale;
 - (2) Upon sending such notice to the municipality, post a copy thereof in some or other conspicuous place at or near his pound, there to remain until the day of the sale; and
 - (3) Cause to be published in a newspaper circulating in the area of jurisdiction of the municipality where the pound is situated a notice of the sale of an impounded animal; provided that the cost of such notice shall be recoverable from the owner of the impounded animal and shall be deemed to be part of the amount to be deducted from the proceeds of the sale of an animal and it shall be recoverable from the owner of such animal if the said proceeds are less than the amount due; provided further that-
 - (a) If such notice refers to more than one animal, the municipality shall in its discretion, divide the cost of such notice *pro rata* in respect of the animals referred to therein;
 - (b) If the owner of an impounded animal is unknown, and the proceeds of the sale do not cover the amount as aforesaid, the municipality shall make good the deficit.

Auctioneer

- 17.(1) Every sale of impounded stock shall-
 - (a) Be conducted by the pound master or some other person duly authorized thereto by the municipality concerned; and
 - (b) Commence at a time and be held on a day to be fixed by the auctioneer.

- (2) No person conducting a pound sale shall have any direct or interest in any purchase at any sale so held by him.

Sale OF Animal

18. At every such sale-

- (1) No animal shall be put for sale unless impounded for least two weeks;
- (2) All animals, except sheep and goats shall be sold individually;
- (3) Sheep and goats shall be sold in lots of not more than ten, and sheep and goats, or sheep or goats with different marks or brands shall in no circumstances be sold together in the same lot;
- (4) Animal shall be sold for cash, and the proceeds, less the amount of the pound fees and other fees, charges or tariffs payable in respect of such animals shall forthwith upon receipt, be handed by the pound master to the municipality, to be paid to the owners of the animals sold according to their respective rights, provided that-
 - (a) If in any particular case the animals sold do not realize sufficient to yield the sum of pound fees and other fees, charges or tariffs as aforesaid, the proceeds shall first be utilized for the payment of the compensation due to the pound master, and if the said proceeds are insufficient to cover such compensation, the balance of compensation shall be paid to the pound master by the municipality;
 - (b) Any money, being the proceeds of the sale of any impounded animal as aforesaid, which remains in the hands of the municipality for a period of twelve months without being claimed by the owner of such animal, shall become the property of such municipality;
 - (c) It shall be competent for the municipality to make good to any pound master any loss which he may incur in the keeping of animals where the selling price does not cover the cost incurred;
 - (d) It shall be competent for any pound master, after compliance with the procedures prescribed by section 8 relating to diseased animals, to cause any aged or otherwise permanently unfit animal presented at the pound to be put down;
 - (e) If any animal dies in the pound and the owner cannot be traced, the expenses of burying the carcass shall be borne by the municipality;
 - (f) The municipality or an authorized officer may fix a reserve price for any animal offered for sale;
 - (g) The auctioneer may withdraw any animal from the sale if the highest bid received is in his opinion not satisfactory, irrespective of whether or not a reserve price has been fixed by the municipality.

Illegal Impounding and Penalties

19. Any person who illegally impounds any animal shall be guilty of an offence and shall in addition be liable to the owner for all damages, pound fees, compensation, cost and charges arising out of such proceeding, and for all charges, fees or tariffs in connection therewith.

Recovery of Loss IN Respect of Impoundment of animals from Area of another Municipality

20. Any loss suffered by a municipality as a result of the impounding in pound under its management and control of animals found trespassing within the area of jurisdiction of another municipality, may be recovered by such first-mentioned municipality from such other municipality.

Use, Detention and Ill-treatment of Animals

- 21 No person shall furiously drive, worry or ill-treat any animal found trespassing.

Offence and Penalties

22. Any person who—
- (1) Contravenes or fails to comply with a provision of this by-law, whether or not such contravention or failure has been declared an offence elsewhere in this by-law;
 - (2) Deliberately obstructs, hampers or handicaps any person in the exercise of any power or the performance of any duty or function in terms of any provision of this by-law; or
 - (3) Furnished false, incorrect or misleading information shall be guilty of an offence and liable upon conviction to-
 - (a) A fine or imprisonment or either such fine or imprisonment or to both such fine and such imprisonment; and
 - (b) In the case of a continuing offence, to an additional fine or an additional period of imprisonment or to such additional imprisonment without the option of a fine or both such additional fine and imprisonment for each day on which such offence is continued; and
 - (c) a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as result of such contravention.
22. The impounding of animals of the former Municipal Councils of Jan kempdorp, Hartswater and Pampierstad are hereby repealed

BY-LAWS RELATING TO THE ESTABLISHMENT AND CONTROL OVER COMMONAGES

PREAMBLE

WHEREAS the Council of the Municipality is vested with legislative authority in terms of the Constitution of the Republic of South Africa, 1996;

AND WHEREAS the Council in the exercise of its functions has the right to control commonages on land in the jurisdiction of the Municipality and matters connected therewith;

NOW THEREFORE be it enacted by the Council as follows:

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[1] DEFINITIONS

In these by-laws, words used in the masculine gender include the feminine, the singular includes the plural and vice versa and unless the context indicates otherwise –

"Administrative unit", for the purpose of these by-laws, means a former municipality contemplated in section 14[3] of the Local Government: Municipal Structures Act, 1998 [Act No. 177 of 1998];

"Municipality" means the Phokwane Local Municipality, a local municipality established in terms of section 12 of the Local Government: Municipal Structures Act, 1998;

"Municipal land" means land situated inside the area of jurisdiction of the Municipality, but outside the boundaries of any township of which the Municipality is the owner, or of which the control, to the entire exclusion of the owner, is vested in the Municipality;

"Municipal Manager" means the person appointed as such in terms of section 82 of the Local Government: Municipal Structures Act, 1998; **"these by-laws"** includes the prescripts issued in terms of section [7]; and **"township"** means a township as defined in section 1 of the Land Survey Act, 1997 [Act No. 8 of 1997] or any similar legislation.

[2] RESERVATION OF LAND AS COMMON PASTURE

- [1]** The Municipality may, in respect of land owned by the Municipality and subject to the provisions of any law or any restriction regarding the use of land in the title deed of that land, by notice in the Provincial Gazette and with effect from a date mentioned in such notice –
- [a]** reserve such land as common pasture;
 - [b]** at any time add any additional defined piece or pieces of municipal land to the common pasture so reserved; and
 - [c]** at any time withdraw partly or wholly any land which forms part of the common pasture from the reservation thereof as a pasture.
- [2]** The Municipality may not alienate or deal with the land referred to in subsection [1], except after notice in the Provincial Gazette –
- [a]** stipulating which piece or pieces of land it intends to withdraw or alienate;
 - [b]** calling on interested persons to attend a meeting at a venue and on a date mentioned in the notice, to discuss the intended withdrawal or alienation; and
 - [c]** stating –
 - [i]** the intended date or dates of withdrawal or alienation of any such piece or pieces of land has been published; and
 - [ii]** the Municipality has considered all representations received in response to such notice;
- [3]** The alienation or dealing in land and the public notice referred to in subsection [2] may occur only after the lapse of any permit for grazing of stock on the piece or pieces of land that the Municipality intends to withdraw or alienate.

[3] OFFICE OF THE COMMONAGE MANAGER

- [1]** The Municipality must appoint a person as commonage manager, who must report to a manager designated by the Municipal Manager.
- [2]** The commonage manager must be responsible for the proper management and maintenance of all land forming part of the commonage.
- [3]** In the office of the commonage manager, the Municipality must appoint –

- [a]** for each piece of land forming part of the commonage, a ranger who must deal with the day-to-day administration of that piece of land;
 - [b]** such persons as may be necessary to maintain proper records regarding land forming part of the commonage, maps, camps, allocation of stock, movement of stock, holders of grazing permits on the commonage, marking of stock, stock disease, payments and other matters regarding the administration of the commonage;
 - [c]** a veterinary surgeon on a full-time or part time basis, to fulfill the functions prescribed by or under any law relating to stock.
- [4]** A single ranger may be appointed for more than one piece of land if the pieces of land are so situated that it is practically possible for one ranger to maintain proper control over each of the pieces of land.
- [5]** A ranger must visit the land for which he is appointed on a regular basis and must be present on the land for at least one full working day during each week of the year.
- [6]** On a regular basis, but at least once every three months, the veterinary surgeon appointed by the Municipality must do an inspection on, report on and make recommendations to the commonage manager regarding the state of health of each animal on the commonage.

[4] GRAZING PERMIT REQUIRED TO GRAZE STOCK ON COMMON PASTURE

No person may graze stock on the common pasture of the Municipality, unless –

- [a]** he is the holder of a grazing permit issued by the Municipality and subject to the conditions of such permit;
- [b]** the animal is the progeny of a female animal grazed in terms of a grazing permit contemplated in subsection [1][a] and is not older than 6 months; and
- [c]** he has paid the commonage fees, determined by the Municipality, in respect of the period for which the grazing permit was issued; provided that a permit holder may partly or wholly be exempted of such payment in terms of the Indigent Policy of the Municipality.

[5] APPLICATION FOR AND ISSUE OF GRAZING PERMIT

- [1]** An application for a grazing permit must – **[a]** be directed to the Municipal Manager;

[b] be in writing on the form made available by the Municipality for that purpose;
[c] contain adequate proof that the applicant is a permanent resident within the area of jurisdiction of the Municipality; and

[d] contain such further particulars as the Municipality may require.

[e]

[2] On receipt of an application for a grazing permit, the Municipal Manager must refer it to the commonage manager, who must verify the particulars contained in the application and report thereon to the Municipal Manager.

[3] When considering the application, the Municipal Manager must take into account –

[a] the report of the commonage manager;

[b] the availability and condition of land in the common pasture of the Municipality to accommodate the required number of stocks for which application is made;

[c] the criteria for categories of preference that applicants must take as set out in a notice published by the Municipality in a newspaper circulating in its area of jurisdiction and by such other means as the Municipal Manager may determine.

[4] After consideration of the application, the Municipal Manager must –

[a] issue the permit as applied for by the applicant;

[b] issue a permit for a lesser number of stock than applied for; or

[c] in writing notify the applicant that his application was not successful with stated reasons.

[5] A person whose rights are affected may appeal to the Municipality against a finding of the Municipal Manager and, in respect of such appeal, the provisions of section 62 of the Local Government: Municipal Systems Act, 2000 are applicable.

[6] A permit for the grazing of stock on the municipal common pasture is issued –

[a] for a period of one year or less and will lapse on the last day of June of each year;

[b] subject to the conditions set out in the permit;

[c] subject to prior payment of the fees determined by the Municipality in accordance with the applicable schedule of tariffs;

[7] A permit for the grazing of stock on the municipal common pasture may be renewed twice without the submission of a new application provided that the permit holder has paid –

[a] all fees due to the Municipality under these by-laws; and

[b] a permit renewal fee as determined by the Municipality no later than the last day of May of the year in which the permit lapses;

[6] REFUSAL TO RENEW, WITHDRAWAL AND TRANSFER OF GRAZING PERMITS

[1] The Municipal Manager may refuse to renew the permit referred to in subsection [5][6] if he is of the opinion that –

[a] due to the condition of the land to which the permit holder's stock is allocated, the permit should not be renewed; or

[b] there is sufficient evidence that the circumstances of the permit holder have changed to such an extent that the application of any new applicant must take preference in terms of a notice referred to in subsection [5][3][c].

[2] A permit for the grazing of stock on the municipal common pasture may be withdrawn by the Municipality if the holder of the permit contravenes or fails to comply with –

[a] a condition subject to which the permit was issued;

[b] any provision of these by-laws; or

[c] a lawful direction by –

[i] the ranger in charge of the land on which his stock is grazed; or

[ii] the veterinary surgeon appointed by the Municipality.

[iii] A permit to graze stock on the common pasture of the Municipality may not be transferred.

[7] DUTIES OF THE COMMONAGE MANAGER

The commonage manager must –

[a] divide each piece of land reserved as common pasture in terms of section 2[2][a] in camps suitable for the grazing of stock and allocate a number to each camp;

[b] provide, in each camp, such facilities as may be necessary for the maintenance of stock in that camp;

[c] draft, or cause to be drafted, proper maps of each piece of land reserved as part of the common pasture, indicating at least the boundaries of camps, gates and waterholes;

- [d]** allocate the stock of each permit holder to a specific camp or camps and notify such permit holder accordingly;
- [e]** develop, implement and adjust according to changing circumstances, a proper program of rotation of grazing on land reserved as common pasture by the Municipality; and
- [f]** keep proper records, open for inspection by any person who has an interest therein, regarding – **[I]** all permit holders;
- [ii]** dates of expiry of all permits;
- [iii]** payments or exemptions of payment of all permit holders; and **[iv]** any other matter which, in his opinion, needs to be recorded.

[8] PRESCRIPTS

- [1]** The Municipality may issue prescripts relating to the control, management and use of the municipal common pasture, including –
 - [a]** the construction and maintenance of dipping tanks, the monies payable in connection with the use thereof, and the persons responsible for the payment thereof;
 - [b]** the marking of stock kept thereon;
 - [c]** the prohibition of the keeping of dangerous and undesirable animals thereon, and the definition of such animals;
 - [d]** the prevention and treatment of stock diseases in respect of stock kept thereon, and the exclusion of stock which in the opinion of the veterinary surgeon appointed by the municipality may spread such diseases;
 - [e]** the destruction of carcasses of animals;
 - [f]** the impounding of animals trespassing thereon or grazed thereon without a permit;
 - [g]** the planting, care and protection, and the destruction, chopping or cutting off of grass, trees, shrubs or any other plants or crop, and the sale thereof;
 - [h]** the burning of grass and the eradication of noxious weeds;

- [i]** the hunting of game thereon by any means, including the use of firearms or dogs;
 - [j]** the duties and functions of rangers;
 - [k]** the prohibition to put out poison; and
 - [l]** generally, any matter which the Municipality deems necessary or expedient in connection with the control, management or use of the common pasture or the achievement of the objects of these by-laws.
- [2]** A prescript issued in terms of subsection [1] must be –
- [a]** published in a newspaper circulating in the area of jurisdiction of the Municipality;
 - [b]** placed on the official notice board of the Municipality; and **[c]** filed in the municipal code of the Municipality.
- [3]** If the Municipal Manager is of the opinion that it is in the public interest, he may, for such period and subject to such conditions he may deem fit, exempt any person, group or category of persons in writing from compliance with any prescripts issued in terms of subsection [1].

[9] WAIVER OF PROVISIONS

- [1]** The Municipality may, if it deems it desirable to do so in the public interest, waive compliance with or relax the provisions of these by-laws; provided that any person whose rights are adversely affected by such waiver or relaxation will not be bound thereby.
- [2]** In each case in which such waiver or relaxation has been granted to any person, the Municipality must serve a written notice upon such person citing the relevant provision waived or relaxed and the extent to which such provision has been waived and, in addition, the Municipality must keep a record containing an identical copy of each such notice, which record must be available for inspection by members of the public at the offices of the Municipality.

[10] APPEAL

A person whose rights are affected by a decision of the Municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of

the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000] to the Municipal Manager within 21 days of the date of the notification of the decision.

[11] PENALTY CLAUSE

- [1]** Any person who contravenes or fails to comply with any provision of these by-laws or any requirement or condition there-under is guilty of an offence.
- [2]** Any person convicted of an offence in terms of subsection 9[1] is liable to a fine or to imprisonment for a period not exceeding one year, or to both a fine and such imprisonment.

[12] REPEAL OF BY-LAW

- [1]** All by-laws relating to a matter regulated in these by-laws proclaimed by an administrative unit now forming part of the Municipality are, with effect from the date of promulgation of these by-laws, hereby repealed.
- [2]** Any permission obtained, right granted, condition imposed, activity permitted or anything done under a repealed law, are deemed to have been obtained, granted, imposed, permitted or done under the corresponding provision [if any] of these by-laws, as the case may be.

BY-LAWS FOR THE HIRE AND USE OF COMMUNITY, ARTS AND CULTURE FACILITIES

PREAMBLE

WHEREAS the Council of the MUNICIPALITY is vested with legislative authority in terms of the Constitution of the Republic of South Africa, 1996 [Act No. 108 of 1996];
AND WHEREAS the Council of the MUNICIPALITY in the exercise of its functions has the right to promote the achievement of a safe and peaceful environment and to provide for procedures, methods and practices to regulate the use and management of community, arts and culture facilities owned by or under the control of the MUNICIPALITY;
NOW THEREFORE be it enacted by the Council as follows:

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CHAPTER 1: DEFINITIONS

[1] DEFINITIONS

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

"arts" 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;

"artist" means anyone who is involved in the creation or production of music, dance, theatre, crafts, film, video, traditional and community art, musical theatre and literature;

"appurtenance" means any installation or appliance in an outdoor facility or municipal building and includes, without derogating from the generality of the aforesaid, any keys, locks, windows, sewerage pans, basins, water taps and fittings;

"Authorized official" means –

- [a]** an official of the MUNICIPALITY who has been authorized by it to administer, implement and enforce the provisions of this by-law;
- [b]** a traffic officer appointed in terms of section 3A of the National Road Traffic Act, 1996 [Act No. 93 of 1996];
- [c]** a member of the police service, as defined in terms of section 1 of the South African Police Service Act, 1995 [Act No. 68 of 1995]; or

[d] a peace officer, contemplated in terms of section 1 of the Criminal Procedure Act, 1977 [Act No. 51 of 1977];

"center" means a building owned or operated by the MUNICIPALITY, whether incorporating a community hall or not, of which group activities of an indoor sporting, cultural or recreational nature can be pursued;

"Council" means the Council of the MUNICIPALITY or any committee, political office bearer or official thereof acting by virtue of any power entrusted or delegated to it or him in terms of legislation with regard to the application and implementation of these by-laws;

"culture" means the dynamic totality of distinctive spiritual, material, intellectual and emotional features that characterize a society or a social group and includes language, heritage conservation [including museums, archives, libraries, historical sites and monuments];

"Cultural activity" means any cultural function, cultural meeting, festival, flea market, exhibition or any other cultural activity;

"facilities" means any cultural function under the administration and control of the MUNICIPALITY and includes appurtenances;

"Group activity", for the purpose of these by-laws, means an activity or function of an artistic or cultural nature in which several members of a group of persons having an interest in the subject matter of such 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 the outdoor facilities or municipal buildings;

"person" means a natural or juristic person and vice versa and includes a voluntary association of natural and/or juristic persons;

"premises" means any land, building or structure or any portion of land, building or structure on or in which the arts and cultural activities regulated by these by-laws are carried out or on which the center has been constructed; **"prescribed fee"** means the fee determined by the resolution of the Council for the hire of a center and/or facilities;

"property" means the property on which the premises or buildings of the MUNICIPALITY are situated;

"MUNICIPALITY" means the PHOKWANE LOCAL MUNICIPALITY established in terms of section 12 of the Local Government: Municipal Structures Act 1998, [Act No. 117 of 1998] and includes any duly authorized political structure or office bearer as defined in this Act, Councilor, agent 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 or office bearer, Councilor, agent or employee;

"notice" means an official notice displayed at every entrance to or at a conspicuous place at or on an outdoor facility or municipal building and in which the MUNICIPALITY must make known provisions and directions adopted by it in terms of this by-law;

CHAPTER 2:

HIRE OF OUTDOOR FACILITY OR BUILDING

[2] RIGHTS AND STATUS OF ARTISTS

The MUNICIPALITY must recognize the rights of all artists to practice their respective forms of art and exercise their right of freedom of expression through such medium consistently with the application of any other relevant law.

[3] CO-OPERATION BETWEEN MUNICIPAL DEPARTMENTS

Every department of the MUNICIPALITY having jurisdiction over or responsibility for any outdoor facility or municipal building must cooperate with any other such department in ensuring that –

- [a]** such facility or building is properly maintained in a state fit for the purpose for which it was designed and is used; and
- [b]** no part of such facility or building is made available to or hired out to more than one person at the same time.

[4] APPLICATION FOR HIRING

- [1]** Any person wishing to apply for the hire of any outdoor facility or municipal building must –
 - [a]** submit an application to the MUNICIPALITY in the form prescribed by the MUNICIPALITY for this purpose;
 - [b]** clearly stipulate in such application the outdoor facility or municipal building, seating, accommodation and equipment required and the period for which same are required; and
 - [c]** ensure that such application form is received by the MUNICIPALITY not less than 30 [thirty] working days prior to the date on which the outdoor facility or municipal building concerned is first required by the applicant, provided that this time period may, depending on the demand for the outdoor facility or municipal building in question, be relaxed by the MUNICIPALITY.
- [2]** The MUNICIPALITY may refuse to hire out any outdoor facility or municipal building in terms of subsection [1] or may cancel any booking thereof if –
 - [a]** the said outdoor facility or municipal building are to be used for any unlawful or immoral purpose; or
 - [b]** the outdoor facility or municipal building being applied for is required by the MUNICIPALITY for municipal purposes at the same time; provided that the MUNICIPALITY must furnish at least 10 [ten] working days' notice of any cancellation of an existing booking.
- [3]** No compensation is payable by the MUNICIPALITY to the hirer for any loss which the hirer may suffer by reason of the MUNICIPALITY having acted in terms of subsection

[2]; provided that the MUNICIPALITY may, in its discretion, refund all the charges that have already been paid to it in respect of the application.

[4] The hirer is limited to the use of the outdoor facility or municipal building specified in the application form and may not use any other outdoor facility or municipal building in respect of which no application was made.

[5] The hired outdoor facility or municipal building may not, except with the prior written approval of the MUNICIPALITY, be used for any purpose other than the purpose indicated on the application form.

[6] An outdoor facility or municipal building hired out by the MUNICIPALITY may be used for the purpose of conducting religious worship; provided – **[a]** the consent of the MUNICIPALITY to such use has been given;

[b] such use may be made of the outdoor facility or municipal building only at the times specified in the contract of hire or letter of approval; and

[c] the MUNICIPALITY 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, occupants of neighboring buildings or the general public.

[5] SCHEDULE OF TARIFFS

The MUNICIPALITY may from time to time determine the tariff for the hire of an outdoor facility or municipal building.

[6] PAYMENT OF FEES

[1] No person is permitted to use any outdoor facility or municipal building unless the prescribed fee has been fully paid;

[2] Subject to section 4[2], the MUNICIPALITY may exempt any person or organization, on good cause, from the payment of a portion or all the prescribed fees.

[7] PERIOD OF HIRE

Notwithstanding any determination made by the MUNICIPALITY regarding the dates and period for which outdoor facilities or municipal buildings may be hired, the MUNICIPALITY may allow the hirer reasonable access to such facilities or buildings before the commencement date of the period of hire, so as to enable the hirer to make the necessary preparations and arrangements in the

outdoor facility or municipal building concerned but subject to the payment of the prescribed fee by the hirer.

[8] ADJUSTMENT OF PERIOD OF HIRE

- [1]** Any person who makes an application for the use of outdoor facilities or municipal buildings in terms of the provisions of section 17 may, subsequent to the approval of such application and the reservation of such outdoor facility or municipal building, apply for the postponement of such reservation to a later date, without penalty or forfeiture;
- [2]** The postponement contemplated in section 21[1] may be refused if such outdoor facilities or municipal buildings have, in the meantime, been reserved for use by another or others on the dates to which the postponement is sought.
- [3]** Any person who has already made an application for the reservation of outdoor facilities or municipal buildings may cancel such reservation, in which event, if a reservation is cancelled –
- [a]** one month or longer prior to the commencement date of such reservation, the hirer must receive a full refund of the prescribed fee already paid; or
 - [b]** fifteen days but less than one month prior to the commencement date of such reservation, then the hirer must receive a 50% [fifty percent] refund of the prescribed fee; or
 - [c]** fifteen days or less prior to the commencement date of such reservation, then the hirer is not entitled to receive any refund of the prescribed fee.
- [4]** Any person may extend the period of hire of outdoor facilities or municipal buildings upon written application to the MUNICIPALITY in the manner provided for in subsection 17[1][a], provided that –
- [a]** the period of 30 [thirty] working days' notice, as provided for in terms of subsection 17[1][c], will not apply; and
 - [b]** the outdoor facilities or municipal buildings concerned have not, in the meantime, been reserved for use by any other person or persons.

[9] JOINT HIRE

- [1]** The MUNICIPALITY may let any outdoor facility or municipal building or parts thereof to different hirers for simultaneous use and in such a case, each hirer must use all the

ancillary outdoor facilities or municipal buildings, which serve the different parts of the outdoor facility or municipal building, 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 the outdoor facilities or municipal buildings without infringing on the rights of use by other users.

- [2]** The provisions of this by-law, read with the necessary changes, apply to the joint users of the hired outdoor facility or municipal building.

[10] SUB-LETTING

The hirer may not sub-let any hired outdoor facility or municipal building to any other person or organization 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 outdoor facility or municipal building without the prior written consent of the MUNICIPALITY.

[11] CONDITION OF OUTDOOR FACILITY OR BUILDING

- [1]** The hirer must inspect the hired outdoor facility or municipal building, including all installations, appliances, fittings, accessories and furniture, before he commences to use the same and, if the hirer finds that any of the installations, appliances, fittings, accessories and furniture on the outdoor facility or municipal building are not in a proper state of repair, he must in writing, or on any form provided by the MUNICIPALITY, report this fact to the MUNICIPALITY.
- [2]** The hirer who fails either to inspect the outdoor facility or municipal buildings in terms of subsection [1] or to report any defects found therein or therewith, is deemed upon commencement of occupation by the hirer to have consented that everything in the outdoor facility or municipal building concerned was in a proper state of repair.

[12] DUTIES OF THE HIRER

Any person hiring outdoor facilities or municipal buildings from the MUNICIPALITY must –

- [a]** take all reasonable steps to keep all sewerage pipes, water taps and drains within or serving the outdoor facility or municipal building free from obstruction or blockage as a result of the hirer's activities;
- [b]** at all times keep the outdoor facility or municipal building in a clean, tidy and sanitary condition;

- [c]** not affix or attach to the outdoor facility or municipal building any notice or other matter without the prior consent of the MUNICIPALITY; provided that upon the termination of the hire, the hirer must remove all such attachments;
- [d]** not obscure any plate glass windows by painting or otherwise;
- [e]** not drive any nails or screws into the walls or partitions or doors of the outdoor facility or municipal building;
- [f]** not change or interfere with or overload any electrical installation in the outdoor facility or municipal building;
- [g]** not remove or take out from the outdoor facility or municipal building any furniture or other article whatsoever belonging to the MUNICIPALITY;
- [h]** not obstruct or interfere or tamper with any thermostats or air conditioning appliances in the outdoor facility or municipal building;
- [i]** not introduce or install any unsafe or heavy article, furniture, fitting, appliance or equipment which, in the reasonable opinion of the MUNICIPALITY, could damage the outdoor facility or municipal building or any part thereof; provided that the MUNICIPALITY may impose, on the introduction of such item, such conditions as are reasonable to ensure the safety of the outdoor facility or municipal building and persons using them;
- [j]** not install in the outdoor facility or municipal building any air conditioning or ventilating units or equipment without the MUNICIPALITY's prior consent;
- [k]** not permit the storage of motor vehicles or other movable items of any description on the pavements, entrance halls, staircases or passages of the outdoor facility or municipal building;
- [l]** not do anything or allow anything to be done in non-compliance with any reasonable instruction or prohibition given or issued by the MUNICIPALITY;
- [m]** not park vehicles or allow the parking of vehicles by the hirer's employees, invitees, agents, directors or other representatives anywhere
at the outdoor facility or municipal building except in properly demarcated parking bays or as may be pointed out by an authorized official.

[13] DAMAGE TO PROPERTY

A hirer who fails to keep and maintain the outdoor facilities or municipal buildings hired out to him and to return them to the MUNICIPALITY in the same order and condition as when they were hired out to him will be guilty of an offence and in addition to any remedies available to the MUNICIPALITY at common law, be liable in terms of the penalties specified in this by-law.

[14] ADVERTISEMENTS AND DECORATIONS

- [1]** No person who has applied for the hire of an outdoor facility or municipal building may publicly announce or advertise any function or event in respect of which an application for the hire of such outdoor facility or municipal building has been made before the MUNICIPALITY has notified that person in writing that the application has been approved.
- [2]** Every hirer must, before vacating the hired outdoor facility or municipal building on the termination of the period of hire for any reason whatsoever, remove all posters, notices, decorations, flags, emblems, signs and other forms of advertisement or direction erected or affixed by him and make good any damage caused by such removal.

[15] ADMISSIONS AND SALE OF TICKETS

The hirer is responsible for all arrangements in connection with the admission of members of the public to any cultural or other activities at the outdoor facility or municipal building and the provision of ushers and other persons necessary to control the admission of persons to the outdoor facility or municipal building and the sale of tickets.

[16] OVERCROWDING

- [1]** No overcrowding of the outdoor facility or municipal building may be allowed at any time during any of the hirer's activities and the hirer must comply with the MUNICIPALITY's requirements prescribing the maximum number of persons allowed at the outdoor facility or municipal building during activities.
- [2]** Without detracting from the general requirements referred to in subsection [1], the hirer may not allow more persons' admission to the outdoor facility or municipal building than the number of available seats or, where seating is not provided, the maximum number of persons prescribed by notice at the outdoor facility or municipal building or as stipulated in the contract of hire.

[17] SALE OF REFRESHMENTS

- [1]** No person may sell food or soft drinks at any hired outdoor facility or municipal building during any activities for which they have been hired without the prior written consent of the MUNICIPALITY.

- [2]** The MUNICIPALITY may permit the sale of refreshments or foodstuffs by such persons as it may approve after it has received written application to sell such items and the MUNICIPALITY may allocate sufficient accommodation to such approved persons, wherein trading stock, furniture, equipment, installations and books necessarily required for that purpose may be accommodated.
- [3]** The provisions of subsections [1] and [2] do not apply where the supply and sale of refreshments or foodstuffs is an integral part of the activities of the hirer.
- [4]** The MUNICIPALITY will not be responsible for the payment of compensation to the hirer in respect of any loss, theft or damage suffered by the hirer
or any other person in respect of the items referred to in subsection [2] for any reason whatsoever.

[18] SERVICES

- [1]** The nature of the municipal services to be provided to an outdoor facility or municipal building must be determined at the sole discretion of the MUNICIPALITY.
- [2]** The MUNICIPALITY will not be liable for the non-receipt or non-delivery of goods, postal matter or correspondence belonging to the hirer and the MUNICIPALITY will also not be liable for anything which the hirer, his employees, invitees, agents, directors or representatives may have deposited or left in the outdoor facility or municipal building or any part thereof.
- [3]** The MUNICIPALITY may take such steps as it may consider necessary and in its discretion for the proper maintenance and operation of any common areas in the outdoor facility or municipal building.
- [4]** An authorized official may attend the hirer's function to ensure compliance with any provision of this by-law.
- [5]** The hirer is not entitled to the official services of an authorized official or any other representative of the MUNICIPALITY who attends the hirer's function in terms of subsection [4].
- [6]** The hirer is not entitled to receive free cleaning or other services from the MUNICIPALITY in connection with the hirer's activities during the preparation of a function or during a function.

[19] EXCLUSION OF LIABILITY

- [1]** The MUNICIPALITY is not liable for –
- [a]** any damage or loss sustained by any person as a result of an insufficient supply or interruption in the supply of municipal services
to the outdoor facility or municipal building or due to any act or omission on the part of the MUNICIPALITY if the MUNICIPALITY considers the interruption necessary to enable it to exercise any of its powers or perform any of its functions under this by-law or under any other law;
 - [b]** any loss, theft or damage caused to the stock-in-trade, furniture, equipment, installations, books, papers, clothing or other articles of any nature whatsoever kept at the hired outdoor facility or municipal building by the hirer or Any person else whether in regard to the hirer's business or not;
 - [c]** any consequential loss suffered by the hirer by making use of an outdoor facility or municipal building at the hired outdoor facility or municipal building or as a result of rain, hail, lightning, wind, fire, storms, riot or civil commotion or for loss of life or injury to the hirer or Any person else at the outdoor facility or municipal building during a function or event; and
 - [d]** any loss suffered by the hirer as a result of any failure or defect at any outdoor facility or municipal building provided such failure or defect is not attributable to any willful act or omission or gross negligence on the part of the MUNICIPALITY.
- [2]** Every hirer must, at the time of concluding a contract of hire for an outdoor facility or municipal building complete and sign an indemnity in a form required by the MUNICIPALITY and in favour of the MUNICIPALITY.

[20] DESTRUCTION OF OUTDOOR FACILITY OR BUILDING

- [1]** The MUNICIPALITY may cancel the hire of an outdoor facility or municipal building if –
- [a]** the outdoor facility or municipal building is destroyed or is damaged to such an extent as to be substantially unusable;
 - [b]** there is damage to the outdoor facility or municipal building such that it is rendered substantially unusable because of the absence of access to or supply of any necessary municipal service; or

[c] there is destruction or damage to the outdoor facility or municipal building and the MUNICIPALITY decides not to proceed with the hire of the outdoor facility or municipal building 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 MUNICIPALITY to the hirer within a reasonable period of the event referred to in subsection [1][a] giving rise to the cancellation.

[3] In the case of notice given in relation to an event referred to in subsection [1][b] or [c], such notice may be deemed to be effective as from the date on which the damage or destruction took place.

[4] No hirer will have any claim against the MUNICIPALITY for –

[a] damages arising out of the damage to or destruction of the outdoor facility or municipal building or any part thereof; or

[b] the resultant loss of beneficial use of the outdoor facility or municipal building by such hirer.

[21] TERMINATION FOR NON-COMPLIANCE

[1] The MUNICIPALITY may at any time cancel the hire of outdoor facilities or municipal buildings if the hirer fails to comply with any of the provisions of this by-law and the MUNICIPALITY will not be liable for any damage or loss sustained by any person as a result of such cancellation;

[2] The cancellation contemplated in subsection [1] is without prejudice to any claims which the MUNICIPALITY may have against the hirer under any provision of this by-law or at common law.

[22] TERMINATION OF HIRE

[1] On the termination of the period of hire for any reason, the hirer must – **[a]** return an outdoor facility or municipal building to the MUNICIPALITY in good order and condition; and

[b] make good and repair at his own cost any damage or breakage; or

- [c]** reimburse the MUNICIPALITY for the cost of replacing, repairing or making good any broken, damaged or missing articles.
- [2]** It is lawful for the MUNICIPALITY to deduct from any deposit paid by the hirer of the outdoor facility or municipal building the costs of the damage or breakage provided for in subsection [1][c].
- [3]** Every hirer must vacate the hired outdoor facility or municipal building within such period after expiry of the period of hire as is stated on the application form or contract of hire.
- [4]** Failure by the hirer to comply with the provisions of subsection [3] entitles the MUNICIPALITY to levy a further prescribed fee for such additional period during which the hirer remains in occupation of the outdoor facility or Municipal building after the expiry of the period of hire.
- [5]** The provisions of subsection [3] do not preclude the MUNICIPALITY from taking lawful steps to procure the eviction of any hirer contemplated in subsection [3] from the outdoor facility or municipal building.
- [6]** Every hirer must comply with all reasonable and lawful instructions of the MUNICIPALITY in respect of the cleaning of an outdoor facility or municipal building upon the hirer's vacation thereof;
- [7]** The MUNICIPALITY may elect to undertake the cleaning of all crockery and cutlery used by the hirer.
- [8]** Every hirer must comply with all reasonable and lawful instructions of the MUNICIPALITY in respect of the vacation of an outdoor facility or municipal building and the return thereof.

[23] FIRE HAZARDS AND INSURANCE

- [1]** A hirer may not at any time bring or allow to be brought or kept at an outdoor facility or municipal building, nor undertake nor permit to be done or undertaken in the outdoor facility or municipal building, any matter, thing or activity whereby –
- [a]** the fire or any other insurance policy of the facility or building concerned may become or becomes void or voidable; or

[b] 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 subsection [1], then the MUNICIPALITY may, in its discretion –

[a] allow such activity and recover from the hirer the amount due in respect of any additional insurance premiums; and

[b] notify the hirer who must pay such amount immediately on notification by the MUNICIPALITY or the insurance company to the effect that such additional premiums have been charged.

[3] The MUNICIPALITY may at any time, at its discretion, require the hirer to take out insurance for the outdoor facility or municipal building hired with an insurance company, approved by the MUNICIPALITY, against loss or damage by fire or any other cause during or as a result of any function for which the outdoor facility or municipal building is hired.

[24] STORAGE FACILITIES

The MUNICIPALITY is not responsible for providing outdoor facilities or municipal buildings 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 a function or event.

[25] EQUIPMENT

[1] A hirer who requires the MUNICIPALITY to supply any equipment for use during a function or event may use such equipment only with the permission of the MUNICIPALITY and under the supervision of an authorized official;

[2] If the hirer causes damage to the equipment provided for in subsection [1], or removes or causes the equipment to be removed from the outdoor facility or municipal building without permission or fails to return it, then the hirer will be liable for the repair or replacement costs thereof.

[26] RIGHT OF ENTRY

[1] Subject to the provisions of applicable national and provincial legislation, the MUNICIPALITY or an authorized official may enter an outdoor facility or municipal building at all reasonable times –

[a] to inspect same and carry out any repairs or alterations or additions or modifications or improvements thereto; and

[b] in order to ensure that the conditions of hire of same and the provisions of this by-law are being complied with.

[2] A hirer will have no claim for remission of any charges payable for the hire of an outdoor facility or municipal building, compensation, damages or otherwise in connection with the exercise by the MUNICIPALITY or the authorized official of the rights under subsection [1].

[3] The MUNICIPALITY is entitled to erect scaffolding, hoardings and building equipment in, at, near or in front of an outdoor facility or municipal building as well as such other devices required by law or which the MUNICIPALITY's architects may certify are necessary to carry out the repairs provided for in subsection [1].

[27] INSPECTION

Upon the conclusion of all the hirer's activities at the end of the period of hire or at the termination of the hire under any of the provisions of this by-law, the MUNICIPALITY and the hirer or his nominee must inspect the hired outdoor facility or municipal building for the purpose of assessing any damage or loss thereto.

CHAPTER 3: GENERAL PROVISIONS

[28] PENALTIES

Any person who contravenes or fails to comply with a provision of this by-law, a notice issued in terms thereof or a condition imposed under this by-law, irrespective of whether such contravention or failure has been declared as an offence elsewhere in this by-law, will be guilty of an offence and liable upon conviction to –

[1] a fine not exceeding R10000 or imprisonment for a period not exceeding 6 [six] months or either such fine or such imprisonment or both such fine and such imprisonment;

[2] in the case of a continuing offence, an additional fine of R250 or an additional period of imprisonment of 1 [one] day or either such additional fine or such additional

imprisonment or both such additional fine and imprisonment for each day on which such offence is continued; and

- [3]** a further amount equal to any costs and expenses found by the court to have been incurred by the MUNICIPALITY as a result of such contravention or failure.

[29] REGULATIONS

The MUNICIPALITY may make regulations not inconsistent with this by-law, prescribing –

- [a]** any matter that may or must be prescribed in terms of this by-law; and
- [b]** any matter that may facilitate the application of this by-law.

[30] NUISANCES

- [1]** No person may perform or permit any of the following acts in or at an outdoor facility or municipal building –

- [a]** the use of language or the performance of any other act that disturbs the good order;
- [b]** the firing of firearms, air guns, air pistols, fireworks or the use of sling-shots or catapults without the MUNICIPALITY's written consent;
- [c]** the burning of rubble or refuse;
- [d]** the causing of unpleasant or offensive smells;
- [e]** the production of smoke nuisances;
- [f]** the causing of disturbances by fighting, shouting, arguing or by the use of loudspeakers, radios, television sets or similar equipment; or
- [g]** in any other manner cause a nuisance, obstruction, disturbance or annoyance to the public.

- [2]** An authorized official may, during any activity of the hirer, direct that the hirer prevents the entry into or the removal from the hired outdoor facility or municipal building of Any person who is –

- [a]** intoxicated and behaving in an unseemly or obnoxious manner; or
- [b]** causing a nuisance or annoyance to other people in or users of the said outdoor facility or municipal building, occupiers of other parts of the building or neighboring buildings and/or the general public.

[31] REPEAL OF BY-LAWS

- [1]** Any by-law adopted by the MUNICIPALITY or a MUNICIPALITY now forming an administrative unit of the PHOKWANE LOCAL MUNICIPALITY and relating to any matter regulated by these by-laws are, from date of promulgation of these bylaws, hereby repealed.

- [2]** Any permission obtained, right granted, condition imposed, activity permitted or anything done under a repealed law is deemed to have been obtained, granted, imposed, permitted or done under the corresponding provision [if any] of these by-laws, as the case may be.

BY-LAWS RELATING TO THE LICENSING OF AND CONTROL OVER DOGS

PREAMBLE

WHEREAS the Council of the Municipality is vested with legislative authority in terms of the Constitution of the Republic of South Africa, 1996 [Act No. 108 of 1996]; AND WHEREAS the Council of the Municipality in the exercise of its functions has the right to license and control dogs in its municipal area of jurisdiction; NOW THEREFORE be it enacted by the Council as follows:

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[23] Offences and Penalties

[24] Repeal of by-laws

[1] DEFINITIONS

In these by-laws, words used in the masculine gender include the feminine, the singular includes the plural and vice versa and unless the context indicates otherwise –

"Administrative unit" means a former municipality as envisaged in section 14[3] of the Local Government: Municipal Structures Act, 1998 [Act No. 117 of 1998];

"Authorized official" means –

[a] an official who has been authorized by the Council to administer, implement and enforce the provisions of these by-laws;

[b] a traffic officer appointed in terms of section 3A of the National Road Traffic Act, 1996;

[c] a member of the police service, as defined in terms of section 1 of the South African Police Service Act, 1995; or

[d] a peace officer contemplated in section 334 of the Criminal Procedure Act, 1977;

"Council" means the Council of the Phokwane Local Municipality and includes any duly authorized political structure or political office bearer as defined in the Local Government: Municipal Structures Act, 1998 or official thereof;

"dog" means both a male and female dog regardless of whether it has been spayed or castrated;

"Licensing fee" means the fee charged for the licensing of dogs as determined by the Council by resolution from time to time;

"nuisance" means any conduct or condition which brings about or may bring about a state of affairs or condition that is obnoxious and/or constitutes a health risk or a source of danger to human lives or property or which interferes or may interfere with the ordinary comfort, convenience, peace or quiet of persons;

"owner" in relation to a dog, means any person who keeps a dog and includes any person to whom the dog has been entrusted or who has control of a dog on any site within the Municipality where such dog is kept or is permitted to live or remain, unless such person is able to prove that he is not the owner of such dog and that the dog was kept or allowed to live or remain on such site without his knowledge or consent;

"Public place" includes any public road, sanitary passage, square or open space shown on a general plan of a township or settlement, filed in any Deeds' Registry or Surveyor-General's Office, and all land [other than erven shown on the general plan] the control whereof is vested, to the entire exclusion of the owner, in the Municipality or to which the owners of erven in a township have a common right, and all property belonging to an organ of state;

"premises" means any building, room, maisonette, hut, shed, tent or any other structure above, on or below ground level, together with the land on which it is situated and the adjacent land used jointly therewith or any land without buildings;

"vicious" for the purposes of these by-laws, includes a dog which has bitten or attempted to bite a person or animal other than in defense of itself or its custodian;

"year" or **"annually"** means a calendar year.

[2] IMPOSING OF LICENSING FEES

[1] Subject to the exemptions referred to in section 3, the owner of each dog within the Municipality must pay an annual licensing fee to the Municipality.

[2] Any person who becomes the owner of a dog during the course of a year must pay the licensing fee for such dog within the period prescribed in section 4, notwithstanding the fact that the previous owner may have paid the licensing fee for the year in respect of such dog.

[3] No pro-rata payment or repayment of the annual licensing fee is applicable.

[3] EXEMPTIONS

[1] The annual licensing fee is not payable in respect of –

[a] dogs under the age of six [6] months;

[b] a guide dog kept by a blind person;

[c] a dog temporarily brought into the Municipality for a period not exceeding thirty [30] days;

[d] a dog in respect of which the licensing fee has been paid for the year concerned, while such dog is kept within another municipality within the Province of the Eastern Cape: Provided that no such licensing fee is payable if, while the dog was kept elsewhere, there was a change in its ownership;

[e] a dog in possession or in the care of the Society for the Prevention of Cruelty to Animals or a similar organization approved by the Municipality;

[f] a dog used in the execution of official duties by officials of either – **[I]** the Municipality; or

[ii] the South African Police Services; or

[iii] the South African National Defense Force, or

[iv] the South African Department of Correctional Services;

[g] a dog used by private security companies registered at the Security Industry Regulator;

[2] The Municipality may grant the breeders of dogs a reduction in licensing fee per dog, which applications will be considered by the Council and the granting of which does not create an obligation to approve such an application.

[3] The onus of proving that any dog is under that age is upon the owner.

[4] WHEN LICENSING FEE BECOMES PAYABLE

[1] The licensing fee for which the owner of a dog is liable is due –

[a] in the case where he is the owner of such dog on the first day of January, on that date;

[b] in the case where he becomes the owner of such dog after the first day of January during any year, on the day on which he becomes the owner;

[c] in the case where such dog attains the age of six months, on the date on which such dog attains that age.

[2] Any owner of a dog who fails to pay the licensing fee payable in respect of such a dog within 30 days from the date on which it became payable, is liable for a penalty calculated at a rate of 10% of the licensing fee for each month or part of a month during which such licensing fee, with effect from the date on which it became payable, remains unpaid: Provided that such penalty may not exceed the licensing fee payable.

[3] The payment of any amount in terms of the provisions of subsection [2] does not relieve any person of any criminal liability arising from his failure to obtain a license, nor does the fact that any person has been criminally punished for such failure relieve him from liability to pay any amount in terms of subsection [2].

[5] ISSUE OF DOG LICENSING FEE RECEIPT

Upon payment of the licensing fee by an owner, in respect of any dog, a dog licensing fee receipt must be issued to him.

[6] DOG LICENSING FEE RECEIPT NOT TRANSFERABLE

A dog licensing fee receipt may not be transferred from one owner to another or in respect of one dog to another.

[7] DOG LICENSING FEE RECEIPT TO BE PRODUCED

Any person having possession of any dog must produce the dog licensing fee receipt for such dog whenever requested to do so by the Municipality or a member of the South African Police Services.

[8] SEIZURE, IMPOUNDMENT AND DISCARDING OF DOGS

[1] The Municipality may seize and impound –

[a] any ownerless dog; or

[b] a dog found in a street, a road, a public place or other land belonging to the Municipality, without being under control of the owner or another person, or

[c] a dog in respect of which the licensing fee has not been paid, or **[d]** a dog that is in contravention of the provisions of sections 10 and 11.

[2] The owner of an impounded dog must claim it within 96 hours of impoundment, upon payment of the licensing fee due and a maintenance fee as determined from time to time by the Municipality and reflected in the applicable schedule of tariffs.

[3] In the event that such a dog is not claimed within the period mentioned in subsection [2], it will, at the option of the Municipality, be removed to the Society for the Prevention of

Cruelty to Animals or any other society which may have use for dogs, or be sold to interested parties, or be destroyed as a last resort.

- [4]** The fact that a dog has been impounded, sold or destroyed under the provisions of these by-laws, will not exempt the owner from payment of the licensing fee, pound fees and costs relating to the catching of the dog.
- [5]** Every dog found in any street, road or public place, which is apparently suffering from any incurable, infectious or contagious disease or which is ferocious, vicious or dangerous, or which is badly injured may be seized and destroyed by the Municipality or South African Police Services.

[9] DOGS MAY NOT BE A SOURCE OF DANGER

- [1]** Any person who keeps a dog on any premises must keep such dog in such manner as not to be a source of danger to the Municipality's employees entering upon such premises for the purpose of carrying out their duties.
- [2]** A notice, to the effect that a dog referred to in subsection [1] is being kept on premises, must be displayed in a conspicuous place in the language[s] prevalent in the area or as a pictograph.

[10] VICIOUS DOGS AND BITCHES ON HEAT

- [1]** A dog may not be permitted to be kept unless it is under proper control and supervision if it – **[a]** is wild or vicious; or
- [b]** has acquired the habit of charging passing vehicles, bicycles or persons.
- [2]** A bitch on heat –
- [a]** may not be allowed to run loose in public places within the area of jurisdiction of the Municipality;
- [b]** must, when not leashed, be locked up by the owner of such dog or the person who has control over such dog;
- [c]** must, if found in a public place referred to in subsection 10[2][a], be impounded by the Municipality or the South African Police Services and the owner of such dog is, in addition to the liability to pay impoundment fees and catch costs, liable to prosecution.

[11] DOGS CAUSING NUISANCES

- [1]** It is an offence, within the jurisdiction of the Municipality, to keep dogs that –
- [a]** chase or worry any animal;
- [b]** cause a nuisance by continuous barking, howling or whining;

- [c]** suffer from a contagious disease and are not under veterinary supervision or suitably isolated;
 - [d]** pollute premises to such an extent that a health hazard is caused; and
 - [e]** stray in any public street, thoroughfare or other public place or in any private open space, private place or private premises, other than that of the owner of such a dog, unless such dog is led by a chain or leash and accompanied by a person.
- [2]** No dog may be used to hunt, except –
 - [a]** for the hunting of birds or for the purpose of following or searching for any animals that have been wounded; and
 - [b]** for the purpose of training hounds maintained by a duly established and registered vermin club in the destruction of vermin.
- [3]** No dog may be incited to attack any other animal.

[12] DOGS ON PREMISES WHERE FOOD IS SOLD

Any person who owns or controls any shop or other place where food is prepared or sold or exposed for human consumption, may not permit entry to a dog or allow a dog to be in or remain in such shop or place.

[13] FENCING OF PROPERTY

No person may keep a dog on premises that are not properly and adequately fenced to keep the dog inside such premises when the dog is not on a leash or chain.

[14] OBSTRUCTION OF EMPLOYEES

No person may –

- [a]** hinder, obstruct or interfere with any official of the Municipality or a member of the South African Police Services in the performance of any duty relating to these by-laws; or
- [b]** refuse to give such information as the Municipality may reasonably require;
- [c]** give to the Municipality any information which, to his knowledge, is false or misleading; or
- [d]** prevent or obstruct an official of the Municipality or a member of the South African Police Services in any manner whatsoever to obtain free and unobstructed entrance to any premises for the purposes of enforcing these by-laws.

[15] LIABILITY

Neither the Municipality, nor any official of the Municipality will be liable for or in respect of any injury suffered or disease contracted by or damage caused to any dog as a result of or during its seizure or destruction in terms of these bylaws.

[16] PRESUMPTIONS

In the prosecution of the owner of a dog for a contravention of sections 2 and 3, read with section 4, it is presumed that such owner has failed to pay the dog licensing fee in respect of such dog within the prescribed period and that such dog is of the age of six months or older, until the contrary is proved.

[17] WAIVER OF PROVISIONS

- [1]** The Municipality may, if it deems it desirable to do so in the public interest, waive compliance with or relax the provisions of these by-laws: Provided that any person whose rights are adversely affected by such waiver or relaxation will not be bound thereby.
- [2]** In each case in which such waiver or relaxation has been granted to any person, the Municipality must serve a written notice upon such person citing the relevant provision waived or relaxed and the extent to which such provision has been waived and, in addition, the Municipality must keep a record containing an identical copy of each such notice, which record must be available for inspection by members of the public at the offices of the Municipality.

[18] COMPLIANCE NOTICE

- [1]** If an authorized official, after inspecting premises on which a dog as contemplated in these by-laws is kept, reasonably believes that a provision of these by-laws is being contravened, he may serve a compliance notice on one or more of the following persons:
 - [a]** the owner of the premises;
 - [b]** the occupier of the premises;
 - [c]** any person apparently in charge of undertaking the aforesaid use on the premises.
- [2]** A compliance notice must state –
 - [a]** why the authorized official believes that these by-laws are being contravened;
 - [b]** the measures that must be taken to ensure compliance
with these by-laws;

[c] the time period within which the measures must be taken; **[d]** the possible consequences of failing to comply with the notice; and **[e]** how to appeal against the notice.

[3] If a person fails to comply with a compliance notice that requires a particular action to be taken, the Municipality may –

[a] take the required action specified in the compliance notice; and

[b] recover as a debt from the person to whom the notice was given, the costs and expenses reasonably incurred in taking the required action; or

[c] direct that a prohibition notice be served on such person in terms of section 19 of these by-laws.

[19] PROHIBITION NOTICE

[1] An authorized official may, after inspecting premises where a dog as contemplated in this by-law is kept and contrary to these by-laws, serve a prohibition notice on the owner, occupier or user of such premises prohibiting such conduct as may be in contravention of these by-laws and requiring measures to be taken to ensure that this occurs.

[2] The authorized official must give the person on whom he intends serving a prohibition notice a reasonable opportunity to make representations before serving the notice.

[3] A prohibition notice must state – **[a]** the reasons for serving the notice;

[b] whether or not the Municipality will withdraw the notice if certain measures are taken, and if so, the measures that must be taken;

[c] the possible consequences of failing to comply with the notice; and

[d] how to appeal against the notice.

[4] Unless a prohibition notice provides otherwise, it comes into effect when it is served under subsection [1] and remains in force until it is withdrawn.

[5] The authorized official must as soon as possible affix a copy of the notice in a conspicuous position on the premises.

[6] It is a defense for anyone charged with failing to comply with a prohibition notice to prove that –

[a] he did not know of the existence of the prohibition order and could not reasonably be expected to have known of its existence; and

[b] he had complied with the prohibition notice within 48 hours of the time that the notice was affixed to the premises in terms of subsection [5].

[20] WITHDRAWAL OF PROHIBITION NOTICE

- [1]** The authorized official must, within 48 hours of receiving a written request for the withdrawal of a prohibition contained in a prohibition notice, carry out an investigation of the premises.
- [2]** After completing the investigation, the authorized official must inform the person on whom the prohibition notice was served or that person's agent in writing, whether or not the prohibition has been removed or withdrawn.
- [3]** The Municipality may charge the owner or occupier of any premises where an investigation is carried out in terms of subsection [1], a fee as prescribed in the applicable tariff policy for undertaking the investigation.

[21] DELIVERY OF NOTICES

- [1]** A notice, order or other document is to be regarded as having been properly served if –
 - [a]** it has been delivered to that person personally;
 - [b]** sent by registered post to the person to whom it is addressed at his or their last known address;
 - [c]** it is served on a person apparently not less than 16 years of age and apparently in charge of the premises at the addressee's last known address;
 - [d]** if 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 for in subsections [1][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 premises to which it relates.
- [2]** A notice, order or other document that may in terms of these by-laws be served on the owner or occupier of premises –
 - [a]** may be addressed to the owner or occupier of the specified premises and need not name the owner or occupier; and
 - [b]** if the Municipality does not know the address of the owner or occupier of the premises and cannot easily obtain it, the notice, order or other document is to be regarded as having been properly served if it is affixed to a conspicuous place on the premises.

[22] APPEAL

A person whose rights are affected by a decision of the Municipality may appeal against that decision by giving written notice of the appeal and the reasons therefore in terms of section 62 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000] to the Municipal Manager within 21 days of the date of the notification of the decision.

[23] OFFENCES AND PENALTIES

- [1]** Any person is guilty of an offence and upon conviction by a court liable to imprisonment for a period not exceeding six months if he –
- [a]** contravenes any provision of these by-laws or fails to comply therewith or with any condition imposed in terms thereof;
 - [b]** deliberately furnishes false or misleading information to an official of the Municipality;
 - [c]** fails to comply with any condition granted or imposed in terms of these by-laws;
or
 - [d]** ignores, disregards or disobey any notice, sign or marking displayed or erected for purposes of these by-laws.
- [2]** Any expense incurred by the Municipality as a result of a contravention of these by-laws or in the doing of anything which a person was directed to do under these by-laws and which he failed to do, may be recovered by the Municipality from the person who committed the contravention or who failed to do such thing.

[24] REPEAL OF BY-LAWS

- [1]** Any by-laws adopted by the Municipality or of Jan Kempdorp, Pampierstad and Hartswater a municipality now forming an administrative unit of the Phokwane Local Municipality and relating to dogs or with regard to any matter regulated in these by-laws are hereby repealed.
- [2]** Anything done under the provisions of the by-laws repealed by subsection [1] is deemed to have been done under the corresponding provision of these by-laws and such repeal will not affect the validity of any approval, authority, waiver or other act which at the commencement of these bylaws is valid under the by-laws so repealed.

BY-LAWS RELATING TO THE KEEPING OF ANIMALS

PREAMBLE

WHEREAS the Council of the Municipality is vested with legislative authority in terms of the Constitution;

AND WHEREAS the Council of the Municipality in the exercise of its functions has the right to regulate and manage the keeping of animals in its municipal area;

NOW THEREFORE be it enacted by the Council as follows:

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[1] DEFINITIONS

In these by-laws, any words used in the masculine include the feminine, the singular includes the plural and, unless the context indicates otherwise –

"Administrative unit" means a former municipality as contemplated in section 14[3] of the Local Government: Municipal Structures Act, 1998 [Act No. 117 of 1998];

"animal" means any horse, mule, donkey, cattle, sheep, goat, pig, poultry, ostrich, dog, cat, rabbit, any other domesticated animal, bird, fish, bees and includes any wild animal, wild bird or reptile which is in captivity or under the control of any person;

"Authorized official" means –

[a] an official who has been authorized by the Council to administer, implement and enforce the provisions of these by-laws;

[b] a traffic officer appointed in terms of section 3A of the National Road Traffic Act, 1996;

[c] a member of the police service, as defined in terms of section 1 of the South African Police Service Act, 1995; or

[d] a peace officer contemplated in section 334 of the Criminal Procedure Act, 1977;

"Agricultural holding" means the same as defined in the Town Planning Scheme of or made applicable to the Municipality;

"aviary" means an enclosure used for the keeping of birds but does not include a portable cage;

"Battery system" means the method of keeping poultry or rabbits in cages, in either single rows or tier formation, within a building or structure;

"bird" includes any wild bird, but does not include any poultry;

"cattery" means premises in or upon which –

[a] boarding facilities for cats are provided; or

[b] cats are bred for commercial purposes;

"Council" means the Council of the Phokwane Local Municipality and includes any duly authorized political structure or officer bearer as defined in the Local Government: Municipal Structures Act, 1998 or an official thereof and any authorized official;

"Dangerous animal" means any animal which is a threat or potential threat to the safety of any person or animal or property or which has attacked any person or animal without provocation and includes spiders and scorpions;

"Domesticated wild animal" means a tame wild animal;

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

"Environmental health practitioner" means an environmental health practitioner appointed by the Municipality or a municipality or another organ of state having jurisdiction in the municipal area with regard to any matter regulated by these by-laws;

"keeper" –

[a] in relation to any animal, means the owner thereof or any other person responsible for the control over or feeding and/or caring thereof;

[b] in relation to a kennels, pet parlour or pet shop, means the person who operates the business or the person in charge of the premises on which the business is operated;

"kennels" means premises in or upon which –

[a] boarding facilities for dogs are provided;

[b] dogs are bred for commercial purposes;

[c] dogs are kept for the purpose of being trained or hired out, with or without handlers; or

[d] dogs are kept for commercial security purposes;

"Large animal" includes any horse, donkey, mule, cattle, antelope, sheep, pig, goat, or ostrich;

"livestock" means horses, mules, donkeys, cattle, sheep, goats, pigs and poultry;

"Municipal area" means the demarcated area of jurisdiction of the Municipality;

"Municipality" means the Phokwane Local Municipality and, where the context so requires, includes the Council;

"nuisance" means any condition or conduct which is injurious or offensive to any person or which is dangerous to or compromises the health or safety of any person or which causes an annoyance or disturbance to any person or to the residents of any area or which constitutes a threat or a potential threat to the environment or which causes harm or damage to the environment or which may potentially harm or damage the environment;

"person" means a natural or a juristic person and includes an organ of state;

"pet" means any animal that is kept on any premises or within any enclosure principally for the purposes of companionship or amusement or security;

"Pet parlour" means any premises where beauty treatment is given to pets by washing, drying, brushing, clipping, and trimming or by attending to their nails or teeth;

"Pet shop" means the premises on which the business of keeping and selling of pets is carried out;

"poultry" means fowls, ducks, Muscovy ducks, geese, turkeys, pigeons, peacocks and domestic guinea fowls;

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

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

"premises" means –

- [a]** any piece of land registered in a deed's registry as an erf, plot or stand or lot as part of a township and includes a stand or lot forming part of a piece of land laid out as a township, but not yet registered; or
- [b]** a portion of such erf, plot or stand or lot and includes any residential site outside the townships provided by government departments, parastatal institutions or industries; and
- [c]** where the text so requires, buildings on such erf, stand or lot.

"Public health" means the mental and physical well-being of people in the municipal area;

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

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

"Residential area" means any area within the municipality, which in terms of the Town Planning Scheme, comprises the whole or a portion of an area zoned for residential purposes;

"stable" means any building or structure used to accommodate livestock other than poultry;

"Town Planning Scheme" means the Town Planning Scheme(s) of or made applicable to the Municipality in terms of the Land Use Planning Ordinance, 1985 [Ordinance No. 15 of 1985] [Cape];

"Valid license" means a license issued by the Municipality in terms of these by-laws;

"Wild animal" means any animal of a species that is not generally domesticated and includes any wild indigenous and exotic animal.

[2] APPLICATION OF BY-LAWS

[1] The provisions of these by-laws do not apply to –

- [a]** any agricultural show or bona fide circus where animals are kept on a temporary basis; or
- [b]** any laboratory where animals are kept for research purposes.

[2] All buildings constructed in terms of these by-laws must comply with the National Building Regulations and Building Standards Act, 1977 [Act No. 103 of 1977].

[3] KEEPING OF DOGS

- [1]** No person may keep –
- [a]** any dog that is ferocious, vicious, or has a propensity to chase after or charge at other animals, pedestrians, vehicles or pedal cyclists;
 - [b]** any dog in or on any premises unless the dog is confined to the premises by way of a wall, fence, enclosure, kennel or by any other means;
 - [c]** any dog older than six months unless the person holds a license for such dog;
 - [d]** more than two dogs on any premises unless otherwise authorized by the Municipality in writing;
 - [e]** any dog on any premises on which a fenced unobstructed enclosure of at least forty square meters per dog cannot be provided.
- [2]** A person who keeps a bitch in heat must ensure that the bitch is kept under proper control so as to ensure that she does not cause a nuisance to any other person.
- [3]** The Municipality may by notice in writing require the person keeping the bitch to remove her, at his expense, to a place of suitable accommodation until she is out of season.
- [4]** For the purpose of this subsection, a dog that has bitten or attempted to bite a person or an animal, other than in defense of itself or its custodian, in any place other than upon the premises where it is habitually kept, will be deemed to be vicious.

[4] DOG LICENSES

- [1]** Any person who keeps a dog that is older than six months must apply to the Municipality for a license in respect of every such dog in compliance with Dog Tax Ordinance Cape, 1978 [Ordinance No. 19 of 1978].
- [2]** The application must be accompanied by the prescribed license fee as set out in the Municipality's tariff of charges.
- [3]** On receipt of the prescribed application form and the license fee, the Municipality may, at a place determined by Municipality from time to time, issue a license in respect of the dog concerned.
- [4]** A license issued in accordance with subsection [3] is valid for a period of twelve months.
- [5]** This section does not derogate from the provisions of the Municipality's by-laws relating to licensing and control over dogs or any other applicable law.

[5] DOG KENNELS AND CATTERIES - REQUIREMENTS FOR PREMISES

- [1]** No person may keep dog kennels or a cattery in an area zoned for residential use unless so authorized by the Municipality in writing.

- [2]** A person may not keep dog kennels or a cattery in any other area unless written permission had been granted by the Municipality to that person for that purpose.
- [3]** A person may not use any premises as kennels or a cattery unless the premises comply with the following requirements:
- [a]** Every dog or cat must be kept in an enclosure that complies with the following requirements:
- [i]** the enclosure must be constructed of impervious materials and must provide adequate access for cleaning purposes;
 - [ii]** the floor must be constructed of concrete or other impervious material brought to a smooth finish and graded to a channel 100mm wide, extending the full width of the floor, which channel must be graded and drained into a gully connected to the Municipality's sewer by means of a pipe 100mm in diameter; and
 - [iii]** a curb 150mm high must be provided along the edge of the channel, referred to in subsection [3][a][ii], to prevent any storm water runoff entering the channel;
- [b]** Subject to subsection [3] every enclosure referred to in subsection [3][a], must be situated in a roofed shelter that complies with the following requirements:
- [i]** every wall must be made of brick, stone, concrete or other impervious material;
 - [ii]** the internal surface of every wall must have a smooth internal surface;
 - [iii]** the floor must be made of concrete or other impervious material brought to a smooth finish; and
 - [iv]** every shelter must have adequate access for cleaning and eliminating pests;
- [c]** A dog kennel that complies with the following requirements may be provided for a dog instead of the shelter contemplated in subsection [3][a]:
- [i]** the kennel must be movable;
 - [ii]** the kennel must be placed on a base constructed of concrete or other impervious material with an easily cleanable finish; and
 - [iii]** a sleeping board, which will enable the dog to keep dry, must be provided in any kennel that does not have a waterproof base;
 - [iv]** a concrete apron extending at least one-metre-wide around the edges of the enclosure must be provided;
 - [v]** the apron must be graded and drained in a way that drains storm water away from the enclosure; and

[vi] a potable water supply, adequate for drinking and cleaning purposes, must be provided in or adjacent to the enclosure.

[d] Any shelter, enclosure or kennel may not be situated within five meters of any –

[i] dwelling or other building or structure used for human habitation;

[ii] place where food is stored and prepared for human consumption; or

[iii] the boundary of the premises.

[6] DOG KENNELS AND CATTERIES - FOOD PREPARATION AREA

[1] Any person who keeps dog kennels or a cattery must provide a separate room or roofed area for the preparation of food if required by the Municipality to do so.

[2] The food preparation area must comply with the following requirements:

[a] the floor of the room or roofed area must be constructed of concrete or other impervious material brought to a smooth finish;

[b] the internal wall surfaces of the room or roofed area must be smooth and easily cleanable;

[c] adequate washing facilities for food bowls and utensils must be provided; and

[d] a rodent-proof storeroom must be provided for the storage of food.

[7] DUTIES OF KEEPER OF DOG KENNELS OR CATTERY

Any person who keeps a kennel or cattery must –

[a] maintain the premises, equipment and every vessel, receptacle or container and sleeping board used in connection with the kennel or cattery in a clean, sanitary condition and in good repair at all times;

[b] store all loose food in receptacles, with close fitting lids, in a food store;

[c] provide adequate refrigeration facilities to store perishable foods on the premises;

[d] provide adequate separate refuse receptacles, with close fitting lids, on the premises for refuse other than faeces;

[e] keep any sick dog or cat isolated from any other; and

[f] maintain the premises free from offensive odours and every enclosure, shelter, kennel, cage or food store clean and free from pests.

[8] PET SHOPS AND PET PARLOURS - REQUIREMENTS FOR PREMISES

[1] No person may operate a pet shop or pet parlour in or on any premises unless the premises comply with the following requirements:

- [a]** all walls, including any partition, must –
 - [i]** be constructed of brick, concrete or other impervious material;
 - [ii]** have a smooth and easily cleanable internal surface; and
 - [iii]** be painted with a washable paint or other adequate finish;
- [b]** all floor surfaces must be constructed of concrete or other impervious material brought to a smooth finish;
- [c]** all ceilings must be dust proof and easily cleanable;
- [d]** at least one wash hand basin, with a supply of running hot and cold potable water and one water closet must be provided for employees at the ratio of 1:15 persons employed on the premises;
- [e]** the wash hand basins referred to in subsection [1][d] must be drained in terms of section 28;
- [f]** adequate storage facilities must be provided;
- [g]** facilities for the washing of cages, trays and other equipment must be provided in the form of either –
 - [i]** a curbed and roofed over platform with a minimum surface area of 1,5m² raised at least 100mm above the floor and constructed of concrete or other impervious material brought to a smooth finish, which platform must be provided with a supply of running potable water; or
 - [ii]** a stainless-steel sink or trough of adequate size with a drainage board and provided with a supply of running potable water;
- [h]** the platform, sink or trough referred to in subsection [7][a] must be drained in terms of section 28;
- [i]** any wall surface must be smooth and impervious;
- [j]** for the purposes of washing, clipping or grooming of pets –
 - [i]** a bathroom fitted with a bath, or similar fitting, and a wash hand basin supplied with running potable water must be provided;
 - [ii]** a clipping and grooming room fitted with impervious topped tables and an adequate number of portable storage receptacles of an impervious durable material with close fitting lids, for the storage of cut hair pending removal, must be provided;
 - [iii]** the floors of the rooms referred to in subsection [j][i] and subsection [j][ii] must be graded to a channel drained in terms of section 28;
- [k]** all buildings, including storage areas, must be rodent-proof; and

- [l]** the premises may not have direct internal access with any room or place –
 - [i]** used for human habitation;
 - [ii]** where clothing is stored or sold; or
 - [iii]** where food is prepared, stored or sold for human consumption.
- [m]** No person may operate a pet shop or pet parlour without written consent from Municipality.

[9] DUTIES OF KEEPER OF PET SHOP OR PET PARLOUR

The keeper of a pet shop or pet parlour must –

- [a]** provide cages for housing the pets and such cages must comply with the following requirements:
 - [i]** the cages must be constructed of metal or other impervious material and fitted with a removable metal floor-tray to facilitate cleaning;
 - [ii]** the cages must be capable of being moved easily;
 - [iii]** the cages must be fitted with a drinking vessel that is filled with water; and
 - [iv]** the space below every cage must be unobstructed.
- [b]** provide rodent-proof receptacles of an impervious material and with close fitting lids for the storage of all loose food in the store room;
- [c]** provide adequate refrigeration facilities to store all perishable pet food on the premises;
- [d]** maintain the premises and every cage, tray, container, receptacle, basket, all apparatus, equipment or appliances used in connection with the pet shop, in a clean and sanitary condition, free from pests and in good repair;
- [e]** provide overalls or other protective clothing for employees and ensure that the employees wear them when on duty;
- [f]** provide isolation facilities in which every pet which is, or appears to be, sick must be kept while on the premises;
- [g]** provide an adequate supply of potable water for drinking and cleaning purposes;
- [h]** provide adequate ventilation to ensure the comfort and survival of the pets; and
- [i]** ensure that the number of pets contained in each cage does not impede their free movement.

[10] KEEPING OF BIRDS - REQUIREMENTS FOR PREMISES

- [1]** No person may keep any bird in an aviary unless the aviary complies with the following requirements:

- [a]** the aviary must be constructed of durable rodent-proof materials;
 - [b]** adequate access must be provided for cleaning purposes;
 - [c]** if the aviary is constructed above ground level, its base must be constructed of an impervious and durable material;
 - [d]** the aviary may not be situated within 3m of any building or structure, boundary fence or boundary wall; and
 - [e]** a water supply adequate for drinking and cleaning purposes must be situated in or next to every aviary.
- [2]** No person may keep any bird other than a small bird in a cage inside a residential dwelling.

[11] DUTIES OF KEEPER OF AN AVIARY

Any person who keeps birds in an aviary must –

- [a]** ensure that the aviary and the premises are kept in a clean condition and free from pests;
- [b]** provide and use rodent-proof facilities for the storage of bird food; and
- [c]** ensure that the birds do not disturb the comfort, convenience, peace or quiet of any other person.

[12] KEEPING OF POULTRY

- [1]** No person may keep more than 10 poultry birds on any premises situated within an area zoned for residential, commercial or industrial use in terms of the Town Planning Scheme or more than 100 poultry birds on premises zoned for agriculture in terms of the Town Planning Scheme, except in terms of a permit issued by the Municipality for that purpose.
- [2]** A person may not keep more than 5 pigeons on any premises zoned for residential, commercial or industrial use in terms of the Town Planning Scheme, unless the person is registered with the Pigeon Racing Federation of South Africa.
- [3]** The provisions of subsection [1] and subsection [2] do not apply to a person who keeps ten or less poultry birds or five or less pigeons.
- [4]** For the purposes of this subsection, poultry does not include pigeons.

[13] KEEPING OF POULTRY - REQUIREMENTS FOR PREMISES

No person may keep more than ten poultry birds or five pigeons in or on any premises unless the premises comply with the following requirements:

- [a]** in relation to a poultry house –

- [i]** every wall must be constructed of brick, stone, concrete or other impervious material brought to a smooth internal surface;
 - [ii]** the floor must be constructed of concrete or other impervious material brought to a smooth finish;
 - [iii]** the upper floor of a two or more-story structure must be constructed of an impervious and easily cleanable material;
- [b]** a poultry run, if provided, must be enclosed with wire mesh or other durable material;
- [c]** in relation to a building or a structure housing a battery system –
 - [i]** every wall, if provided, must be at least 2,4m high, must be constructed of concrete, stone, brick or other impervious material and must have a smooth internal surface;
 - [ii]** if walls are provided, the building must be ventilated and lighted by means of mechanical ventilation and artificial lighting or by obtaining natural ventilation and light through openings or opening windows of an area not less than 15% of the floor area of the building;
 - [iii]** the floor must be constructed of concrete or other impervious material brought to a smooth finish and if required by the Municipality, the floor surface must be graded and drained by means of a channel drained in terms of section [28];
 - [iv]** if no walls are provided, or if the walls are made of metal, the floor must be provided with a curb at least 150mm high around its edges;
 - [v]** the cages of the battery system must be made of an impervious material;
 - [vi]** if required by the Municipality, a tray of an impervious material must be fitted under every cage for the collection of manure;
- [d]** a water supply adequate for drinking and cleaning must be provided in or next to every poultry house or building or structure housing a battery system;
- [e]** no poultry house, poultry run, or building, or structure housing a battery system, may be constructed within 3m of –
 - [i]** any dwelling, other building or structure used for human habitation;
 - [ii]** any place where foodstuffs are stored or prepared for human consumption; or
 - [iii]** the nearest boundary of any land;
- [f]** feed must be stored in an adequate rodent-proof storeroom;
- [g]** adequate washing facilities must be provided for the cleaning of the cages; and

- [h]** if required by the Municipality due to the amount of manure stored on the premises awaiting removal, a storage area that complies with the following requirements must be provided –
 - [i]** a roofed platform constructed of concrete or other impervious material;
 - [ii]** the platform's outside edges must have a minimum curb of 100mm high;
 - [iii]** the platform must be graded and drained in terms of section 28; and
 - [iv]** the roof of the platform must extend a minimum of 1m beyond the edges of the base of the platform.

[14] DUTIES OF KEEPER OF POULTRY

Any person who keeps more than five poultry birds or pigeons must –

- [a]** ensure that all poultry is kept within a poultry house, poultry run or building or structure housing a battery system;
- [b]** maintain the premises and any equipment, apparatus, container or receptacle used in connection with keeping the poultry in a clean, sanitary condition and in good repair;
- [c]** maintain the premises free from offensive odours and every poultry house, poultry run or building or structure housing a battery system and all cages clean and free from pests;
- [d]** ensure that the poultry does not disturb or hinder the comfort, convenience, peace or quiet of any person;
- [e]** all manure and waste generated by poultry must be stored and/or removed in a hygienic manner;
- [f]** remove all manure and other waste from a poultry house or poultry run at least once every 48 hours and once every 4 days from a building or structure housing a battery system;
- [g]** place the manure and other waste matter in manure storage receptacles;
- [h]** remove the contents of the manure storage receptacles from the premises at least once every seven days and dispose of the manure in a way which will not create a nuisance; and
- [i]** take adequate measures to keep the premises free of flies, cockroaches, fleas and rodents and prevent offensive odours arising from the keeping of poultry on the premises.

[15] KEEPING OF RABBITS

- [1]** No person may keep more than 5 adult rabbits on premises situated within an area zoned for residential, commercial or industrial use in terms of the Town Planning Scheme, or more than 20 adult rabbits on premises zoned for agriculture, except in terms of a permit issued by the Municipality for that purpose.
- [2]** The provisions of subsection [1] do not apply to a person who keeps 5 or less adult rabbits.

[16] KEEPING OF RABBITS - REQUIREMENTS FOR PREMISES

No person may keep more than five adult rabbits in or on any premises unless the premises comply with the following requirements:

- [a]** in relation to a rabbit hutch –
 - [i]** every wall must be constructed of brick, stone, concrete or other impervious material and must have a smooth internal surface;
 - [ii]** the floor surface must be constructed of concrete or other impervious material brought to a smooth finish, situated at least 150mm above ground level graded to a channel drained in terms of section 28, if required by the Municipality;
 - [iii]** it must be provided with adequate ventilation;
- [b]** any rabbit run, if provided, must be enclosed with wire mesh or other durable material and constructed in a way that prevents the escape of rabbits from the run;
- [c]** relative to a building or structure housing a battery system –
 - [i]** every wall must be a minimum of at least 2.4m high, must be constructed of concrete, stone, brick or other durable material, and must have a smooth internal surface;
 - [ii]** if walls are provided, the building must be ventilated and lighted by means of natural openings or windows of an area equal to not less than 15% of the floor area of the building;
 - [iii]** the floor must be constructed of concrete or other impervious material brought to a smooth finish, and if required by the Municipality, the floor surface must be graded to a channel drained in terms of section 28;
 - [iv]** if no walls are provided, or the walls are made of metal, the floor must be provided with a curb at least 150mm high around its outside edges; and
 - [v]** every cage must be constructed of an impervious material and fitted with trays of an impervious material for the reception of manure;
- [d]** a water supply adequate for drinking and cleaning purposes must be provided in or next to every rabbit hutch or building or structure housing a battery system;
- [e]** a person may not erect a rabbit hutch, rabbit run or building or structure housing a battery system within 5m of –
 - [i]** any dwelling, building or other structure used for human habitation;
 - [ii]** any place where foodstuffs are stored or prepared for human consumption; or
 - [iii]** the nearest boundary of any land;
- [f]** an adequate rodent-proof storeroom must be provided for the storage of feed; and

- [g]** adequate washing facilities must be provided for the cleaning of the cages.

[17] DUTIES OF KEEPER OF RABBITS

Any person who keeps more than five adult rabbits must –

- [a]** keep all rabbits within the rabbit hutch, rabbit run or building or structure housing a battery system;
- [b]** maintain the premises and any equipment, apparatus, container or receptacles used in connection with the keeping of rabbits, in a clean, sanitary condition and in good repair;
- [c]** maintain the premises free from offensive odours and every rabbit hutch, rabbit run, building or structure housing a battery system and all cages clean and free from pests;
- [d]** all manure and waste generated by rabbits must be stored and/or removed in a hygienic manner;
- [e]** remove the contents of the manure storage receptacles from the premises at least once every seven days and dispose of the contents in a way that will not create a nuisance.

[18] KEEPING OF BEES

No person may keep bees in an area other than zoned for agricultural use and such person must comply with the Municipality's by-laws relating to the Keeping of Bees.

[19] KEEPING OF LARGE ANIMALS

- [1]** No person may keep any large animal in an area that is zoned for residential use other than for the purpose and in accordance with section 21.
- [2]** No person may not keep any large animal in or on any premises less than 4 hectares in extent and which is not zoned for residential use unless such animal is kept in a stable that complies with the following requirements –
 - [a]** the internal wall surfaces of the stable must be constructed of smooth brick or other durable surface brought to a smooth finish;
 - [b]** the stable must at any point be at least 50m from any dwelling or from any boundary of the property on which the stable is erected;
 - [c]** the walls of the stable must be constructed of brick, concrete or other impermeable material;
 - [d]** the floor must be of cement, stone or other impermeable material prepared and graded in such a manner as to prevent absorption of all liquids or other noxious matter and to enable proper cleaning and draining;
 - [e]** if sewerage is available, the stable must be connected by drain to the sewerage system in such a manner as may be prescribed by the applicable by-laws;

- [f]** if a sewerage system is not available, the drainage from the stable must be to the satisfaction of the Municipality;
- [g]** the stable must be sufficiently lighted and ventilated by means of openings into the exterior in order to maintain a free circulation of air in the stable and keep it in a well-ventilated condition;
- [h]** there must be a water supply adequate for drinking and cleaning purposes situated in or adjacent to the stable; and
- [i]** approved places or receptacles for storing feed must be constructed and maintained as far as possible to prevent access to vermin.

[20] DUTIES OF KEEPER OF LARGE ANIMALS

[1] Any person who keeps any cattle, horse, mule, donkey, pig, sheep or goat in an area that is not a residential area must –

- [a]** maintain the premises and any equipment, apparatus, container or receptacle used in connection with the keeping of the cattle, horses, mules or donkeys in a clean and sanitary condition and in good repair;
- [b]** store all feed in a rodent-proof storeroom and all loose feed in rodent-proof receptacles with close fitting lids.

[2] Any person who keeps a large animal in a stable must –

- [a]** maintain the stable and any equipment, apparatus, container or receptacle used in connection with the keeping of the large animal in a clean and sanitary condition and in good repair;
- [b]** ensure that no enclosure or stable may be situated within –
 - [i]** 15m of the boundary of any land, property, dwelling or other structure used for human habitation; or
 - [ii]** 50m of any water resource or water supply intended or used for human consumption;
- [c]** ensure that there is an adequate water supply for drinking and cleaning purposes next to every stable or enclosure.
- [d]** remove and/or store all manure and waste generated by any animal in a hygienic manner;
- [e]** remove the contents of the manure storage receptacles from the premises at least once every seven days and dispose of the contents in a way that will not create a nuisance.
- [f]** provide a manure midden constructed of an impervious material and with a close-fitting cover not less than 50m from any dwelling or any boundary of the property on which the stable is erected;

[g] remove the contents of the manure midden on a daily basis or bury or otherwise dispose of the manure in such a manner as will prevent the manure from causing a nuisance; and

[h] store all feed in a rodent-proof storeroom or in receptacles with close fitting lids.

[21] KEEPING AND SLAUGHTERING OF ANIMALS FOR RELIGIOUS AND CEREMONIAL PURPOSES

In an urban area, no person may slaughter any animal in any place other than in a recognized abattoir, except when the animal is slaughtered for religious or ceremonial purposes, in which event that person must –

[a] notify the Municipality in writing, 14 days prior to the event, but in the case of funerals at least 2 days prior to the slaughter;

[b] notify all his immediate neighbours in writing of such slaughter, 7 days prior to the event;

[c] screen the slaughtering process from members of the public;

[d] use the meat derived from the slaughtered animal solely for the purposes of the religious or ceremonial feast;

[e] handle the meat in a hygienic manner at all times;

[f] dispose of any portions of the animal that are not used or consumed, in the manner prescribed by the Municipality;

[g] not keep the slaughter animal on the premises for longer than 24 hours prior to being slaughtered;

[h] treat the animal humanely until such time as it is slaughtered; and

[i] slaughter the animal in a manner that minimizes suffering.

[22] KEEPING OF WILD ANIMALS

[1] No person may keep any wild animal on any premises unless he is in possession of written authority from the responsible authority to do so.

[2] No person may feed any wild animal that is not in captivity.

[23] KEEPING OF DANGEROUS ANIMALS

[1] Any person who keeps a dangerous animal must –

[a] keep it in an adequate enclosure; and

[b] take adequate measures to ensure that the animal –

- [i]** does not escape from the premises where it is kept; and
- [ii]** does not pose a danger, or cause harm, to a person, other animal or property.

[2] Any person keeping a dangerous animal must also comply with any requirements of a responsible authority to do so.

[24] NUISANCE

[1] No person may keep any animal that creates a nuisance, whether the health hazard or nuisance emanates from odour, sound or noise made by the animal, or from any other source relating to the animal and whether the health hazard or nuisance emanates from the animal itself or from the manner in which, or the conditions under which, the animal is kept or from the escaping or wandering of the animal, as the case may be.

[2] If the Municipality reasonably believes that an animal poses or creates a nuisance, the Municipality may –

- [a]** by notice, order the owner or person in charge of the animal to abate the nuisance within a reasonable time to be stated in such notice which must also set out the measures to be taken, where possible and, if necessary, to remove the animal concerned; or
- [b]** if it is reasonably and urgently necessary to eliminate or reduce a significant risk to public health, the Municipality may seize and impound the animal at the cost of the owner or the person in charge of the animal.
- [c]** If the person has not abated the nuisance, or the animal has not been removed in terms of subsection [2][a], as the case may be, the person is guilty of an offence and liable, on conviction, to the penalty prescribed in section 30.
- [d]** If the person referred to in subsection [3] is found guilty of a second contravention in terms of subsection [3] in respect of the same animal, the Court may, in addition to imposing a sentence in accordance with the provisions of section 30, order that the animal be seized and removed by the Municipality to an animal welfare organization referred to in subsection [1].
- [e]** If the Municipality reasonably believes that any stable, enclosure or other building or structure in which an animal is kept causes or is likely to cause a nuisance, be it due to its construction or state of disrepair or lack of cleanliness or for any other reason, the Municipality may by notice order the owner or the person in charge of the premises upon which the stable, enclosure, building or structure concerned is situate, to execute and perform such work as may be necessary and which must be stated in such notice to abate the nuisance within a time specified in such notice.
- [f]** If the nuisance referred to in subsection [5] has not abated after expiry of the period concerned, or the owner or person in charge of the premises has not executed and performed the work required in terms of the said notice to the satisfaction of the Municipality, the owner or person in charge of the premises is

guilty of an offence, and is liable, on conviction, to the penalty prescribed in section 30.

[25] CONTROL OVER ANIMALS

- [1]** Any person who keeps any animal must ensure that it is kept under proper and effective control when it leaves the premises where it is kept and that it does not endanger any person or animal or property when it leaves the premises.
- [2]** The Municipality may seize and impound any apparently ownerless or diseased or dangerous or vicious animal found wandering or unattended on any public street or in any public place.
- [3]** Any person who keeps an animal may not pasture or allow the animal to be pastured in or on any public street or any public property. Without in any way detracting from the provisions of section 6, the Municipality may seize and impound any such animal so found, whether tended or not.
- [4]** Except for purposes of impounding any animal, no person may drive or cause any animal to be driven in any public street or upon any public road within the area of jurisdiction of the Municipality without the prior written consent of the Municipality, which approval may be granted subject to conditions.

[26] SEIZURE AND REMOVAL OF AN ANIMAL

- [1]** The Municipality must remove any animal seized and/or impounded in accordance with the provisions of section 25[2] or if so, ordered by any court in terms of section 24[4] to an animal welfare organization where the animal can be accommodated.
- [2]** An apparently ownerless animal seized and impounded in terms of section 25[2] or an animal seized and impounded in terms of section 25[3], must be kept at the animal welfare organization for at least seven days to enable the owner or person in charge of the animal to claim it.
- [3]** If the owner or person in charge of such animal has not claimed same within the period of seven days, the animal welfare organization may sell or donate it and retain and apply the proceeds of the sale, if any, for its own benefit, or it may otherwise dispose of the animal.
- [4]** The person who claims the animal seized must pay to the animal welfare organization where it is accommodated the reasonable costs of the Municipality for the seizure and removal of the animal as certified by the Municipal Manager, plus the reasonable costs of the organization for accommodating the animal, before the animal may be released to the person.
- [5]** If an animal seized and impounded in terms of section 25[3], and notwithstanding the provisions of subsections 26[2], 26[3] and 26[4], where applicable, is so diseased or injured or in such a poor physical condition that it would be cruel or that it would bring unnecessary suffering to the animal to keep it alive and that it ought therefore to be destroyed without unreasonable delay, the animal welfare organization may summon a veterinarian to examine the animal and if, after such examination, the veterinarian certifies that the animal is so diseased or injured or in such a poor physical condition that it would be cruel or that it would bring unnecessary suffering to the animal to keep it alive and that it ought, therefore, to be destroyed, the animal welfare organization may

instruct a veterinarian to immediately destroy the animal in such a manner as to inflict as little suffering as possible.

- [6]** The animal welfare organization may recover the reasonable veterinarian and other costs in carrying out the provisions of subsection [26][5] from the owner or the person in charge of keeping the animal in question.

[27] PERMITS

- [1]** A person who wishes to undertake an activity listed in sections 5, 8, 10, 12, 15, 19, or 22 and for which a permit is required, must apply to the Municipality in writing prior to undertaking the relevant activity.

- [2]** When the Municipality receives an application for a permit, and before deciding whether or not to approve the application, the Municipality may request the applicant to provide any further information which it considers relevant to enable it to make an informed decision and must ensure that the relevant premises are inspected by an environmental health practitioner as soon as reasonably possible.

- [3]** An environmental health practitioner referred to in subsection [2] must submit a report, as soon as reasonably possible, as to –

- [a]** the likelihood of the intended activity causing a nuisance;
- [b]** any measures that may reasonably be taken to eliminate or reduce the risk of a public health hazard or a nuisance, if any;
- [c]** any other relevant consideration,
- [d]** any persons in the vicinity of the premises whose health or wellbeing may be affected, have been consulted and have had an opportunity to make representations; and
- [e]** all relevant information, including the report from the environmental health practitioner and the representation from persons affected has been considered.

- [4]** Subject to subsection [2], the Municipality may –

- [a]** issue a permit to the applicant without any conditions;
- [b]** issue a permit to the applicant, subject to such terms and conditions that are reasonably aimed at eliminating or reducing the risk to a nuisance caused or likely to be caused by the relevant activity, if any; or
- [c]** refuse the application for a permit.

- [5]** A permit issued in terms of subsection [4][a] or subsection [3][b] –

- [a]** is not transferable from one person to another;
- [b]** applies only to the premises specified in the permit;

- [c]** must specify the address and other relevant details regarding the location of the premises concerned;
 - [d]** must describe the premises concerned;
 - [e]** must describe the activity concerned;
 - [f]** must, in the case of a permit issued in terms of subsection [3][b], specify the terms and conditions; and
 - [g]** must specify when it expires.
- [6]** The Municipality may charge the applicant a prescribed fee for considering and for granting a permit.
- [7]** The Municipality may refuse to consider an application for a permit until the prescribed fee has been paid and until it has been provided with the information that it reasonably requires to make an informed decision.
- [8]** The Municipality may by written notice to the holder of a permit, suspend or cancel the permit –
- [a]** with immediate effect, if an environmental health practitioner reasonably believes that it is urgently necessary to do so to eliminate or reduce a significant risk to public health posed by a nuisance; or
 - [b]** after expiry of the period stipulated in a notice affording the holder of a permit a reasonable opportunity to comply with the notice and the holder of the permit having failed to comply with the notice.
- [9]** The Municipality may amend a permit by written notice to the holder, if the environmental health practitioner reasonably believes that it is necessary to do so to protect public health or to take account of changed circumstances since the permit was issued.

[28] DRAINAGE

A person who keeps animals must ensure that all sinks, wash hand basins, baths, shower baths, troughs, floor surfaces, channels and washing platforms required to be drained in terms of these by-laws are drained in accordance with the provisions of the National Building Regulations and Building Standards Act, 1977 [Act No. 103 of 1977].

[29] WAIVER OF PROVISIONS

- [1]** The Municipality may, if it deems it desirable to do so in the public interest, waive compliance with or relax the provisions of these by-laws: Provided that any person whose rights are adversely affected by such waiver or relaxation will not be bound thereby.
- [2]** In each case in which such waiver or relaxation has been granted to any person, the Municipality must serve a written notice upon such person citing the relevant provision waived or relaxed and the extent to which such provision has been waived and, in addition, the Municipality must keep a record containing an identical copy of each such

notice, which record must be available for inspection by members of the public at the offices of the Municipality.

[30] COMPLIANCE NOTICE

- [1]** If an authorized official, after inspecting premises on which any animal as contemplated in these by-laws is kept, reasonably believes that a provision of these by-laws is being contravened, he may serve a compliance notice on one or more of the following persons:
- [a]** the owner of the premises;
 - [b]** the occupier of the premises;
 - [c]** any person apparently in charge of undertaking the aforesaid use on the premises.
- [2]** A compliance notice must state –
- [a]** why the authorized official believes that these by-laws are being contravened;
 - [b]** the measures that must be taken to ensure compliance with these by-laws;
 - [c]** the time period within which the measures must be taken;
 - [d]** the possible consequences of failing to comply with the notice; and
 - [e]** how to appeal against the notice.
- [3]** If a person fails to comply with a Compliance Notice that requires a particular action to be taken, the Municipality may –
- [a]** take the required action specified in the compliance notice; and
 - [b]** recover, as a debt, from the person to whom the notice was given, the costs and expenses reasonably incurred in taking the required action; or
 - [c]** direct that a prohibition notice be served on such person in terms of section 31 of these by-laws.

[31] PROHIBITION NOTICE

- [1]** An authorized official may, after inspecting premises where an animal is kept in contravention of these by-laws, serve a prohibition notice on the owner, occupier or user of such premises prohibiting the sign from being so displayed and requiring measures to be taken to ensure that this occurs.
- [2]** The authorized official must give the person on whom he intends serving a prohibition notice a reasonable opportunity to make representations before serving the notice.
- [3]** A prohibition notice must state –

- [a]** the reasons for serving the notice;
 - [b]** whether or not the Municipality will withdraw the notice if certain measures are taken, and if so, the measures that must be taken;
 - [c]** the possible consequences of failing to comply with the notice; and
 - [d]** how to appeal against the notice.
- [4]** Unless a prohibition notice provides otherwise, it comes into effect when it is served under subsection [1] and remains in force until it is withdrawn.
- [5]** The authorized official must as soon as possible affix a copy of the notice in a conspicuous position on the premises.
- [6]** It is a defense for anyone charged with failing to comply with a prohibition notice to prove that –
 - [a]** he did not know of the existence of the prohibition order and could not reasonably be expected to have known of its existence; and
 - [b]** he had complied with the prohibition notice within 48 hours of the time that the notice was affixed to the premises in terms of subsection [5].

[32] WITHDRAWAL OF PROHIBITION NOTICE

- [1]** The authorized official must, within 48 hours of receiving a written request for the withdrawal of a prohibition contained in a prohibition notice, carry out an investigation of the premises.
- [2]** After completing the investigation, the authorized official must inform the person on whom the prohibition notice was served or that person's agent in writing, whether or not the prohibition has been removed or withdrawn.
- [3]** The Municipality may charge the owner or occupier of any premises where an investigation is carried out in terms of subsection [1], a fee as prescribed in the applicable tariff policy for undertaking the investigation.

[33] DELIVERY OF NOTICES

- [1]** A notice, order or other document is to be regarded as having been properly served if –
 - [a]** it has been delivered to that person personally;
 - [b]** sent by registered post to the person to whom it is addressed at his or their last known address;
 - [c]** it is served on a person apparently not less than 16 years of age and apparently in charge of the premises at the addressee's last known address;

[d] if 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 for in subsections [1][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 premises to which it relates.

[2] A notice, order or other document that may in terms of these by-laws be served on the owner or occupier of premises –

[a] may be addressed to the owner or occupier of the specified premises and need not name the owner or occupier; and

[b] if the Municipality does not know the address of the owner or occupier of the premises and cannot easily obtain it, the notice, order or other document is to be regarded as having been properly served if it is affixed to a conspicuous place on the premises.

[34] APPEALS

[1] A person whose rights are affected by a decision taken by any authorized official under these by-laws may appeal against the decision by giving written notice of the appeal and reasons to the Municipal Manager of the Municipality within 21 days of the date of the notification of the decision.

[2] The Municipal Manager must promptly submit the appeal to the appropriate appeal authority referred to in section 62 of the Municipal Systems Act, 2000 [Act No. 32 of 2000].

[3] The appeal authority must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.

[4] An appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable period.

[35] OFFENCES AND PENALTIES

Any person who –

[a] contravenes or fails to comply with a provision of these by-laws or a direction issued by the Municipality in terms of these by-laws, or a condition imposed under these by-laws;

[b] obstructs or hinders any person in the execution of any power or the performance of any duty or function in terms of any provision of these by-laws; or

[c] furnishes false, incorrect or misleading information when applying for permission from the Municipality in terms of a provision of these by-laws-is guilty of an offence and liable, on conviction, to a fine or in default of payment to imprisonment for a period not exceeding six months.

[36] REPEAL OF BY-LAWS

- [1]** Any by-law adopted by the Municipality or a municipality now forming an administrative unit of Phokwane Local Municipality and relating to any matter regulated by these by-laws are, from date of promulgation of these by-laws, hereby repealed.
- [2]** Any permission obtained, right granted, condition imposed, activity permitted or anything done under a repealed law, is deemed to have been obtained, granted, imposed, permitted or done under the corresponding provision [if any] of these by-laws, as the case may be.

[37] SHORT TITLE

This by-law shall be called the Keeping of Animals by-law.

LIQUOR TRADING HOURS BY-LAWS

PREAMBLE

WHEREAS the Council of the Municipality is vested with legislative authority in terms of the Constitution of the Republic of South Africa, 1996 [Act No. 108 of 1996];

AND WHEREAS the Council of the Municipality in the exercise of its functions has an obligation in terms of section 42 of the Eastern Cape Liquor Act, 2003 [Act No. 10 of 2003] to regulate the hours during which liquor may be sold and regulate the operating hours of premises where on-site consumption of liquor takes place in the demarcated municipal area and to provide for incidental matters;

AND WHEREAS it is the intention of PHOKWANE LOCAL Municipality to set trading days and hours for all licensed premises, businesses or outlet situated within the area of jurisdiction of PHOKWANE LOCAL Municipality that sell liquor to the public.

NOW THEREFORE be it enacted by the Council as follows:

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SCHEDULES

[1] DEFINITIONS

In these by-laws, words used in the masculine gender include the feminine, the singular includes the plural and vice versa and, unless the context otherwise indicates: -

"Act" means the Eastern Cape Liquor Act, 2003 [Act No. 10 of 2003];

"Authorized official" means –

[a] an official who has been authorized by the Council to administer, implement and enforce the provisions of these by-laws;

[b] a traffic officer appointed in terms of section 3A of the National Road Traffic Act, 1996;

[c] a member of the police service, as defined in terms of section 1 of the South African Police Service Act, 1995; or

[d] a peace officer contemplated in section 334 of the Criminal Procedure Act, 1977.;

"Board" means the Eastern Cape Liquor Board established by section [4] of the Act;

"Council" means the Council of the Phokwane Local Municipality or any other political structure or officer bearer as defined in the Local Government: Municipal Structures Act, 1998 [Act No. 117 of 1998] or official including the authorized official acting by virtue of powers delegated to it or him by the Council with regard to the application and enforcement of these by-laws;

"community" means those residents, governing body of schools or places of worship occupying premises within a 100m radius from the premises in respect of which an application for registration and/or a license or authorization in terms of the Act is made;

"Guest accommodation establishment" means premises used as temporary residential accommodation, and includes the provision of meals for, transient guests for compensation and includes a backpacker's lodge, a bed and breakfast establishment, guest house and guest farm or lodge, as well as facilities for business meetings, conferences, events or training sessions of resident guest, but excludes a hotel;

"hotel" means premises used as temporary residential accommodation for transient guests where lodging or meals are provided for compensation, and includes: -

[a] a restaurant or restaurants forming part of the hotel;

[b] conference and entertainment facilities that are subservient and ancillary to the dominant use of the premises as a hotel; and

[c] premises which are licensed to sell liquor for consumption on the property but excludes an off-consumption facility, guest accommodation establishment, dwelling house or dwelling unit;

"liquor" means liquor as defined in section 1 of the Act as amended;

"Liquor trading establishment" means any fixed property from which liquor is sold or supplied to the public for consumption;

"Municipal Manager" means the Municipal Manager of the Municipality appointed in terms of section 82 of the Local Government: Municipal Structures Act, 1998 and includes any person acting in this position;

"official" means an official of the Municipality;

"premises" includes any place, land, building or conveyance or any part thereof which is registered or seeking to be registered in order to permit and allow trading in liquor;

"Regulations" means the regulations made under the Act and published in Provincial Notice No. 17 of 2004, dated 28 May 2004 as may be amended from time to time;

"Trading hours" means the time when a liquor trading establishment opens to the time that such establishment ceases to trade and, in the case of on-site consumption establishments, the time when they cease to operate and must close in accordance with **SCHEDULE 1** of these by-laws;

"trader" means any person who is licensed to sell liquor in terms of the Act and includes any licensed premises, business, outlet or land use activity from which liquor is sold;

"Ward committee" means a committee as contemplated in the Local Government: Municipal Structures Act, 1998.

[2] APPLICATION OF BY-LAWS

These by-laws are applicable in respect of all premises situated within the area of jurisdiction of the Municipality where trading in liquor is conducted or is intended or permitted to be conducted in terms of any Town Planning Zoning Scheme of the Municipality or made applicable to the Municipality and/or consent usage granted by the Municipality and/or any title deed conditions applicable to such premises.

[3] REPORT BY WARD COMMITTEE

- [1] A ward committee must, upon receipt of a notice of application for registration in terms of section 22[2][d][I] of the Act, hold a consultative meeting with the owners of immovable property and businesses and with residents in the immediate vicinity of the premises in respect of which the application applies and record in writing all comments [if any] with regard to such application;
- [2] The councilor responsible for the ward in respect of which an application contemplated in subsection [1] has been made must submit a report to the Municipality within 30 days of referral of such application to the ward committee concerned and such report must contain:
- [a] the details of the consultative process with the community, including the –
 - [i] dates when the consultation took place; and
 - [ii] names and addresses of persons who were consulted.
 - [b] comments on the application;
 - [c] details of objections received in respect of such application, if any;
 - [d] comments on such application; and
 - [e] a recommendation with regard to such application.
- [3] The Municipal Manager must report the application and the comments of the ward committee concerned to the Council at its first meeting after receipt of the comments of such Committee and thereafter expeditiously inform the Board of the resolution of the ward committee and the Council on such application; provided that the Municipal Manager must provide the applicant with reasons within seven days of such referral to the Council if the application and comments of the ward committee could not, for any reason whatsoever, be considered by the Council.
- [4] The Council may, when considering an application, appoint an official to conduct further investigation and obtain any further information that it deems necessary from any person deemed necessary by the Council; provided that the Municipal Manager must notify the applicant within seven days of such referral by the Council.

[5] An official appointed in terms of subsection [4] must complete the investigation within such period as Council may have deemed necessary and report his findings to the Council at its next meeting.

[6] The Council must consider the findings contemplated in subsection [5] and thereafter take the steps contemplated in subsection [3].

[4] HOURS OF TRADING

[1] A trader may: -

[a] despite any other law, sell liquor on any day of the week; and

[b] sell liquor only during the hours determined by the municipality, as listed in **SCHEDULE 1** to this by-law.

[2] Despite subsection (1), a hotel or guest accommodation establishment licensed to sell liquor may offer a room service facility at any time of the day.

[3] The trading hours, as listed in Column 2 of **SCHEDULE 1** to this by-law of the different kinds of registrations, as contemplated in section 20 of the Act, as listed in Column 1 of the **SCHEDULE 1**, have been determined by the Municipality and may be reviewed by the Municipality from time to time.

[4] Subject to section 6, no trader may sell liquor to a person at a time other than those hours stipulated as trading hours under subsection [1]; provided that nothing contained in this by-law: -

[a] prevents liquor trading premises from remaining open outside liquor trading hours exclusively for the sale of goods other than liquor; and

[b] permits a trader to sell liquor to a person who is under the age of eighteen years, or to allow a person under the age of eighteen years to consume liquor on liquor trading premises.

[5] A trader who contravenes subsection [4] commits an offence.

[5] SALE OF LIQUOR AT SPECIAL EVENTS

[1] A person who is registered to sell liquor at a special event may: -

[a] sell liquor only at that event; and

[b] sell liquor only at the place where and during the times when that event is held as set out in the application for registration.

[6] EXEMPTIONS

[1] The Municipality may grant written consent to a trader to sell liquor at hours other than those hours stipulated as trading hours in section 5[1] and a trader who wishes

to sell liquor at such hours must, before he sells such liquor, obtain such written consent of the Municipality.

- [2]** A trader who wishes to obtain the consent of the Municipality must complete a form similar to the APPLICATION FOR CONSENT TO SELL LIQUOR OUTSIDE TRADING HOURS FORM as contained in **SCHEDULE 2** and submit the form and other particulars as the Municipality may request, to the Office of the Municipal Manager.
- [3]** The Municipality may, after consideration of the application, refuse to grant consent or grant consent and should the Municipality grant consent, it may do so subject to any condition or restriction it may deem necessary, which consent and condition or restriction, if imposed, must be entered in item C of the form contained in **SCHEDULE 2**.
- [4]** A trader who has been granted consent in terms of subsection [3] must display, in a conspicuous place on the premises regarding which the consent has been granted and during those times for which the consent has been granted, a copy of the form on which the consent of the Municipality has been entered.
- [5]** A trader who contravenes subsection [1] or [4], or who sells liquor in contravention of a condition or restriction imposed in terms of subsection [3], or who displays a forged form, commits an offence.

[7] ENFORCEMENT

- [1]** The Municipality may appoint, authorize and mandate such officials as it may deem necessary to implement and enforce these by-laws.
- [2]** Each official appointed in terms of subsection [1] must be issued with an identity card containing –
- [a]** a photograph of that official;
 - [b]** the date of the Council resolution authorizing his appointment;
 - [c]** his designation; and
 - [d]** a brief reference to his duties and obligations in terms of these by-laws;
- [3]** An official, acting within the powers vested by these by-laws must, on demand by a member of the public, produce proof of identity and the capacity in which such official purports to carry out his duties;
- [4]** An official, acting in terms of the authorization or mandate contemplated in subsection [1] may –
- [a]** at all reasonable times, enter upon premises on which a business is being or is intended to be carried on; and
 - [b]** request any person to provide such reasonable information as the official deems necessary.

- [5]** For purposes of this by-law, an official appointed in terms of this section will be regarded as the authorized official.

[8] APPEAL

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

[9] OFFENCES

- [1]** Anyone commits an offence if he –
- [a]** hinders or interferes with an authorized official in the execution of his official duties in terms of the Act;
 - [b]** falsely professes to be an authorized official;
 - [c]** intentionally furnishes false or misleading information when complying with a request of an authorized official;
 - [d]** fails to comply with a reasonable request of an authorized official;
 - [e]** fails, refuses or neglects to comply with the trading hours referred to in **SCHEDULE 1**.
- [2]** No person may: -
- [a]** sell liquor otherwise than in terms of a registration;
 - [b]** be violent or drunk and disorderly on premises in respect of which a certificate of registration has been issued;
 - [c]** if he, she or it is the owner or occupier of registered premises, allow violent or drunk and disorderly behavior on

that premises;

- [d]** be drunk and disorderly in or on-
 - [i]** any road, street, lane, thoroughfare, square, park or market;
 - [ii]** any shop, warehouse or public parking garage;
 - [iii]** any form of public transport; or
 - [iv]** any place of entertainment, cafe, eating-house or racecourse or any other premises or place to which the public has or is granted access, irrespective of whether access is granted against payment or is restricted to any category of persons or not;
- [e]** consume any liquor in any road, street, lane or thoroughfare, or on vacant land adjacent thereto, an urban area or other area subdivided into erven or plots with streets bounded by such erven or plots;
- [f]** introduce, possess or consume any liquor on a sports ground that is not a registered premises, to which the public has or is granted access, irrespective of whether access is granted against payment or is restricted to any category of persons or not, except on any registered premises situated on the sports ground concerned;
- [g]** falsely represents himself or herself or any other person to be over the age of 18 years in order to persuade a registered person, or his or her agent or employee, to sell or supply liquor to him or her or to that other person;
- [h]** supply liquor to a person in his, her or its employment as wages or remuneration or as a supplement therefore; or
- [i]** allow prostitution and drug-trafficking on registered premises.

[10] PENALTIES

- [1]** Anyone who commits an offence contemplated in section 9(1) of this by-law is, upon conviction, liable to –
 - [a]** a fine or imprisonment for a period not exceeding six months; or
 - [b]** such imprisonment without the option of a fine; or
 - [c]** both such fine and such imprisonment.
- [2]** Any person who contravenes or fails to comply with a provision of-
 - [a]** section 9 or 9(2)(b) or (c) of this by-law must be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding one year or to both such fine and imprisonment;

[b] section 9(1)(a) of this by-law must be guilty of an offence and liable on conviction to a fine or to imprisonment not exceeding three years or to both such fine and imprisonment; or

[c] section 9(1)(h) must be guilty of an offence and liable on conviction to a fine or to imprisonment not exceeding five years or to both such fine and imprisonment.

[3] Any person who is found to be continuously contravening or failing to comply with a provision of this by-law, must in respect of each day on which that person contravenes or fails to comply with that provision, be guilty of an offence, including the day of any conviction for an offence in terms of this subsection or any subsequent day, and liable on conviction to a fine or to imprisonment for a period not exceeding three months or to both such fine and imprisonment.

[4] Any person who is convicted of an offence in terms of this by-law within a period of five years after he or she was convicted of any offence in any law governing the sale of liquor, must be liable to double the fine or imprisonment which may be imposed for that offence or to both that fine and that offence.

[5] Despite any other law, a magistrate's court must have jurisdiction to impose any penalty prescribed by this by-law.

[11] REPEAL OF BY-LAWS

[1] Any by-laws adopted by the Municipality relating to liquor trading or any matter regulated in this by-law are hereby repealed.

[2] Anything done under the provisions of the by-laws repealed by subsection [1] is deemed to have been done under the corresponding provision of this by-law and such repeal will not affect the validity of any approval, authority, waiver or other act which at the commencement of these by-laws is valid under the by-laws so repealed.

[12] SHORT TITLE

This by-law shall be called the Liquor Trading Hours by-law.

SCHEDULE 1

[1] TYPE OF REGISTRATION	[2] TRADING HOURS
Section 20[a] - Registration in terms of the Liquor Act for the retail sale of liquor for consumption off the premises where the liquor is being sold. <i>[bottle store, retail shop, wholesaler, house shop or tavern]</i>	Monday to Saturday 08:00 to 21:00
Section 20[b] - Registration in terms of the Liquor Act for the retail sale of liquor for consumption on the premises where liquor is sold. <i>[restaurant, night club, sports club, pool bar, hotel, pub]</i>	Sunday to Thursday 10:00 to 24:00 Friday-Saturday 10:00 to 02:00

Section 20[c] - Registration in terms of the Liquor Act for the retail sale of liquor on and off the premises on which the liquor is being sold. <i>[taverns, shebeens]</i>	<u>Off-consumption</u> Monday to Saturday 08:00 to 21:00 Sunday 09:00 to 13:00 <u>On-consumption</u> Sunday to Saturday 10h00 to 24:00
Section 20[d] - Registration in terms of the Liquor Act for the retail sale of liquor and consumption at special events. <i>[beer festival, fete, fundraising event]</i>	Trading hours to be determined by resolution of the Council in respect of each application
Section 20[e] - Registration in terms of the Liquor Act for licensed wholesale warehouse.	Monday to Saturday 08:00 to 17:00 Sunday 09:00 to 13:00
Section 20[e] - Registration in terms of the Liquor Act for licensed micro-manufacturing	Trading hours to be determined by resolution of the Council in respect of each application

SCHEDULE 2

[Section 6[2]]

APPLICATION TO SELL LIQUOR OUTSIDE TRADING HOURS A. APPLICANT

Name:

Identity Number:

Address:

Telephone number:

B. PERSONAL PARTICULARS

Address [street name and number] of the premises on which the liquor will be sold or supplied:
.....

Dates and hours on which liquor will be sold or supplied [Be specific, e.g. 14:00 to 23:00 on 3 June, 2005]:

Reason why this application is made:

Anticipated volume of liquor that will be consumed:

Nature of liquor that will be sold or supplied:

Other particulars [as requested by the Council]:

Signed Date
[Applicant]

C. CONSENT

Issuing Local Authority:

OFFICIAL

.....

DATE

STAMP

.....

CONDITIONS AND RESTRICTIONS IN TERMS OF SECTION 6[3]

Times and date on which liquor may be supplied or sold:

Other conditions or restrictions:

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

BY-LAWS RELATING TO WASTE MANAGEMENT

PREAMBLE

WHEREAS the Council of the Municipality is vested with legislative authority in terms of the Constitution; AND WHEREAS the Council of the Municipality in the exercise of its functions has the right to regulate waste management in the municipal area for the benefit of the public residing in or visiting the Municipality.

NOW THEREFORE be it enacted by the Council as follows:

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[1] Definitions

For the purposes of these By-laws, unless the context otherwise indicates- “Act” means

the National Environmental Management: Waste Act 59 of 2008

“**Bin**” means a standard type waste bin with a capacity between a minimum of 85 litres and a maximum of 100 litres, or a standard type wheelie bin with a maximum capacity of 240 litres;

“**Bin liner**” means a disposable plastic bag provided by the Municipality or approved by the Waste Management Officer with a storage capacity between a minimum of 85 litres and a maximum of 100 litres;

“**Building and demolition waste**” means waste, excluding hazardous waste, produced during the construction, alteration, repair or demolition of any structure, and includes rubble, earth, rock and wood displaced during that construction, alteration, repair or demolition;

“**Bulky waste**” means waste, other than industrial waste, hazardous waste, building and demolition waste or health care risk waste, which cannot by virtue of its mass, shape, size or temporary extraordinary generation be conveniently or practically stored in a container;

“**Business waste**” means waste; excluding garden waste, bulky waste hazardous waste and any waste collected separately for re-use or recycling; that emanates from premises or facilities that are used wholly or mainly for commercial, retail, wholesale, entertainment, administration purposes, or an accommodation establishment as defined in section 1 of the, Tourism Act (Act 72 of 1993);

“**Confidential information**” means trade, business or industrial information that belongs to a person, has a particular economic value, and is not generally available to or known by others;

“**Container**” means a disposable or re-usable vessel in which waste is placed for the purposes of storing, accumulation, handling, transporting, treating or disposing of that waste, and includes bins, bin-liners and skips;

“**Disposal**” means the burial, deposit, discharge, abandoning, dumping, placing or placing of any waste into, or onto, any land;

“**Disposal facility**” means a facility or site for the disposal of waste; including any landfill site, forwarding facility, transfer facility, drop-off centre or container yard used partially or solely for disposal of waste, and which is owned by the Municipality or has been approved for the purpose by the Municipality

“**Domestic waste**” means waste; excluding garden waste, bulky waste hazardous waste and any waste collected separately for re-use or recycling; that emanates from premises that are used wholly or mainly for residential, educational, health care, sport or recreational purposes; “**Garden waste**” means waste which is generated as a result of normal gardening activities on any premises, such as grass cuttings, leaves, plants, flowers, weeds, clippings of trees, hedges or fences and other similar small and light matter;

“**Hazardous waste**” means any waste that contains organic or inorganic elements or compounds that may, owing to the inherent physical, chemical or toxicological characteristics of that waste, have a detrimental impact on health and the environment;

“**Health care risk waste**” means hazardous waste originating at a health care facility which includes, but is not limited to:

- [a] “infectious waste”, i.e. waste that may contain pathogenic micro-organisms;
- [b] “sharps”, i.e. sharp and pricking objects that may cause injury as well as infection;
- [c] “pathological waste”, i.e. parts that are sectioned from a body;
- [d] “chemical waste”, i.e. all kinds of discarded chemicals, including pharmaceuticals that pose a special risk to human health and environment; and/or

[e] “radioactive waste” i.e. solid, liquid and gaseous waste contaminated with radionuclide;

“**Inert waste**” means waste that does not-

[a] undergo any significant physical, chemical or biological transformation;

[b] burn, react physically or chemically biodegrade or otherwise adversely affect any other matter or environment with which it may come into contact; and

[c] impact negatively on the environment, because of its pollutant content and because the toxicity of its leachate is insignificant;

“**Industrial waste**” means waste (in solid form) generated as a result of manufacturing, maintenance, fabricating, processing or dismantling activities, but does not include building and demolition waste, business waste, hazardous waste, health care risk waste, domestic waste, garden waste, or waste collected separately for re-use or recycling;

“**Licensed disposal facility**” means a disposal facility which has been licensed in terms of section 19 and 50 of the Waste Act or which in terms of section 80 of the Waste Act may continue to operate under a license issued under the Environmental Conservation Act (Act 73 of 1989);

“**Licensed incinerator**” means a disposal facility which uses an incinerator for incineration of waste which has been licensed in terms of section 19 and 50 of the Waste Act or which in terms of section 80 of the Waste Act may continue to operate under a license issued under the Environmental Conservation Act (Act 73 of 1989);

“**Medical Officer of Health**” means the person who from time to time is appointed to such position either substantively or in an acting capacity by the Municipality and includes any Deputy Medical Officer of Health so appointed;

“**Municipality**” means the council of the Phokwane Local Municipality and its Executive Committee or any other body acting by virtue of any power delegated to it in terms of legislation, as well as any officer to whom the Council has delegated any powers and duties with regard to these bylaws;

“**Occupier**” means-

[a] any person in actual occupation of premises without regard to the title under which he or she occupies, if any; or

[b] the owner of unoccupied premises; or

[c] the owner of premises at which the owner permits occupation by more than one occupant; or

[d] the owner in cases where the occupants fail to fulfill their obligation in terms of these bylaws

“**Owner**” in relation to premises means-

[a] the person who from time to time is registered as such in a deeds registry as defined in the Deeds Registries Act, 1937 (Act 47 of 1937); or

[b] in cases where such person is insolvent or diseased, or is under any form of legal disability whatsoever, the person in whom the administration of his property is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative; or

[c] where a sectional title register has been opened in terms of section 12 of the Sectional Titles Act, 1986 (Act 95 of 1986), the body corporate as defined in that Act; and

[d] includes any persons receiving rent for such premises whether on his own account or as an agent for a person entitled thereto;

“**Premises**” means any premises which are located within the area of jurisdiction of the Municipality;

“**Recycle**” means a process where waste is reclaimed for further use, which process involves the separation of waste from a waste stream further use and the processing of such separated material as a product or raw material;

“Residential” means used for the purpose of human habitation, but excludes use of accommodation establishment as defined in section 1 of the Tourism Act, 1993 (Act 72 of 1993);

“Re-use” means to utilize articles from the waste stream again for a similar or different purpose without changing the form or properties of the article;

“Skip” means a large bulk container which is temporary stored on premises for collection of wastes;

“Tariff charge” means the appropriate charge as set out in the tariff of charges adopted by resolution of the Municipality from time to time;

“Waste” means any substance defined as such in terms of the Waste Act;

“Waste Act” means the National Environmental Management: Waste Act (Act No. 59 of 2008);

“Waste Management Officer” means the officer who in terms of section 10 (3) of the Waste Act is designated in writing by the Municipality to be responsible for coordinating matters pertaining to waste management in the Municipality; and includes any other official to whom a power delegated or a duty assigned to the Waste Management Officer has been sub delegated or further assigned in writing by the Waste Management Officer in terms of section 10 (4) of the Waste Act;

“Waste service provider” means any service provider who renders a service with regards to the treatment, segregation, collection, removal, transportation, recycling and/or disposal of waste which was generated on premises which are not owned or operated by the service provider.

PURPOSE OF BY-LAW [2] Purpose of by-law

[1] The purpose of these by-laws is:

[a] to promote the achievement of a safe and healthy environment for the benefit of the residents in the area of jurisdiction of the Municipality;

[b] to provide for procedures, methods, practices and standards to regulate the disposal of solid waste and the removal thereof within the area under the jurisdiction of the Municipality;

[c] to give effect to sections 9 (1), 9 (3), 10 (3), 24 and other sections of the Waste Act that relates to the Municipality’s executive authority to deliver waste management services; and [d] to promote compliance with the Waste Act.

[2] These by-laws must be read with the Waste Act.

MUNICIPALITY’S ROLE AND WASTE SERVICE PROVISION

[3] **Municipality services for collection, removal and disposal of waste**

[1] The Municipality shall provide services for the collection, removal and disposal of domestic and business waste from premises in terms of these by-laws and in areas and in a manner determined by the Municipality.

[2] The Municipality may, at its sole discretion, provide services for the routine collection, removal and disposal of garden and recyclable waste from any premises in any areas for which services are rendered in terms of subsection (1).

[3] The Municipality may, at the request of an occupier of premises and at the sole discretion of the Waste Management Officer, render services for bulk collection, removal and disposal of any garden waste, bulky waste, building and demolition waste and recyclable waste from such premises.

[4] The Municipality may, at the request of an occupier of premises and at the sole discretion of the Waste Management Officer collect, remove or dispose of any industrial or hazardous waste from any premises, subject to the Municipality having made specific contractual arrangement with the occupier or owner of the premises to do so.

- [5] Any services rendered in terms of subsections (1) to (4) are subject to these bylaws and subject to payment of the applicable tariff charge(s) by the occupier of the premises.
 - [6] The Municipality may, at its sole discretion, exempt an occupier, or occupiers within a specified area, to whom services are provided in terms of subsection (1), (2), (3) or (4), from paying the applicable tariff charge(s) for a specified period of time, by issuing a written notice to the occupier or by public notice.
- [4] **Municipality engagement and responsibilities with regards to waste service providers**
- [1] The Municipality may contract a waste service provider who has been registered in terms of section 12 (1) (c) of these by-laws to provide any specific waste service the Municipality may require.
 - [2] Any service which a waste service provider renders in terms of subsection (1) shall, in terms of these by-laws, be deemed to have been rendered by the Municipality.
 - [3] The Waste Management Officer shall keep and maintain a register of all waste service providers registered in terms of section 12 (1) (c). [5] **Municipality notices and guidelines**
 - [1] The Municipality may publish notices and guidelines from time to time as may be necessary with regards to any aspects or impacts concerning waste management within the Municipality's area of jurisdiction.
 - [2] The Waste Management Officer shall upon reasonable request make available information published in terms of subsection (1) or give direction as to where such information can be viewed or obtained.
- [6] **Municipality powers in relation to waste management**
- [1] The Waste Management Officer may serve a written notice to a person, including but not limited to an occupier or waste service provider, who in his opinion does not comply with the Waste Act or these By-laws, and give directions as to any aspect of the generation, treatment, storage, keeping, handling, transportation or disposal of any waste, provided such directions are in compliance with all relevant legislation, including these By-laws.
 - [2] The Municipality may treat, collect, remove, store, keep, handle, transport and/or dispose of any waste from any premises or public place, in order to remedy any damage, remediate any impact or to abate any nuisance, where, in the opinion of the Waste Management Officer, such waste poses or may potentially pose an immediate and unacceptable health, safety or environmental risk; or if a person has failed to comply with any direction given in terms of subsection (1);
 - [3] The Municipality may in addition to any applicable tariff charge, recover all costs incurred as a result of it acting under subsection (2) from the occupier of the relevant premises.
 - [4] The Waste Management Officer may, at his/her discretion and having regard of the impact or potential impact of a waste or a waste management activity-
 - [a] serve an occupier, or waste service provider who operates within the area of jurisdiction of the Municipality, with a notice to provide him/her with information and/or a waste management plan related to such waste or activity for which the occupier or waste service provider is responsible, as the case may be;

- [b]** specify the information to be provided, the format in which such information is to be provided and the time by which and frequency at which such information is to be provided in terms subsection (a);
- [c]** specify that the information provision contemplated in terms of subsection (b) be in the form of information or a copy of a waste management plan, which is required by law or initiative of another authority; and
- [d]** use or publish any information provided in terms of subsection (a) for research and analysis of any waste management aspect or impact, integrated waste management planning, and/or public comment; unless the information is regarded as confidential information, in which case the consent of the owner of that information is required prior to such use or publication.

OCCUPIERS'

DUTIES [7] General duties of occupiers

- [1]** The occupier of premises shall comply with all relevant legal requirements, including these by-laws, with regards to the generation, treatment, storage, keeping, handling and disposal of any waste.
- [2]** Requirements contemplated in subsection (1) specifically includes but are not limited to-
 - [a]** the general duty in respect of waste management in terms of section 16 of the Waste Act;
 - [b]** the general duty in respect of reduction, re-use, recycling and recovery of waste in terms of section 17 of the Waste Act;
 - [c]** the requirements and standards imposed on waste management activities in terms of section 19 and 20 of the Waste Act; and
 - [d]** the general requirements for storage of waste in terms of section 21 and 22 of the Waste Act.
- [3]** Every occupier of premises upon which any solid waste is generated, kept or stored, shall in compliance the Waste Act and section 15 of these by-laws-
 - [a]** make provision for the safe keeping or storage of such waste until collection or removal thereof from the premises; and
 - [b]** ensure that no such waste accumulates on the premises in such a manner or to such an extend as to cause litter, odour, unacceptable visual impact, or any other nuisance; or a potential health, safety or environmental risk.
- [4]** The occupier of any premises on which compactable and loose waste of any kind is produced, kept, or accumulated, shall, when necessary or required thereto under notice in writing from the Waste Management Officer, tie up securely or cause to be tied up securely, or compact such waste into bales or bundles of convenient size subject to such specifications as the Waste Management may provide.

[8] Occupier's duty with regards to domestic and business wastes

- [1]** The occupier of premises shall make use of the services contemplated in section 3 (1), for all domestic waste or business waste generated on such premises, unless

- [a] the premises on which such waste is generated is located in an area for which the Municipality has not formally implemented a waste removal service; or
- [b] the occupier of a premises, has received formal written approval from the Waste Management Officer to use specified alternative services for the collection and removal of such waste for a period specified in the said approval and under conditions determined by the Waste Management Officer; or
- [c] the premises on which such waste is generated is located in an area which the Municipality has specifically and by public notice declared to be an area in which the occupier of a premise is permitted to use alternative services for the collection and removal of such waste for a specified duration and under conditions determined by the Municipality.

[9] **Occupier's responsibilities when appointing a waste service provider**

- [1] No occupier shall employ a person, who is not registered in terms of section 12 (1) (c) of the Waste Act, to provide a waste service for the collection, removal or disposal of any waste from or at the occupier's premises.
- [2] Every occupier, who intends to engage the services of a waste service provider for the collection, removal or disposal of waste from his premises, shall ensure that such waste is collected and removed in terms of the provisions of these bylaws within a reasonable time, but not later than 90 days after the generation thereof or any other date to which the Waste Management Officer has agreed in writing.

[10] **Occupier's responsibilities with regards to notification of change**

- [1] Whenever there is a change in the occupation or ownership of premises, the new occupier, who is liable in terms of section 8 to comply with the requirements of that section, shall forthwith notify the Waste Management Officer in writing of such change within 14 days of such change.
- [2] The occupier of premises, who is liable to comply with the requirements of section 8, shall notify the Waste Management Officer in writing of any change in the nature of the use to which such premises are put or any change in the nature, mass or volume of waste generated thereon, which in any way affects or may affect the application of these by-laws or the tariffs for any service rendered by the Municipality in terms thereof.
- [3] Every occupier of new premises or premises on which the generation of domestic or business waste is about to be commenced, shall prior to the commencement of the generation of such waste notify the Waste Management Officer in writing
 - [a] that the premises are being occupied;
 - [b] whether business waste or domestic waste will be generated on the premises; and
 - [c] what number of households or businesses will occupy the premises?

- [4] The occupier of premises, who in terms of this section are required to notify the Waste Management Officer, shall do so by furnishing him with such information and in such a form as the Waste Management Officer may prescribe. **[11] Occupier's liabilities in terms of served notices**

- [1] Every occupier who has been served a notice in terms of section 6 (1) shall be liable to comply with all the directions given therein.

- [2]** Every occupier who has been charged tariffs or issued an invoice in terms of section 6 (3) is liable to the Municipality for payment thereof.

WASTE SERVICE PROVIDERS [12]

General duties and registration of waste service providers

- [1]** Any waste service provider who operates within the area of jurisdiction of the Municipality; or who owns or operates a facility used for any waste service operations; may only do so subject to-
- [a]** compliance with any relevant legislation, including but not limited to the waste management standards and license requirements in terms of section 20 of the Waste Act;
 - [b]** compliance with the provisions of these By-laws; and
 - [c]** being registered as a waste service provider with the Waste Management Officer, for the provision of any waste service or related operation, subject to such registration coming into effect after 12 months of the date of publication of these by-laws.
- [2]** Registration in terms of subsection (1) (c) shall be made by-
- [a]** furnishing the Waste Management Officer with such information and in such a form as the Waste Management Officer may prescribe; and
 - [b]** payment of any administration fee as the Waste Management Officer may publish from time to time.
- [3]** Registration contemplated in terms of subsection (1) (c) may be granted or refused or withdrawn at the discretion of the Waste Management Officer and shall be subject to such conditions, whether as to period of validity, the type of waste which may be dealt with thereunder, the premises from where waste may be collected, or otherwise, as the Waste Management Officer may impose.
- [4]** A person who is not registered as a waste service provider in terms of subsection (1) or whose registration has expired or has been withdrawn or who is unable to meet the conditions imposed by the Waste Management Officer as contemplated in subsection (3), shall not hold himself out to be, or act as, a waste service provider within the Municipality's area of jurisdiction.
- [5]** Every waste service provider registered in terms of subsection (1) (c) shall-
- [a]** maintain any vehicle, equipment, facility and site used for treating, collection, removal, transporting, keeping, storing and disposal of waste in reasonably hygienic condition and in good working order;
 - [b]** keep records of all quantities and associated classification of any waste he/she treated, collected, transported, stored for longer than 90 days, or disposed of; and shall retain such records and any landfill disposal facility consignment notes for a period of at least 3 years;
 - [c]** provide the Waste Management Officer with copies of the records contemplated in subsection (b) on at least an annual basis, or at such other frequency as the Waste Management Officer may require;

[d] shall progressively contribute to and participate in activities associated with the recycling of any recyclable waste and shall, on an annual basis, provide the Waste Management Officer with a plan to do so; and

[e] make available himself; or any premises or equipment he uses for his business and/or any information regarding any aspect of waste service he provides within the area of jurisdiction of the Municipality, for auditing by the Waste Management Officer or any person contracted by him to do so.

[13] Prohibition of removal of waste

[1] No person may remove waste from any premises unless he is the lawful occupier of the premises; or has been specifically appointed or instructed by occupier or the Municipality or the Medical Officer of Health to do so.

CONTAINERS AND CONTAINER MANAGEMENT

[14] Occupier's duties with regard to container management

[1] Every occupier referred to in section 8 (1) shall, provide on his premises such number of containers as is adequate and suitable for the purpose of the temporary safe storage of all domestic and business waste as may be generated on his premises pending its removal and shall place and keep the relevant waste in such containers and in such a manner until its removal.

[2] Every occupier of premises on which industrial, hazardous waste or building and demolition waste is generated shall, provide on his premises such number and type of containers as is adequate and suitable for the purpose of the temporary safe storage of such waste pending its removal; unless the waste is of such nature or quantity that it cannot be reasonably containerized.

[3] Any occupier referred to in subsection (1) or (2) shall ensure that all containers that are in use are-

[a] placed in a location which is safe and suitably accessible for its intended use and removal; and which is not visible from any street or other public place, unless the latter is not reasonably practical or the Municipality has approved of another placement, or the container has been placed on a day for collection on the same day or subsequent day;

[b] maintained in a sound and serviceable condition and that any containers which are no longer capable of being so maintained are replaced;

[c] kept reasonably clean and hygienic; and

[d] kept closed, covered or maintained in a manner that would prevent displacement of its content and emission of odours, fumes, dust or any other nuisance.

[15] Containers provided by the Municipality

[1] The Municipality may at its sole discretion

[a] supply to occupiers of premises, as part of the services in terms of section 3 (1), containers which the Waste Management Officer, at his/discretion, considers more appropriate for the collection, storage and removal of waste than containers referred to in section 14 (1), if any; or

[b] supply occupiers of premises with containers for the specific use of specified recyclable waste or garden waste; or

- [c] provide any occupier of premises, at the occupier's request, with bins or skips for temporary storage of any specified waste subject to payment by the occupier of the applicable tariff charge; or
 - [d] provide communities with containers in the form of bins or skips at strategically placed locations on Municipality property, or by written consent from an occupier on his/her premises, for communal use and collection of specific waste subject to the applicable tariff charge.
- [2] The provisions of these by-laws shall mutatis mutandis apply to containers supplied in terms of subsection (1) as if they were containers referred to in section 14 (1), provided that-
- [a] such containers shall remain the property of the Municipality or Municipality appointed waste service provider, and may at any time either be replaced or removed by the Municipality; and
 - [b] in the event of their removal for a purpose other than one of a temporary nature, the occupier shall forthwith comply with the requirements of section 14 (1).
- [3] The occupier or owner of premises shall be responsible for the safekeeping of any containers supplied to his premises in terms of subsection (1) and shall be liable to the Municipality for the loss thereof or any damage thereto except such as has been caused by the Municipality, or except where such a container is a disposable bin liner.
- [4] Where, in terms of subsection (1) and in areas specified by the Waste Management Officer, the Municipality supplies occupiers with containers in the form of bin liners as part of the Municipality's routine waste collection and removal services contemplated in terms of section 3 (1), the occupier in such an area shall-
- [a] use such bin liners exclusively for storing of the specific waste for which the bin liners are specified and intended;
 - [b] ensure that any glass or sharp object that may damage the bin-liner or may cause an injury to any person while carrying out a duty in terms of the Municipality's services, is separately wrapped before placement in the bin-liner; and
 - [c] purchase any bin-liners the occupier may require in addition to the bin- liners which the Municipality provides, for storing of waste intended for collection by the Municipality, provided that such bin liners meet any specification which the Waste Management Officer may publish from time to time.

[16] Prohibited use of containers

- [1] No container supplied by the Municipality in terms of section 15(1) may be used for-
- [a] any purpose other than the intended storage of the specified waste;
 - [b] disposal or keeping of any hazardous substances at any time, unless the container is specifically intended and conspicuously and legibly labeled for such use;
 - [c] disposal or keeping of any waste, substance or object which may damage the container or which may cause an injury or harm to any person while carrying out a duty in terms of the Municipality's services provided for in these by-laws;

[d] disposal or keeping of any material, including any liquid, which by reason of its mass or other characteristics is likely to render such containers unreasonably difficult to handle or carry by any person while carrying out a duty in terms of the Municipality's services provided for in these bylaws;

[e] disposal of hot ash or lighting a fire in.

Disposal of waste in containers

- [1]** No person shall dispose of any waste, substance or item in a container-
- [a]** which is located on any premises; unless such person is the occupier of the premises, or has approval from the occupier or owner of the premises to do so, or the container has been specifically placed in a public space for such disposal; or
- [b]** which the Municipality has provided in terms of section 15 (1) (d); unless such person occupies premises within the community for which the container is intended.

Removal of waste in containers

[1] No person shall remove any waste, substance or item from a container which is located on any premises; unless such person is the occupier of the premises, or has approval from the occupier or owner of the premises to do so, or where such removal forms part of a waste service provided by the Municipality.

ROUTINE COLLECTION AND REMOVAL OF WASTE 19.

Determination and notification of Municipality routine services

[1] The Waste Management Officer shall, for services contemplated in terms of section 3 (1), and from time to time-

- [a]** determine the manner in which, the week day or days upon which, and the frequency at which waste is to be removed from a certain area; and
- [b]** notify affected occupiers of the arrangements contemplated in subsection (a) by way of written notices distributed to the relevant premises, or by way of notice boards displayed conspicuously at the main entrance roads to the affected areas at least seven (7) days prior to such arrangement coming into effect.

[20] Duty of occupiers in terms of use routine services

[1] Every occupier of premises, within an area and on the day or days which have been determined in terms of subsection (1), and-

- [a]** to whom in terms of section 15 (1) and subject to 15 (4) bin-liners have been supplied, shall make exclusive use of such bin liners to place any waste for which the bin liners are intended outside the boundary of the premises and adjacent to either the pedestrian or the vehicular access to the premises from a public street; or
- [b]** to whom containers have been supplied in terms of section 15 (1) or who uses containers in terms of section 14(1) and where such a container is in the form of a bin, shall place such a container immediately outside the boundary of the premises and adjacent to either the pedestrian or the vehicular access to the premises from a public street; or
- [c]** to whom containers have been supplied in terms of section 15 (1) or who uses containers in terms of section 14 (1), and/or whose domestic or business waste is to be collected from the premises by the Municipality in terms of specific agreement with or direction from the Waste Management Officer, shall provide

suitable and convenient vehicular access to the area in which waste containers are stored for the emptying or collection and removal of such containers, as the case may be, subject to section 22.

[21] Disposal of waste in containers

Every occupier of premises, on which any waste other than domestic or business waste is generated, and where such waste is generated on an ongoing or regular basis, shall dispose of such waste in accordance with these By-laws; and make arrangements with the Municipality or a waste services provider who has been registered in terms of section 12 (1) (c), for the regular or routine collection, removal and disposal of such waste.

ACCESS TO PREMISES

[22] Removal of waste in containers

- [1]** The occupier of premises to which the Municipality provides a waste removal service, shall, where necessary, grant the Municipality convenient access to the premises for the purpose of collecting and removing waste and shall ensure that nothing obstructs, frustrates or hinders the Municipality and its employees in the carrying out of its service.
- [2]** If in the opinion of the Waste Management Officer the collection or removal of waste from any premises is likely to result in damage to the premises or the Municipality's property, or injury to the waste collectors or any other person, it may as a condition of rendering a waste collection service in respect of the premises, require the occupier to indemnify it in writing in respect of any such damage or injury or any claims arising there from.
- [3]** The Municipality may, at its own discretion, include standard access specification for waste collection and removal as part of their planning and building plan approval.

GARDEN AND BULKY WASTE [23]

Additional responsibilities for garden and bulky waste

[1] The occupier of every premises upon which there is generated garden waste (other than garden waste which in terms of section 24 (1) (a) is used for making compost at the premises) or bulky waste, and subject to these by-laws-

- [a]** shall, ensure that such waste, is removed from the premises and disposed of within a reasonable time after the generation thereof;
- [b]** shall, unless it is garden waste which is collected and removed from the premises by the Municipality in terms of the section 3 (2) or section 3 (3), ensure that such waste, once it has been removed from the premises on which it was generated, be disposed of at a site designated by the Municipality as a disposal facility for such waste; subject to meeting all the requirements the legal owners or operators of the disposal facility may prescribe and subject to payment of the relevant tariff charge; and
- [c]** shall ensure that any such waste which is intended for disposal in terms of subsection (b) is transported to the disposal facility subject to section 30.

[24] Use and disposal of garden waste

- [1]**
 - [a]** The occupier of every premises upon which garden waste is generated- may use such garden waste on the premises, or provide it to any person, for the making of compost, provided such composting does not cause a nuisance or health risk;

[b] may collect such garden waste for removal in containers which the Municipality has in terms of section 15 (1) (b) supplied to the occupier for such specific collection;

[c] shall not dispose any garden waste in any container which the Municipality has, in terms of section 15 (1), supplied to the occupier for use other than for collection of garden waste.

BUILDING AND DEMOLITION WASTE [25]

Additional responsibilities for building and demolition waste

[1] The occupier of premises on which building and demolition waste is generated and the person engaged in the activity which causes such waste to be generated shall ensure that-

[a] all hazardous waste (including, but not limited to, asbestos-containing materials, mercury-containing fluorescent tubes and lamps, paints, thinners, fuel, polychlorinated biphenyls (PCB)-containing equipment or substances, and pesticides) be segregated from any building and demolition waste and be treated, kept, stored and/or disposed of in terms of these By-laws and any other legal requirement, within a reasonable time after the generation thereof;

[b] any waste which the occupier intends to recycle is segregated from any building and demolition waste and recycled in terms of section 39;

[c] building and demolition waste is disposed of in terms of section 26 within a reasonable time after the generation thereof; and

[d] until such time as building and demolition waste is disposed of in terms of subsection (c), such waste together with the containers used for the storing or removal thereof, if any, is kept on the premises on which it was generated.

[2] Building and demolition waste may be removed by the builder; or occupier; or in terms of 3 (3) by the Municipality; or subject to section 9 by a waste service provider.

[26] Disposal of building and demolition waste

[1] Subject to the provisions of subsection (2), all building and demolition waste shall be deposited at a disposal facility specifically designated or approved in writing

by the Municipality for that purpose and the person depositing the waste shall be liable to pay any relevant tariff or fee charge therefore.

[2] Building and demolition waste may, with the written consent of the Waste Management Officer, be deposited at a place other than a disposal facility for the purpose of reclamation of land, landfill top cover, road surfacing or other purposes connected with such site, as the Waste Management Officer may specify.

[3] Any consent given in terms of subsection (2) shall be subject to such conditions as the Waste Management Officer may deem necessary; provided that in giving or refusing his consent or in laying down conditions the Waste Management Officer shall have regard to- **[a]** the safety of the public;

[b] the environment of the proposed disposal facility;

[c] the suitability of the area including the drainage thereof;

[d] the expected manner and times of depositing of waste at the site;

[e] the levelling of the site;

[f] the control of dust; and [g] other relevant factors.

INDUSTRIAL WASTE, HAZARDOUS WASTE, HEALTH CARE RISK WASTE AND PRIORITY WASTE [27]

Provision of information on industrial waste, hazardous waste, health care risk waste and priority waste

[1] The occupier of premises on which industrial waste, hazardous waste, health care risk waste and/or priority waste is generated shall notify the Waste Management Officer of such production; and shall within twelve months of publication of these by-laws and on an annual basis thereafter, provide the Waste Management Officer in writing, and for every waste stream or type, with detailed information on-

- [a] the classification of the waste produced, where this classification shall be in accordance with the SANS 10228 (SABS 0228): The identification and classification of dangerous substances and goods, or any amendment thereto, or a classification as may be regulated in terms of section 69 (1) of the Waste Act;
- [b] the composition of the waste, as substantiated by an analysis certified by a suitably and duly qualified chemist or a South African National Accreditation System accredited laboratory;
- [c] the quantity of waste generated;
- [d] the method and period of keeping or storage of the waste;
- [e] the method of removal, transportation and disposal of the waste;
- [f] the persons appointed for the removal, transportation and disposal of the waste;
- [g] the disposal facility which is used for the disposal of the waste; and [h] documented proof of waste disposal at the disposal facility.

[2] Having notified the Waste Management Officer in terms of subsection (1), the occupier shall notify the Waste Management Officer forthwith and in writing of any substantial change in the composition and quantity of the waste occurring thereafter.

[3] Any occupier or waste service provider operating within the area of jurisdiction of the Municipality, who is required in terms of section 29 of the Waste Act to prepare an industry waste management plan, shall submit a copy of such a plan to the Waste Management Officer, at the time of submission of the plan to the relevant authority or prior to commencement of any activity for which the plan is required.

[28] Prohibition of provision of waste service activities for industrial waste, hazardous waste, health care risk waste and priority waste

[1] The occupier of premises on which industrial waste, hazardous waste, health care risk waste and/or priority waste is generated, shall not (except where the waste is inert waste) allow any person to remove from the premises, transport, treat away from the premises, or dispose of any such waste, unless the person is a waste service provider who is registered in terms of section 12 (1) (c) and who-

- [a] is in terms of sections 20 and 49 (2) of the Waste Act specifically licensed to carry out such an activity; and
- [b] applies all standards or requirements that have been set in terms of the Act or a relevant waste management license; or

- [c]** acts under specific instructions of or notifications by the Waste Management Officer or the Medical Officer of Health to carry out such an activity.

[29] The Waste Management Officer's right to enter premises on which industrial waste, hazardous or health care risk waste is generated

[1] The Waste Management Officer may enter premises at any reasonable time to ascertain whether industrial waste, hazardous waste, health care risk waste or priority waste is generated on such premises and may take samples and test any waste found on the premises to ascertain its composition.

TRANSPORTATION OF WASTE [30]

Transportation of waste

- [1]** Any person removing or conveying any waste or other offensive matter shall-
 - [a]** do so subject to compliance to any relevant legislation including, but not limited to, the National Road Traffic Act, Act No. 93 of 1996 and section 25 of the Waste Act;
 - [b]** do so by means of an appropriately licensed, constructed and enclosed vehicle;
 - [c]** do so in such a manner as will comply with all legal requirements and as will prevent any nuisance arising from such conveyance or the escape of
 - the contents there from to a public area or any other environment not intended for the keeping, storage or disposal of the waste;
 - [d]** contain, collect and remove any content that accidentally escaped from a vehicle contemplated in subsection (a), immediately upon becoming aware of such accidental escape;
 - [e]** contain any accidental escape of a hazardous object or any spillage or leakage of any hazardous substance immediately; secure the affected area appropriately to avoid injury and reduce the immediate health and environmental risk effectively; and report such incident to the appropriate emergency services and Waste Management Officer as soon as possible; and
 - [f]** follow any instructions, specification or conditions of written notices for the removal of objects or substances contemplated in subsection (c) and remediation of the affected environment which the emergency services, the Waste Management Officer, the Medical Officer of Health, or any other relevant authority may give or impose.
- [2]** The Waste Management Officer or Medical Officer of Health may serve a written notice upon any person restricting or stipulating the means to be adopted and specifying the times during which waste may be conveyed through or along any street or public place if of the opinion that the conveyance of such waste is likely to be objectionable or give rise to a nuisance, or health risk.

PROHIBITED DISPOSAL AND CONDUCT AT DISPOSAL FACILITIES

[31] Prohibitions on burning of waste

[1] No occupier of premises may within the area of jurisdiction of the Municipality, dispose of any waste through burning, unless-

- [a]** a licensed incinerator is used for that purpose; or

- [b]** the waste is burned in an industrial facility that has been specifically designed to do so and/or which does not cause any hazard or offence, or generate any emissions, that are in contravention with any relevant legislation; or
- [c]** the waste consists of domestic waste generated in a rural area for which the Municipality has not formally implemented a waste removal service, where there is a lack of any other acceptable or affordable means of waste disposal, and where such waste may otherwise potentially constitute a health or safety risk; or
- [d]** the Waste Management Officer or Medical Officer of Health give specific instructions or written approval to do so.

[32] Prohibited disposal at disposal facilities

[1] No person shall use any disposal facility within the area of jurisdiction of the Municipality to discharge or dispose of-

- [a]** any waste, object or substance, unless the facility is specifically licensed **and equipped for such disposal;**
- [b]** any liquid or sludge waste, except with the prior written permission of the Waste Management Officer and in accordance with such conditions as

the Waste Management Officer may impose; unless such disposal concerns normal domestic and sewage wastewater disposed into a municipal sewage system;
- [c]** any inflammable waste (i.e., waste which will ignite when exposed to a naked flame), putrescible waste, waste which will chemically attack the disposal facilities, and waste which separately or in a mixture with other waste will create a health hazard or a nuisance, unless specific provisions have been made for such disposal by the operator of the disposal facility, and provided such provisions are clearly labeled or signed as such;
- [d]** any waste with toxic or other harmful properties, unless it is suitably pretreated prior to delivery to the disposal facility to render it non-toxic or harmless, or unless the disposal facility provides for the suitable treatment, keeping, storage and/or disposal of such waste; and
- [e]** any object that by its shape, size or characteristics could potentially cause injuries to any person operating or using the disposal facility or damage to the disposal facility, without taking precautions to prevent such injury or damage; or inform the operator of such potential hazard prior to disposal and follow any instructions the operator may give.

[33] Conduct at disposal facilities

[1] Every person who, for the purpose of disposing of waste, enters a disposal facility controlled by the Municipality, shall-

- [a]** enter the disposal facility at an authorized access point indicated as such;
- [b]** present the waste for weighing or other means of quantification in the manner required by the legal operator of the disposal facility, if any;
- [c]** provide the legal operator of the disposal facility with all the particulars required in regard to the composition of the waste;

- [d]** follow all instructions which the legal operator of the disposal facility may give with regard to access to the actual disposal point, the place where and the manner in which the waste should be deposited; and
- [e]** provide the legal operator of the disposal facility with full information as to the person who is liable to pay the relevant tariff charge, if any, for the waste deposited to enable an account to be rendered to such person.

[2] No person shall, with regards to any disposal facility controlled by the Municipality and unless the Municipality has specifically appointed such person to do so-

- [a]** enter such a disposal facility for any purpose other than the disposal of waste in terms of these by-laws;
- [b]** enter such a disposal facility at a time other than between such hours as the Municipality may determine from time to time;
- [c]** cause or allow a vehicle in such person's charge to remain at such a disposal facility for longer than is necessary for the discharge of waste;
- [d]** cause any damage to any facilities, plant or equipment at the disposal facility or property of any other user of the disposal facility;
- [e]** cause any obstruction to any other users or with regards to any operations of such a disposal facility, whether intentional or accidental; and
- [f]** bring any intoxicating liquor onto a disposal facility.

OWNERSHIP OF WASTE

[34] Ownership of Waste

All waste removed by the Municipality and all waste on disposal facilities controlled by the Municipality shall be the property of the Municipality and no person who is not duly authorized by the Municipality to do so shall remove or interfere therewith.

LITTERING, DUMPING AND ANCILLARY MATTERS

[35] Littering

- [1]** No person shall
 - [a]** throw, let fall, deposit, spill or in any other way discard, any waste into or onto any public place, vacant erf, farm portion, stream or watercourse, other than into a container or onto a disposal facility specifically provided for the purpose;
 - [b]** sweep any waste into a gutter, on a road reserve or any other public place; and
 - [c]** allow any person under his/her/its control to do any of the acts contemplated in (a) and (b). **[36] Dumping**
- [1]** Subject to any provision to the contrary in the by-law contained, no person shall leave any item or substance under his control at a place where such item or substance has been brought with the intention of abandoning it.
- [2]** Any person who contravenes the provisions of subsection (1), shall be liable (over and above the prescribed penalties provided for in section 40) to pay the Municipality the tariff charge in respect of such removal and disposal.

[37] Abandoned items or substances

Any item or substance which, having regard to such factors as the place where it is found, the period it has been lying at such place, and the nature and condition of such thing, is reasonably regarded by the Municipality as having been abandoned, may be removed and disposed of by the Municipality as it may deem fit.

[38] Liability of responsible person

- [1]** Where anything has been removed and disposed of by the Municipality in terms of section 37 the person responsible shall be liable to pay the Municipality the tariff charge in respect of such disposal.
- [2]** For the purpose of subsection (1) the person responsible shall be-
- [a]** the last owner of the abandoned thing, before it was collected by the Municipality, and shall include any person who is entitled to be in possession of the thing by virtue of a purchase agreement or an agreement of lease at the time when it was abandoned or put in the place

from which it was so removed unless such person can prove that he/she/it was not concerned in and did not know of it being abandoned or put in such a place; or
 - [b]** any person by whom it was put in the place aforesaid; or
 - [c]** any person who knowingly permitted the putting of the abandoned thing in the place aforesaid.

WASTE MINIMISATION AND

RECYCLING

[39] Waste administration and recycling

- [1]** Any occupier of premises upon which any reusable or recyclable waste is generated, and which the occupier intends to make available for reuse or recycling
- [a]** shall make provisions for the safe keeping or storage of such waste until collection and removal thereof from the premises, or recycling thereof on the premises;
 - [b]** shall ensure that no such waste accumulates on the premises in such a manner or to such an extent as to cause litter, odour or any other nuisance or a potential health, safety or environmental risk, without treatment thereof that would render it reasonably harmless;
 - [c]** may make use of the services which the Municipality provides in terms of sections 3 (2) and/or 3 (3) for the collection, removal and disposal of such waste for which the Municipality provides such service;
 - [d]** may dispose of any such waste at any disposal facility which the [Municipality may, at the discretion of the Municipality, specifically provide for the collection, storage or disposal of such waste, subject to any relevant tariff charge; and
 - [e]** may make use of the services provided by a waste service provider who has registered in terms of 12 (1) (c) and who specifically provides for the collection, removal and disposal of such waste for recycling.

- [2] The Waste Management Officer may include in the information required in terms of section 6(4)(a) information related to waste minimization and recycling.

OFFENCES AND

PENALTIES [40] Offences and penalties [1] Any

person who-

- [a] contravenes any provision of these by-laws; or
- [b] contravenes any conditions imposed upon the granting of any application, consent, approval, concession, relaxation, permit or authority in terms of these by-laws; or
- [c] fails to comply with the terms of any notice served upon such person in terms of these by-laws, shall be guilty of an offence and liable, upon conviction, to a fine not exceeding R 5,000.00 or to imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment, as well as be liable to the Municipality for the applicable

tariff charge in respect of any remediation, treatment, removal and disposal.

- [2] Failure to comply with the terms of any condition or notice referred to in subsection (1) (b) or (1)(c) above shall constitute a continuing offence and a person failing to comply with the terms of such condition or notice shall be guilty of a separate offence for each day during which such person fails to comply with such terms.

REVOCATION OF BY-

LAWS [41] Revocation of by-laws

- [1] All previous by-laws are hereby repealed, provided that such repeal shall not affect the continued validity of charges determined by the Municipality under those by-laws.

SHORT TITLE [42]

Short Title and Commencement

- [1] These by-laws shall be called the Waste Management by-laws.

BY –LAWS RELATING TO PROPERTY RATES
PREAMBLE

WHEREAS the Council of the Municipality is vested with legislative authority in terms of the Constitution;

WHEREAS section 229(1) of the Constitution authorizes a Municipality to impose rates on property and surcharges on fees for services provided by or on behalf of the Municipality.

WHEREAS in terms of Section 3 of the Property Rates Act [Act No. 6 of 2004], a Municipal Council must adopt a policy consistent with the Property Rates Act on the levying of rates on rateables property in the Municipality.

WHEREAS in terms of Section 6(1) of the Property Rates Act a Municipality must adopt bylaws to give effect to the implementation of its rates policy.

AND WHEREAS in terms of Section 6(2) of the Property Rates Act, by-laws adopted in terms of Section 6(2) may differentiate between categories of properties, and different categories of owners of properties liable for the payment of rates.

NOW THEREFORE be it enacted by the Council as follows:

[1] INTERPRETATION

In this By-law, the English text prevails in the event of any conflict with the Xhosa or Setswana text, and, unless the context otherwise indicates: -

“**Act**” means the Local Government: Municipal Property Rates Act, no 6 of 2004 as amended and includes any regulations, directives and notices proclaimed, made or issued by a competent authority in terms thereof;

“**Constitution**” means the Constitution of the Republic of South Africa;

“**Credit Control and Debt Collection Policy and By-Law**” means the Credit Control and Debt Collection Policy and By-Law of the Municipality as required by Sections 96(b), 97 and 98 of the Local Government: Municipal Systems Act, No. 32 of 2000;

“**Municipal Council**” or “**council**” means the Municipal Council of PHOKWANE Municipality;

“**Municipality**” means the PHOKWANE Municipality;

“**Rate**” or “**rates**” means a municipal rate on property as envisaged in section 229 of the Constitution;

“**Rates Policy**” means a Policy adopted by the Municipal Council in terms of this by-law.

Any other words or expressions contained in this by-law shall have their meanings as per the Municipal Property Rates Act, No. 6 of 2004, as amended, as well as those contained in the Municipality’s Rates Policy.

[2] RATING OF PROPERTY

[1] Rates will be raised in proportion to the market value of the property.

[2] In terms of Section 2(1) of the Property Rates Act, a local municipality may levy a rate on property in its area of jurisdiction in accordance with the provisions of the said Act.

[3] In terms of Section 2(3) of the Property Rates Act, the power of a Municipality to levy rates on property is subject to: -

[1] section 229 and other applicable provisions of the Constitution;

[2] the provisions of the Property Rates Act;

[3] the Municipality's rates policy; and **[4]** this by-law.

[3] ADOPTION AND IMPLEMENTATION OF RATES POLICY

[1] The Municipality shall adopt and implement a rates policy consistent with the Property Rates Act and this By-Law on the levying of rates on rateables property in the Municipality.

[2] The Municipality shall not be entitled to levy rates other than in terms of a valid rates policy.

[4] CONTENTS OF RATES POLICY

The Municipality's rates policy shall, *inter alia*:

[1] apply to all rates levied by the council pursuant to the adoption of the annual budget of the Municipality; and

[2] comply with the requirements for: -

[a] the adoption and contents of a rates policy specified in Section 3 of the Property Rates Act; and

[b] the process of community participation specified in Section 4 of the Property Rates Act; and

[c] the annual review of a rates policy specified in Section 5 of the Property Rates Act; and

[3] specify any further principles, criteria and implementation measures consistent with the property rates for the levying of rates which the Municipality may wish to adopt; and

[4] Include such further enforcement mechanisms, if any, as the Municipality may wish to impose in addition to those contained in the Credit Control and Debt Collection Policy and By-Law.

[5] ENFORCEMENT OF RATES POLICY

The Municipality's Rates policy shall be enforced through the Credit Control and Debt Collection Policy and By-Law and any further enforcement mechanisms stipulated in the Municipality's rates policy.

[6] SHORT TITLE

This by-law shall be called the Property Rates By-law.

PUBLIC OPEN SPACES BY-LAWS

The Municipal Manager of the Phokwane Local Municipality hereby, in terms of Section 13(a) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), publishes the Public Open Spaces By-laws, as set out hereunder.

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CHAPTER 1

INTERPRETATION AND FUNDAMENTAL PRINCIPLES

1. Definitions and interpretation

- (1) In these By-laws, unless the context otherwise indicates –
- “**ACTIVE GAME**” means any physical sport, game or other activity participated in by one or more persons which is undertaken within a public open space other than in an area set aside for that purpose, and which may cause injury to other users of the public open space, a nuisance or damage to vegetation or municipal property within a public open space and includes rugby, golf, archery, football, tennis, badminton, hockey, netball, volleyball, skate-boarding, roller-skating and in-line skating;
- “**AUTHORIZED OFFICIAL**” means any official of the Council who has been authorized by the Council to administer, implement, and enforce the provisions of these By-laws;
- “**CONSERVATION PUBLIC OPEN SPACE**” means public open space, which is managed by or on behalf of the Council for conservation purposes, and includes any nature reserve, greenbelt, ravine, bird sanctuary and site of historic, ecological or archaeological value;
- “**COUNCIL**” means –
- (a) the Phokwane Local Municipal Council
 - (b) its successor in title; or
 - (c) a structure or person exercising a delegated power or carrying out an instruction, where any power in these by-laws has been delegated or sub-delegated, or an instruction given, as contemplated in section 59 of the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000); or
 - (d) a service provider fulfilling a responsibility under these by-laws, assigned to it in terms of section 81(2) of the Local Government: Municipal Systems Act (Act No. 32 of 2000) or any other law, as the case may be.
- “**DESIGNATED AREA**” means an area designated by the Council as an area in which an active game or any other activity or conduct, which would otherwise be prohibited under Chapter 3 of these By-laws, may be undertaken; “environment” means the surroundings within which humans exist and that are made up of –
- (a) the land, water and atmosphere of the earth;
 - (b) micro-organisms, plant and animal life;
 - (c) any part or combination of paragraphs (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 wellbeing;
- “**ENVIRONMENTALLY SUSTAINABLE**” means the exercising of any decision-making powers or performance of any activities in a manner aimed at ensuring that –
- (a) the risk of harm to the environment and to human health and safety is minimized to the extent reasonably possible under the circumstances;
 - (b) the potential benefits to the environment and to human health and safety are maximized to the extent reasonably possible under the circumstances; and

- (c) legislation intended to protect the environment and human health and safety is complied with;

“**LOCAL COMMUNITY**” means that body of persons comprising –

- (a) the residents of the area in which a public open space is situated;
- (b) the ratepayers of the area in which a public open space is situated; and
- (c) any civic organization and non-governmental or private sector organization or body which are involved in local affairs in the area in which a public open space is situated;

“**MUNICIPAL MANAGER**” means a person appointed as such by the Council in terms of section 82 of the Local Government: Municipal Structures Act, 1998 (Act No 117 of 1998);

“**MUNICIPAL PROPERTY**” means any structure or thing owned or managed by or on behalf of the Council and which is incidental to the use and enjoyment of a public open space and includes any building, Lapa, kiosk, bench, picnic table, playground equipment, fountain, statue, monument, fence, pole, notice and sign; “notice” means a clear and legible official notice drawn up by the Council in English and Afrikaans and prominently displayed in a public open space;

“**NUISANCE**” means an unreasonable interference or likely interference with–

- (a) the health or wellbeing of any person;
- (b) the use and enjoyment by an owner or occupier of his or her property; or
- (c) the use and enjoyment by a member of the public of a public open space;

“**ORGAN OF STATE**” means –

- (a) any department of State or administration in the national, provincial or local sphere of government; and
- (b) any other functionary or institution –
 - (i) exercising a power or performing a function in terms of the Constitution of the Republic of South Africa Act, 1996 (Act No. 108 of 1996) or a provincial Constitution; or
 - (ii) exercising a public power or performing a public function in terms of any legislation, but does not include a court of law and a judicial officer;

“**PERSON**” means a natural person or a juristic person, and includes an organ of State;

“**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;

“**PRINTED MATTER**” includes any advertisement, billboard, poster, book, pamphlet or handbill;

“**PROHIBITED ACTIVITY**” means any activity or behavior, which is prohibited in terms of Chapter 3 from being undertaken in a public open space, either completely or without permission in terms of section 21, 22 or 23;

“**PUBLIC OPEN SPACE**” means any land which – (a) is owned by an organ of State, or

- (b) over which an organ of State has certain real rights arising from the filing in the Deeds Office or other registration office of a general plan of a township, agricultural holding or other division of land, or any alteration, addition to or amendment of such land approved by the Surveyor-General, on which is marked the land to which the public has a common right of use; and
- (c) is controlled and managed by the Council; and

- (d) is either –
- (i) set aside in terms of any law, zoning scheme or spatial plan, for the purpose of public recreation, conservation, the installation of public infrastructure or agriculture; or
 - (ii) predominantly undeveloped and open and has not yet been set aside for a particular purpose in terms of any law, zoning scheme or spatial plan;

“**PUBLIC UTILITY PUBLIC OPEN SPACE**” means public open space which is managed by or on behalf of the Council for the purposes of providing a public service, which includes road reserves and areas subject to electrical, pipeline and other public utility servitudes, but excludes council housing, clinics and other social services;

“**RECREATIONAL PUBLIC OPEN SPACE**” means public open space, which is managed by or on behalf of the Council for public recreational purposes, and includes any park, botanical garden, sports ground and playground, but excludes any golf course;

“**ROAD RESERVE**” means that portion of a road, street or thoroughfare improved, constructed or intended for vehicular traffic and which is between the edges of the roadway and that portion of a road, street or thoroughfare, including the sidewalk, which is not the roadway or shoulder;

“**SPECIAL EVENT**” means a parade, procession, race, concert, show, exhibition, festival, ceremony, film shoot, photographic shoot or similar event, which requires, for that purpose, exclusive use of a part of a public open space;

“**URBAN AGRICULTURAL PUBLIC OPEN SPACE**” means public open space, which is managed by or on behalf of the Council for urban agricultural purposes;

“**VEHICLE**” means a device designed or adapted mainly to travel on wheels, but excludes a wheelchair and children’s pushchair and perambulator;

“**WASTE**” means any substance or article which a person wishes to dispose of because it is unwanted, superfluous, broken, worn out, contaminated or otherwise spoilt and that has been discarded or has been accumulated or stored so that it can be discarded, reused, reclaimed or recycled;

“**WATERCRAFT**” includes any boat, raft, yacht, canoe, inflatable mattress, model ship or boat, radio-controlled boat or similar device; “water body” means any body of water within a public open space and includes a pond, fountain, artificial watercourse, dam, lake, canal, reservoir, stream, river and wetland.

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

2. Application of By-laws

- (1) These By-laws apply to every public open space which falls under the jurisdiction of the Council, but do not apply to cemeteries.
- (2) These By-laws are binding on the State.

3. Purpose of By--- laws

- (1) The purpose of these By-laws is to provide, in conjunction with other applicable legislation, an effective legal and administrative framework-
 - (a) to ensure that the way in which the Council controls, manages and develops public open spaces is environmentally sustainable, and is in the long-term interests of the whole community of Phokwane, including future generations; and

- (b) which clearly defines the rights and obligations of the public in relation to public open spaces.

CHAPTER 2

MANAGEMENT AND ADMINISTRATION OF PUBLIC OPEN SPACES

4. Principles of By-laws

- (1) Public open spaces must be managed, and where appropriate developed, in the interests of the whole community, and in determining the interests of the whole community –
 - (a) the long-term collective interests of the community of PHOKWANE, and of South Africa, must be prioritized over the interests of any specific interest group or sector of society;
 - (b) a long-term perspective, which takes account the interests of future generations, must be adopted; and
 - (c) the interests of other living organisms, which depend on public open spaces, must be taken into account.
- (2) Public open spaces must be managed in an environmentally sustainable manner.
- (3) Subject to the provisions of subsection (5) and section 7, people must be given access to public open spaces on a non-discriminatory and equitable basis.
- (4) If necessary, special measures must be taken to facilitate access to public open spaces by historically disadvantaged persons and by disabled persons.
- (5) Access to a public open space may be restricted in a manner, which does not unjustifiably discriminate against any person or class of persons–
 - (a) if the restriction is authorized by these By-laws or by any other law; or
 - (b) in order to achieve the purposes of these By-laws.
- (6) The recreational, educational, social and other opportunities which public open spaces offer must be protected and enhanced to enable local communities, particularly historically disadvantaged communities, and the public to improve and enrich their quality of life.
- (7) Local communities must be encouraged to use and care for public open spaces in their areas.
- (8) The natural environment and heritage resources within public open spaces must be identified, preserved, protected and promoted, for the benefit of the local community, the public and future generations.

5. Application of principles

- (1) The public open space management principles set out in section 4, and the national environmental management principles set out in section 2 of the National Environmental Management Act, 1998 (Act 107 of 1998), must be considered and applied by any person –
 - (a) exercising a power or function or performing a duty under these By-laws;
 - (b) formulating or implementing any policy which is likely to have a significant effect on, or which concerns the use of, public open spaces within the Council's jurisdiction; or
 - (c) exercising a public power or function or performing a public duty, which is likely to have a significant effect on, or which concerns the use of, public open spaces.

6. General Powers of Council

- (1) The Council may in relation to any public open space –
- (a) designate any area within a public open space as an area within which one or more activities otherwise prohibited in terms of these By-laws may be undertaken, and display a prominent notice to this effect at every entrance to the designated area;
 - (b) develop any public open space in accordance with the principles set out in section
 - (c) erect, construct, establish or demolish municipal property; and
 - (d) exercise any other power reasonably necessary for the discharge of the Council's obligations in terms of these By-laws relating to the management of public open spaces.

7. Fees

- (1) Any member of the public must pay –
- (a) a prescribed fee to use recreational or other facilities, which the Council provides, within any public open space;
 - (b) a prescribed fee for entrance to any public open space which is significantly more expensive to maintain than other public open spaces, such as botanical gardens;
 - (c) a prescribed fee for the right to undertake a special event;
 - (d) a prescribed fee for the right to exclusively use municipal property for a specific period;
 - (e) a deposit prior to undertaking a prohibited activity permitted by the Council;
 - (f) an annual or monthly fee for the right to use urban agricultural public open space to the exclusion of any other person; and (g) a prescribed fee for processing applications for permits or letters
- of permission under these By-laws, if the Council has determined such a fee or deposit.

8. Restricting access

- (1) The Council may restrict access to any public open space or to any part of a public open space for a specified period of time –
- (a) to protect any aspect of the environment within a public open space;
 - (b) to reduce vandalism and the destruction of property;
 - (c) to improve the administration of a public open space;
 - (d) to develop a public open space;
 - (e) to enable a special event which has been permitted in terms of section 22, to proceed; or
 - (f) to undertake any activity which the Council reasonably considers necessary or appropriate to achieve the purposes of these By-laws.

9. Powers of authorized officials

- (1) In relation to any public open space, an authorized official may –
- (a) to the extent authorized by the Council administer, implement and enforce the provisions of these By-laws;
 - (b) issue a notice in terms of section 20;

- (c) instruct any person to leave a public open space if the authorized official reasonably believes that the person is contravening any provision of these By-laws, and fails to immediately terminate such contravention upon the instruction of that official; and
- (d) if such official is a peace officer, exercise any power, which may be exercised by a peace officer under the Criminal Procedure Act, 1977 (Act No. 51 of 1977).

10. Obligations in relation to public open spaces

- (1) The Council must within a public open space display any notice required under these By-laws.
- (2) In relation to recreational public open spaces, the Council must –
 - (a) ensure that they are open to the public between sunrise and sunset, unless specified otherwise in terms of a notice; and (b) prominently display a notice at every entrance indicating:
 - (i) the opening and closing times of that recreational public open space; and
 - (ii) any rules made by the Council in relation to that recreational public open space.
- (3) Council must ensure the well maintenance of the public open spaces within its available means.

CHAPTER 3

APPLICATIONS FOR AUTHORIZATION

11. Application for permission

- (1) Any person who wants to undertake a prohibited activity must make application in writing to the Council for permission to do so, which application must be accompanied by the prescribed fee.
- (2) The Council may, after receiving an application, request the applicant to provide additional information, which the Council reasonably requires in order to consider the application.
- (3) The Council may refuse to consider an application until it has been provided with the information that it reasonably requires to make an informed decision and if the prescribed fee has not been paid.
- (4) Subject to the provisions of subsections (2) and (3), the Council must consider the application within a reasonable time and must either- (a) refuse the application; or (b) grant permission in writing to the applicant subject to such conditions as the Council may consider appropriate to best achieve the purposes of these By-laws, which may include payment of a deposit, a prescribed fee or both.

12. Application for a special event permit

- (1) An application for permission to hold a special event in a public open space must be made at least 21 days prior to the proposed date of the special event.
- (2) The time period referred to in subsection (1) may, on good cause shown, be reduced by the Council.

- (3) An application in terms of subsection (1), must contain the following information:
 - (a) The name and full contact details of the applicant, including name, postal address, telephone and fax numbers and email address, if available;
 - (b) the nature and purpose of the special event;
 - (c) the intended route or area proposed to be used for purposes of the special event; and
 - (d) any permission required under Chapter 3 of these By-laws.
- (4) Subject to any permit conditions imposed by the Council, the holder of a special events permit has the right to use the area of public open space specified in the permit to the exclusion of any other person during the period specified in the permit.

13. Application for permission to farm in an urban agricultural public open space

- (1) An application for permission to farm in an urban agricultural public open space must contain the following information:
 - (a) The name and full contact details of the applicant, including name, postal address, telephone and fax numbers and email address, if available;
 - (b) the nature of the agricultural activity that the applicant proposes to undertake; and
 - (c) the size and location of the area on which the applicant wishes to undertake the proposed agricultural activity.
- (2) A permit under this section may require the permit holder to pay an annual or monthly fee for the use of the land.
- (3) The holder of an urban agricultural permit may, subject to any condition specified in the permit, use the area of public open space specified in the permit for agricultural purposes to the exclusion of any other person.

CHAPTER 4

TREE PRESERVATION ORDERS

14. General

- (1) If the Council believes that any tree or group of trees in a public open space requires legal protection the Council may issue a tree preservation order in respect of that tree or group of trees.
- (2) A tree preservation order-
 - (a) must indicate the tree or trees to which it relates; and
 - (b) may provide that any person who cuts, disturbs, damages, destroys, removes, transports, exports, purchases, sells, donates or in any other manner acquires or disposes of the tree or trees to which it relates, commits an offence.
- (3) The Council must prominently display a copy of a tree preservation order issued within 3 meters of the tree or trees to which the order relates.

15. Procedure

(1) Unless, in the Council's opinion, the issuing of a tree preservation order is required as a matter of urgency, the Council must, before issuing a tree preservation order in terms of section 25–

- (a) give notice of the proposal to protect the tree or group of trees and invite comments and objections within a specified period, by publishing a notice in the *Provincial Gazette* and in two newspapers circulating in the area in which the tree or group of trees is situated;
- (b) notify any affected organs of State; and
- (c) consider any comments and objections received in response to the notice.

CHAPTER 5

CO-OPERATIVE MANAGEMENT AGREEMENTS

16. Entering into agreements

- (1) The Council may enter into a written agreement with any organ of State, local community or organization to provide for –
 - (a) the co-operative development of any public open space; or
 - (b) the co-operative management of any public open space; and
 - (c) the regulation of human activities within a public open space.
- (2) The Council may not enter into an agreement in terms of subsection (1) (b) unless it reasonably believes that entering into such an agreement will promote the purpose of these By-laws.
- (3) The Council must monitor the effectiveness of any agreement entered into in terms of subsection (1), in achieving the purposes for which it was entered into and may cancel the agreement after giving reasonable notice to the other party if the Council has reason to believe that the agreement is not effective, or is inhibiting the attainment of the purpose of these By-laws.

CHAPTER 6

PROHIBITED CONDUCT

17. Prohibited activities

- (1) Any person who undertakes an activity or behaves in a manner that is prohibited in terms of these By-laws, commits an offence unless, in addition to any exceptions contained in sections 12 to 19, that activity or conduct–
 - (a) takes place in a designated area within which that activity or conduct is allowed; or
 - (b) is authorized in terms of a permission granted or permit issued in terms of section 21, 22 or 23; or
 - (c) is deemed to be authorized by the Council under subsection (2).
- (2) Subject to the provisions of subsection (3), a person is not in contravention of any provision of section 12 to 19 if that person needs to undertake the prohibited activity –

- (a) to perform his or her obligations as an employee, agent or contractor of the Council under his or her contract with, or mandate from, the Council or to achieve the purposes of these By-laws;
 - (b) to carry out public duties as an employee, agent or contractor of an organ of State within a public open space which is subject to a public utility servitude in favor of that organ of State; (c) to fulfill his or her duties as an authorized official; or (d) to fulfill his or her duties as a peace officer.
- (3) Subsection (2) must not be interpreted to allow a contravention of section 12(a) or (e) or any activity, which the Council has expressly refused to permit.

18. General prohibition

- (1) No person may within a public open space –
- (a) act in a manner, which is dangerous to life or property;
 - (b) contravene the provisions of any notice within any public open space;
 - (c) unlawfully enter a public open space to which access has been restricted in terms of section 8;
 - (d) cause a nuisance; or
 - (e) behave in an indecent or offensive manner.

19. Prohibited use

- (1) No person may within a public open space –
- (a) bathe, wade, or swim in or wash him- or herself, an animal or any object, including clothing, in any water body;
 - (b) make, light or otherwise start a fire except in a facility provided by the Council for that purpose;
 - (c) camp or reside;
 - (d) consume, brew, store or sell any alcoholic beverage;
 - (e) use any sound equipment, including a radio, portable hi-fi or car stereo;
 - (f) play an active game, except in an area designated for that purpose on a sport playing field or on a golf course; or (g) shoot a projectile of any nature.

20. Waste

- (1) No person may within a public open space –
- (a) deposit, dump or discard any waste, other than in a receptacle provided by the Council for that purpose; or
 - (b) pollute or deposit any waste or thing in a manner which may detrimentally impact on a water body.

21. Vehicles

- (1) No person may within a public open space –
- (a) except at times specified and on roads or pathways provided by the Council, drive, and draw or propel any vehicle other than a bicycle;
 - (b) drive, draw or propel a vehicle in excess of five kilometers per hour; or
 - (c) park a vehicle in a public open space, except in designated area or other area where the Council otherwise permits parking.

22. Vegetation and animals

- (1) Subject to the provisions of subsection (2), no person may within a public open space –
- (a) disturb, damage, destroy or remove any tree, shrub or other vegetation;
 - (b) affix or place any printed matter on a tree;
 - (c) plant any vegetation;
 - (d) alter the slope or drainage pattern so as to interfere with the access of water, air or nutrients to any tree or other plant;
 - (e) capture or attempt to capture, chase, shoot at, injure, throw objects at, tease, molest or in any other way disturb any animal, fish, or bird; (f) disturb, damage or destroy any bird nest or egg;
 - (g) ride a horse, except-
 - (i) in a public open space or any part thereof designated by the Council for that purpose; and
 - (ii) a person who in the performance of his or her official duties, patrols a public open space on horseback;
 - (h) walk, carry, ride or bring an animal other than a horse or dog; or
 - (i) walk any dog unless-
 - (i) it is in a public open space or any part thereof which has not been designated by the Council as an area where no dogs are allowed, and it is on a leash and under control of a person; or
 - (ii) it is in a public open space or any part thereof designated by the Council as an area where dogs may run free:

Provided that if any dog excretes in a public open space, the person in control of the dog must immediately remove such excrement and dispose of it in a waste bin or other receptacle provided by the Council for that purpose.

- (2) The provisions of subsection (1)(a) and (c) do not apply to any person who has obtained a permit in terms of section 23 to undertake agricultural activities in an urban agricultural public open space.

23. Municipal property and erection of structures

- (1) Subject to the provisions of subsection (2), no person may within a public open space –
- (a) deface, damage, destroy or remove any municipal property;
 - (b) disturb the surface of any land, whether by digging, undertaking any earthworks or otherwise;
 - (c) erect, build or assemble any structure, including a hut, tent, screen, bulletin board, pole, stand or stage;
 - (d) affix or place on any municipal property, or distribute, any printed matter; or
 - (e) plug, tamper with, or in any way damage any plumbing, electrical, heating or other fixtures or installations.

- (2) The provisions of subsection (1)(b) do not apply to any person who has obtained a permit in terms of section 23 to undertake agricultural activities in an urban agricultural public open space.

24. Selling and special events

- (1) No person may within a public open space –
 - (a) use municipal property in a way that unfairly restricts or prevents other users of the public open space from enjoying that municipal property; or
 - (b) except within a public open space or part thereof, which has been let to a person by the Council for that purpose, sell, hawk, offer or display any goods or articles for sale or hire;
- (2) No person may undertake a special event, except in terms of a permit issued in terms of section 22.

25. Community service

Except in terms of an agreement entered into in terms of section 24, no person may within a public open space undertake any community or voluntary work of any description.

26. Restoration or removal notices

- (1) Unless permission or a permit to do so has been obtained in terms of section 21, 22 or 23, an authorized official may issue a restoration or removal notice to any person who has in a public open space –
 - (a) damaged, defaced, disturbed, destroyed, demolished or removed vegetation or a municipal structure;
 - (b) erected, built or assembled a structure; or
 - (c) dumped, discarded or deposited any waste, other than in a receptacle provided by the Council for that purpose.
- (2) The restoration or removal notice may direct the person concerned within a reasonable time specified in the notice to take stated reasonable steps specified in the notice-
 - (a) to restore or rehabilitate the affected area to the reasonable satisfaction of the Council; or
 - (b) to remove a structure or thing and restore the affected site, as nearly as practicable, to its former condition.

CHAPTER 7

GENERAL

27. Offences and penalties

- (1) Any person who –
 - (a) contravenes or fails to comply with any provisions of these Bylaws;
 - (b) fails to comply with any notice or other document issued or displayed in terms of these By-laws;
 - (c) fails to comply with any lawful instruction given in terms of these By-laws; or
 - (d) obstructs or hinders any authorized official in the execution of his or her duties under these By-laws is guilty of an offence and liable on conviction to a fine of R1 500-00 or in default of payment to imprisonment for a period not exceeding six months and in the case of a continuing offence, to a further fine not exceeding R150, or in default of payment to imprisonment not exceeding one day, for every day during the continuance of such offence after a written notice has been issued by the Council and served on the person concerned requiring the discontinuance of such offence.

29. Short Title and Commencement

These By-laws shall be called the Phokwane Public Open Spaces By-laws, 2022 and shall commence on the date as determined by resolution of council.