

MATJHABENG LOCAL MUNICIPALITY



DRAFT TARIFF POLICY BY-LAW

PREAMBLE

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

TARIFF POLICY BY-LAW

Definitions

1. In the interpretation of these by-laws, the singular includes the plural and vice versa and the following words and expressions have the meanings assigned to them hereunder, unless such meanings are the context indicate otherwise -
"Council" means the Council of the Municipality referred to in the Municipal Structures Act, 1998 (Act No. 117 of 1998).
"Cost to be recovered" means the cost of purchasing, the cost of changing the product to the delivered, capital cost, administrative and support systems cost.
"Domestic consumers" means in regard to the electricity services, includes private dwelling houses, residential flats and hostels if provided with a separate meter
"Bulk consumers" means in regard to the electricity service, exclude 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" means in regard to the electricity service, 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.
"Municipality" means the Matjhabeng Local Municipality established in terms of Section 12 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998, and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with these by-laws by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;
"Off-peak supply" means 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 parks and any consumer of a temporary nature.

Cost of Services to be recovered

2.
 - (1) Council must levy charges for the delivery of services.
 - (2) The levied charges must recover the cost to deliver the following services -
 - (a) Electricity;
 - (b) Refuse removal;
 - (c) Sanitation or Sewerage, and
 - (d) Water.

Surpluses obtained

3. The Council may obtain surpluses on the following services -
 - (a) 10% on Electricity and Water;
 - (b) 10 % on Sanitation or Sewerage and Refuse Removal.

Services co-funded by property tax

4.
 - (1) Council may charge regularity tariffs to recover cost to deliver the following services:-
 - (a) Libraries;
 - (b) Cemeteries;
 - (c) Nature Reserves;
 - (d) Pleasure Resorts;
 - (e) Fire Services;
 - (f) Information Services.
 - (2) Council may adjust the service charges annually with the Consumer Price Index on 1 July each year.

Electricity Services

5. (1) Council may provide the number of units of electricity free to indigent households as determined in its indigent policy.
- (2) Council may charge basic tariffs 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 National Electricity Regular policy and incentive schemes of Council.
- (5) All electrical and water supplies must be metered.

Refuse Removal

6. (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 from private dwellings, hospitals, churches, boarding houses, sport clubs, charitable institutions: once a week per bin.
 - (b) Block of flats: per flat, three times per week
 - (c) Removal from business premises, offices, industrial premises and government institutions: per bin, 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 capacity
 - (v) 600 litre capacity
 - (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) Rending 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.

Sanitation or Sewerage

7. (1) Council may grant a subsidy for the indigents as defined in the Indigent Policy.
- (2) Council must 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;
 - (ii) Special usage.
 - (d) Work charges -
 - (i) Sealing openings;
 - (ii) Re-openings sealed;
 - (iii) Removing blockages;
 - (iv) Alterations to gullies;
 - (v) Connection to sewer;
 - (e) VAT is not included and must be added.

Water Services

8. (1) Council may provide limited water free to indigent households as determined in its indigent policy.
- (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:
0-6 KL;
7-50 KL;
Above 50 KL.
 - (bb) With water restrictions an increased tariff may be charged on the following sliding scale:
0-6 KL;
7-50 KL;
51-100 KL;
Above 100 KL.
 - (c) Metered supply -
 - (i) With water restrictions the sliding scale will be the same as mentioned in sub section (2)(b)(i)(aa).
 - (d) Metered supply: Businesses and industries
 - (i) The Council may charge a uniform tariff per KL for businesses and industries.
 - (e) Charges for connections to the main.
 - (f) Charges for connection of water supply.
 - (g) Sundry charges -
 - (i) Testing of metres;
 - (ii) Special readings;
 - (iii) Any other services not mentioned;
 - (h) Filling of a swimming pool.

Property tax

9. (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 respective valuation rolls.
- (3) Council must compile a valuation roll for the whole area so that the whole area will be charged uniformly.

- (4) Council may allow discounts on the category 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 institutions defined in the Cultural Institutions Act, 1998 (Act No. 119 of 1998).
- (5) Council may place a priority on property tax for collection of revenue not exceeding 25% of the budgeted revenue.

Repeal of By-Laws

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

Short Title

- 11. These By -laws are called the Tariff Policy By-law.

MATJHABENG LOCAL MUNICIPALITY



DRAFT CREDIT CONTROL AND DEBT COLLECTION BY-LAW

PREAMBLE

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

CREDIT CONTROL AND DEBT COLLECTION BY-LAW

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CHAPTER 1: DEFINITIONS AND APPLICATION

Definitions

1. In these By-laws any word or expression to which a meaning has been assigned in the Act bears the same meaning, and unless the context otherwise indicates –
 - "account"** means a notification by means of a statement of account to a person liable for payment of any amount for which he or she is liable to pay the Council in respect of the following :
 - (a) Electricity consumption based on a meter reading or estimated consumption;
 - (b) water consumption based on a meter reading or estimated consumption ;
 - (c) refuse removal and disposal;
 - (d) rates;
 - (e) interest; and
 - (f) miscellaneous and sundry fees and collection charges;
 - "Act"** means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);
 - "arrears"** means any amount that is due, owing and payable by a customer in respect of a municipal service or property rates that has not been paid on or before due date and includes collection charges and interest in respect of the principal amount in arrears;
 - "authorised official"** means any official or agent of the Council who has been authorised by it to administer, implement and enforce the provisions of these By-laws;
 - "by-law"** means a by-law adopted and promulgated by the Council;
 - "collection charges"** means charges which may be recovered by the Council in terms of section 75A of the Act, and includes –
 - (a) the cost of reminding customers of arrears;
 - (b) the cost of the termination, restriction and reinstatement of municipal services;
 - (c) the costs of any notice rendered, sent or delivered in terms of these By-laws;
 - (d) the costs and administration fees contemplated in section 18, 19 & 23;
 - (e) all legal costs, including attorney and client costs, incurred in the recovery of arrears; and
 - (f) any commission and other expenses relating to the recovery of arrears payable by the Council to any person or partnership.
 - "Council"** means - (a) the Local Municipality of Matjhabeng established in terms of the Local Government: Municipal Structures Act, 1998, as amended, exercising its legislative and executive authority through its municipal council; or
 - (b) its successor in title; or
 - (c) a structure or person exercising a delegated power or carrying out an instruction, where any power in these By-laws has been delegated or sub-delegated, or an instruction given, as contemplated in section 59 of the Act; or
 - (d) a service provider fulfilling a responsibility under these By-laws, assigned to it in terms of section 81(2) of the Act, or any other law, as the case may be;
 - "customer"** means a person with whom the council has concluded or is deemed to have concluded an agreement to provide any municipal service and includes a customer as defined in the Water Service Act, 1997 (Act No. 108 of 1997);
 - "fee"** means a fee prescribed for or in respect of any municipal service;
 - "Municipal Manager"** means –
 - (a) the person appointed by the Council as the Municipal Manager in terms of section 82 of the Local Government : Municipal Structures Act, 1998 (Act No. 117 of 1998), and includes any person acting in that position; or
 - (b) in relation to a service provider referred to in paragraph (d) of the definition of "Council", the chief executive officer of that service provider.
 - "municipal service"** means services provided by the Council including refuse removal, water supply, sanitation and electricity services;
 - "occupier"** means any person who occupies any premises or part thereof, without regard to the title under which he or she so occupies;
 - "owner"** –
 - (a) in relation to a property referred to in paragraph (a) of the definition of "property", means a person in whose name ownership of the property is registered;
 - (b) in relation to a right referred to in paragraph (b) of the definition of "property", means a person in favour of whom the right is registered;

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

- (i) A trustee, in the case of a property in a trust, but excluding state trust land in relation to rates contemplated in the Local Government: Municipal Property Rates Act, 2004 (Act No.6 of 2004);
- (ii) an executor or administrator, in the case of a property in a deceased estate;
- (iii) a trustee or liquidator, in the case of a property in an insolvent estate or the owner of which is in liquidation;
- (iv) a judicial manager, in the case of a property in the estate of a person under judicial management;
- (v) a curator, in the case of a property in the estate of a person under curatorship;
- (vi) a person in whose favour a usufruct or other personal servitude is registered, in the case of a property that is subject to a usufruct or other personal servitude;
- (vii) a lessee, in the case of a property that is registered in the name of the Council and is let by it; or
- (viii) a buyer, in the case of a property that was sold by the Council and of which possession was given to the buyer pending registration of ownership in the name of the buyer;
- (ix) a successor in title where the property's right, title and interest can be claimed by any other party other than the registered owner because of a sale agreement or numerous successive sale agreements, court orders or legal working and the official transfer of ownership has not yet been effected in the Deeds Office.

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

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

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

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

"property" means - (a) immovable property registered in the name of a person, including, in the case of a sectional title scheme, a sectional title unit registered in the name of a person;

(b) a right registered against immovable property in favour of a person, excluding a mortgage bond registered against the property;

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

(d) public service infrastructure;

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

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

Application of By-laws

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

CHAPTER 2

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

Provision of municipal services to applicants

3. (1) No municipal service may be provided to any applicant, unless and until –
 - (a) application for the service has been made in writing on a form substantially similar to the form prescribed;
 - (b) any information and documentation required by the Council have been furnished;
 - (c) a service agreement, in a form substantially similar to the form of agreement prescribed, has been entered into between the customer and the Council; and
 - (d) an amount equal to the amount prescribed, in cash or a bank cheque, has been deposited as security or other acceptable security, as prescribed, has been furnished.
- (2) If an applicant for a municipal service is an existing customer of the Council in respect of any other municipal service in respect of which any amount is in arrears –
 - (i) such arrears must be paid; or
 - (ii) an agreement for payment of the arrears in terms of section 22 must have been entered into and payment in terms thereof must not be in arrears, before an application for a new service in terms of this section may be considered.
- (3) The Council may at any time require a customer to increase a deposit paid or security furnished in terms of subsection (1)(d);
- (4) No interest is payable on any amount deposited in terms of subsection (1)(d) or (3).

General terms and conditions for the provision of municipal services

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

Estimated consumption

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

New service agreements and deposits or security by existing customers

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

Termination of service agreements

7. (1) Subject to the provisions of sections 13 and 22 –
 - (a) a customer may terminate an agreement for the provision of any municipal service by notice in writing of not less than 7 working days to the Council, of his or her intention to do so;
 - (b) the Council may, subject to compliance with the provisions of these By-laws and any other applicable law, by notice in writing of not less than 7 working days, to a customer, terminate his or her agreement for the provision of the municipal service concerned, if the customer –
 - (i) has not used the municipal service during the preceding six months and has not made arrangements to the satisfaction of the Council for the continuation of the agreement;
 - (ii) has failed to pay any prescribed fee or arrears due and payable in respect of the municipal service concerned;
 - (iii) has made an arrangement with another services provider to provide the municipal service concerned to the customer; or
 - (iv) has vacated the premises to which the agreement concerned relates.

- (2) A customer to whom notice has been given in terms of subsection (1)(b), may within the period of 7 working days referred to in that subsection, make written representations to the Council why the agreement concerned should not be terminated and if such representations are unsuccessful, either wholly or in part, the agreement concerned may be terminated.

CHAPTER 3

ACCOUNT ADMINISTRATION

Accounts

8. (1) Accounts must be rendered and administered in accordance with the Credit Control and Debt Collection Policy, other prescribed requirements and any other law.
- (2) The Council may, in accordance with the provisions of section 102 of the Act—
- (a) consolidate any separate accounts of a customer liable for payments in terms of these By-laws to the Council;
 - (b) credit any payment by such customer against any account of that customer; and
 - (c) implement any of the debt collection and credit control measures provided for in these By-laws in relation to any arrears on any of the accounts of a customer.
- (3) The amount due and payable by a customer constitutes a consolidated debt, and any payment made by a customer of an amount less than the total amount due, will, subject to the provisions of section 20(1), be allocated in reduction of the consolidated debt in the order prescribed.
- (4) (a) Any amount paid by a customer in excess of an existing debt may be held in credit for the customer in anticipation of future rates and fees for municipal services or for the purposes contemplated in section 14(b).
- (b) No interest is payable on any amount contemplated in paragraph 4(a).

Account information

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

Account administration

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

Queries or complaints in respect of accounts

11. (1) A customer may lodge a query or complaint in respect of the accuracy of any amount due and payable in terms of an account rendered to him or her in terms of these By-laws.

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

Appeals against decision by service providers on queries and complaints

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

Arrear accounts

- 13. (1) If a customer fails to pay an amount due and payable for any municipal service or rates on or before the due date for payment specified in the account concerned, a final demand notice may be sent to the customer.
- (2) A final demand notice referred to in subsection (1), should contain the following :

- (a) the amount in arrears and any interest payable, and a statement that payment must be made within 7 days of the date of the final demand notice;
- (b) that the customer may in terms of section 22, within the period contemplated in paragraph (a), conclude a written agreement with the Council for payment of the arrears in installments;
- (c) that if no such agreement is entered into within the period stipulated in paragraph (b), the municipal service concerned may be terminated or restricted and that legal action may be instituted for the recovery of any amount in arrear without further notice;
- (d) that the customer's name may be made public, and may be listed with a credit bureau in terms of section 21(1)(a);
- (e) that the account may be handed over to a debt collector or attorney for collection;
- (f) that proof of registration as an indigent person in terms of section 24 and any other documentation required by the Council must be furnished to the Council on or before the date for payment contemplated in paragraph (a);
- (g) that an indigent person referred to in paragraph (f) is only entitled to benefits relating to municipal services as stipulated in the Council's policy relating to the supply of municipal services to indigent persons; and
- (h) that the customer has an opportunity to make representations in writing on any matter referred to in a final demand notice within the period of 7 days contemplated in paragraph (a).

Action to secure payment

14. The Council may, in addition to the normal civil legal steps to secure payment of any arrears, take the following action to secure payment of such amount:
- (a) The termination or restriction of the provision of any municipal service in terms of section 15; and
 - (b) the allocation of the whole or a portion of a payment of an account, or the whole or a portion of a pre-payment for future accounts as contemplated in section 8(4)(a), as payment for arrear municipal service fees or rates, in terms of section 20.

Power to terminate or restrict provision of municipal services

15. (1) For the purposes of subsection (2), a final demand notice means a notice contemplated in sections 11(5)(b), 11(7), 12(6) and 13(1).
- (2) Subject to the provisions of subsection (4), the Council may terminate or restrict the provision of water or electricity, or both, whichever service is relevant, in terms of the termination and restriction procedures prescribed or contained in any law, to any premises if the customer in respect of the municipal service concerned –
- (a) fails to make full payment of arrears specified in a final demand notice sent to the customer concerned, before or on the date for payment contemplated in sections 11(5)(b), 11(7), 12(6) or 13(1), whichever is applicable, and no circumstances have arisen which require the Council to send a further final demand notice to that customer in terms of any of those sections, and the customer –
 - (i) fails to enter into an agreement in terms of section 22, in respect of the arrears concerned before termination or restriction of the service concerned; or
 - (ii) fails to submit written proof of registration as an indigent person in terms of section 24, before such termination or restriction;
 - (b) fails to pay any installment payable in terms of an agreement referred to in paragraph (a)(i) before or on the due date;
 - (c) fails to comply with any condition or provision in respect of the supply of electricity or water, as the case may be, imposed by the Council;
 - (d) obstructs the efficient provision of electricity or water to another customer;
 - (e) provides electricity or water to a person who is not entitled thereto or permits such provision to continue;
 - (f) causes a situation relating to electricity or water which, in the opinion of the Council, is dangerous or constitutes a contravention of any applicable law, including the common law;
 - (g) in any way reinstates the provision of a previously terminated or restricted electricity or water service;
 - (h) is placed under provisional sequestration, provisional liquidation or judicial management, or commits an act of insolvency in terms of the Insolvency Act, 1936 (Act No. 24 of 1936) or is subject

to an administration order granted in terms of section 74 of the Magistrates Court Act, 1944 (Act No. 32 of 1944), and there is a failure to enter into a new service agreement within 14 days of the Council requiring such service agreement in terms of section 6.

- (3) The Council may send a termination notice or a restriction notice to a customer informing him or her –
 - (a) that the provision of the municipal service concerned will be, or has been terminated or restricted on the date specified in such notice; and
 - (b) of the steps which can be taken to have the municipal service concerned reinstated.
- (4) Any action taken in terms of subsections (2) and (3) is subject to compliance with: –
 - (a) sections 3 and 4 of the Water Services Act, 1997 (Act No. 108 of 1997), if the provision of water is involved;
 - (b) the relevant provisions of the Electricity Regulation Act, 2006 (Act No. 4 of 2006), if the provision of electricity is involved;
 - (c) the relevant provisions of the Health Act, 1977, (Act No. 63 of 1977), and any regulations made in terms of that Act; and
 - (d) the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), in so far as it is applicable.

Reinstatement of municipal services

16. (1) The Council must reinstate full levels of provision of any electricity or water service terminated or restricted in terms of section 15 after –
 - (a) the full amount of arrears has been paid; or
 - (b) an agreement for payment of the arrears contemplated in paragraph (a) has been entered into in terms of section 22; or
 - (c) the full amount of arrears in respect of any agreement entered into in terms of section 22, and any increased deposit, have been paid, or any additional security required has been provided, and any other condition of the Policy that the Council may consider appropriate, has been complied with; and
 - (d) any and all costs, charges and expenses relating to the reinstatement has been paid in full and in advance.
- (2) Any reinstatement in terms of subsection (1) may only be done after an authorised official has issued a written certificate of authorisation to the effect that every applicable condition contemplated in subsection (1) has been complied with and that the municipal service concerned may be reinstated.

Interest

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

Collection charges

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

Offences and penalties

19. (1) Any person who—
 - (a) fraudulently registered as an indigent person as contemplated in Section 25 below; or
 - (b) reconnects a service which has been discontinued under this By-law, or
 - (c) connects to municipal infrastructure or use municipal services and who is not a customer of council (as defined above);
 is guilty of an offence and is liable to payment of a fine of R2000.00 (Two Thousand Rand) for individual natural persons or imprisonment not exceeding 6 months and R10 000.00 (Ten Thousand Rand) for legal persons (any entity who is not a natural person), or to such imprisonment without the option of a fine or to both such fine and such imprisonment.
- (2) committing a breach of the provision of these by- laws is liable to compensate the municipality for any loss or damage suffered or sustained by it in consequence of the breach of this By-law.

Full and final settlement of an amount

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

Accounts outstanding after the due date

21. (1) If an account for assessment rates or any municipal service is rendered to a customer and remains unpaid, wholly or in part, for more than 7 days after the due date for payment stipulated in the account concerned –
- (a) the defaulting customer's name may be made public, and may be listed with a credit bureau; and
- (b) may be handed over to a debt collector or an attorney for collection.
- (2) A customer is liable for any interest and collection charges and, in addition, payment of a higher deposit or the provision of additional security if required by the Council.
- (3) No action taken in terms of this section may be suspended or withdrawn, unless the arrears and a higher deposit, if required by the Council, have been paid in full or additional security has been provided, if so required.

Agreements for the payment of arrears in installments

22. (1) A customer with positive proof of identity or a person authorised, in writing, by such customer, may, subject to the approval of the Council, enter into an agreement in a form substantially similar to a form prescribed, for the payment of arrears in installments.
- (2) The amount due and payable by a customer in terms of an agreement contemplated in subsection (1), constitutes a consolidated debt and any payment made by a customer of an amount less than the total amount due, must be allocated in reduction of the consolidated debt in the order prescribed, unless the customer otherwise instructs in writing.
- (3) A customer may be required to arrange a debit order for the payment of arrears in respect of which an agreement, contemplated in subsection (1), has been entered into.
- (4) Subject to the provisions of subsection (5), no agreement for the payment of arrears may allow for a period of payment of longer than 24 months.
- (5) (a) The Council may allow a period of payment in excess of 24 months for the payment of arrears, but not exceeding a period of 60 months, if special circumstances which the customer could not reasonably have prevented or avoided, prevail and which, in the opinion of the Council, warrant a longer period of payment.
- (b) Documentary proof of any special circumstances as contemplated in paragraph (a), must be furnished by a customer on request by the Council.
- (c) A quarterly report of all arrangements consented to in terms of subsection (a) must be submitted to the next ensuing council sitting for noting;
- (6) The Council must, in exercising its discretion in terms of subsection (5), have regard to a customer's –
- (a) credit record;
- (b) electricity and water consumption;
- (c) ability to afford the proposed installments, taking into account the customer's financial situation;
- (d) level of service;
- (e) previous breaches of agreements for the payment of arrears in installments; and
- (f) any other relevant factor.
- (7) A copy of an agreement contemplated in subsection (1), must, on request, be furnished to the customer concerned.
- (8) If a customer fails to comply with an agreement contemplated in subsection (1), the total arrears, and payment of a higher deposit if required by the Council, will immediately become due and payable, and additional security, if so required, must be provided, without further notice.
- (9) If a customer fails to comply with an agreement contemplated in subsection (1), entered into after receipt of a termination or restriction notice for water or electricity services, or both, as the case may be, the municipal

service concerned may be terminated or restricted without further notice, in addition to any other action taken, or which may be taken, against the customer concerned.

- (10) No customer is permitted to enter into an agreement contemplated in subsection (1), if that customer has failed to honour a previous agreement for the payment of arrears in installments, unless the Council otherwise decides.
- (11) Once an agreement contemplated in subsection (1), has been concluded, the amount in arrears must be reflected as a current amount, and no further interest may be added.

Dishonoured cheques

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

Abandoned Vacant Property

- 24. (1) If the arrears payable to council in respect of an owner's property have been unpaid for a period of not less than three years and the owner of the property cannot be traced, and provided that such property is unoccupied and therefore not used or needed by any person in exercising his right to adequate housing, council may cause a notice-
 - i) giving a description of such rateable property;
 - ii) disclosing the name of the owner as registered in the deeds relating thereto;
 - iii) stating that such rates are unpaid and giving particulars thereof;
 - iv) demanding payment thereof ; and
 - v) stating that in default of payment thereof together with the interest thereon, within three months after the date of the last publication of such notice, the council will take possession of and sell such property;
 to be published once in the Gazette and once a week for three consecutive weeks in a newspaper circulating in the area the property is situated in.
- (2) If after the expiration of three months after the last publication of the notice referred to in paragraph 1 such arrear rates and the interest thereon have not been paid, the council may take possession of such rateable property and sell it by public auction/market value; provided that-
 - i) if the property is mortgaged, the council shall, at least seven days before the first publication of the notice advertising the auction, give every mortgagee written notice of its intention to sell the property; and
 - ii) if, before the action/selling at market value, the owner pays the rates and interest thereon together with the expenses incurred by the council in connection with the rateable property in terms of this sub-section, the property concerned shall not be sold and the owner may resume possession thereof.
- (3) Whenever such a property has been sold by council, the council may give transfer of such property as if the council had been the registered owner thereof, the registrar of deeds shall give transfer of such property, without the production to him of the title deeds thereof, if there is submitted to him as a certificate signed by the Municipal Manager that he has been unable to trace such title deeds.
- (4) After the payment of the cost incurred by council in connection with the taking possession of and sale of property in terms of this section, the balance of the proceeds of such sale shall be applied to the payment of the rates and other charges, together with interest, due to council in respect of such property and any balance of such proceeds remaining after such costs, rates, charges and interests have been paid shall be paid to the person in law entitled thereto, or if such person cannot be found or minor or there is any doubt to who is entitled thereto it shall be paid into the guardian's fund referred to in section 86 of the Administration of Estates Act, 1965.

CHAPTER 4

INDIGENT PERSONS

Registration as indigent person

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

CHAPTER 5

MISCELLANEOUS

Council's right of access to premises

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

Preservation of rights consequent on non-compliance

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

Transmission of documentation

28. Subject to the provisions of any law, if in terms of or for the purposes of these By-laws any written communication must or may be rendered, sent or delivered –
- (a) by the Council to any person, such communication must be –
- (i) delivered by hand –
- (aa) to that person's domicilium citandi et executandi, as stipulated in an agreement entered into in terms of section 3(1)(c) or 6(1) or 22(1); or
- (bb) in the absence of such agreement, to that person's most recently recorded address; or
- (cc) to the premises concerned in respect of which rates are levied or any municipal service is provided, whichever is relevant; or
- (ii) sent by post to the address referred to in subparagraph (i)(aa) or (bb), whichever is applicable, or to the address of the premises contemplated in subparagraph (i)(cc).
- (b) by any person to the Council, such communication must be –
- (i) delivered by hand to –

- (aa) the Council's domicilium citandi et executandi stipulated in the agreement contemplated in paragraph (a)(i)(aa); or
- (bb) another address, if the Council has in writing furnished such an address to the person concerned; or
- (ii) sent by post to the address referred to in subparagraph (i)(aa) or, in the circumstances contemplated in subparagraph (i)(bb), to the address contemplated in that subparagraph.

Prima facie evidence of documentation

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

Repeal and amendments

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

Conflicting laws

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

Short title

32. These By-laws are called the Credit Control and Debt Collection By-laws.

MATJHABENG LOCAL MUNICIPALITY



DRAFT WARD COMMITTEE BY-LAW

PREAMBLE

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

WARD COMMITTEE BY-LAW

SCHEDULE

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DEFINITIONS

1. In this by-law, unless the context otherwise indicates, the words/phrases below have been assigned the following meaning –
 - “**Business**” any activity or enterprise entered into for profit as a company, a corporation, partnership, or sole proprietor duly registered as such with the South African Revenue Services.
 - “**CBO**” a community-based organisation;
 - “**Chairperson**” a ward councillor of the Municipality appointed to chair the ward committee meetings in terms of section 73 (2) (a) of the Municipal Structures Act;
 - “**Chief Whip**” a municipal councillor who is appointed to this position by the Council in terms of section 12 of the Municipal Structures Act;
 - “**Community**” residents of a ward, i.e. the ward community;
 - “**Council**” the Municipality's body of elected ward councillors and proportionally representative councillors; (comprising the local government) as established in terms of the Municipal Structures Act;
 - “**Electoral Committee**” a committee established by the Speaker and MEO to conduct the election of members of the ward committee;

“Election Officer” a person appointed by the Electoral Committee to assist with the election of ward committee members

“IDP” the integrated development plan of the Municipality as adopted by the Council in terms of the Municipal Systems Act;

“IEC” Independent Electoral Commission;

“Interest group or sector” an organised formation that takes an active interest in the affairs of a ward;

“Member” a person elected or co-opted into a ward committee;

“MEO” Municipal Election Officer;

“Municipality” the Matjhabeng Local Municipality established in terms of Section 12 of the Municipal Structures Act, 1998 (Act No. 117 of 1998), and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with these by-laws by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

“Municipal Manager” the head of the administration and accounting officer of the Municipality as appointed by the Council in terms of section 82 of the Municipal Structures Act;

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

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

“NGO” a non-governmental organization;

“PR Councillor” a proportionally representative municipal councillor appointed in terms of section 22 (1) (a) of the Municipal Structures Act, by a political party to represent that party in the Council;

“Speaker” the chairperson of the Council and a municipal councillor elected to this position by the Council in terms of section 36 of the Municipal Structures Act;

“Ward Committee” a committee of a municipal ward, established in terms of Section 73 of the Municipal Structures Act;

“Ward Coordinator” a member appointed by the ward councillor to assist him/her in ensuring the smooth running of the ward committee and the community's affairs; and

“Ward Councillor” a municipal councillor elected in terms of section 22 (1) (b) of the Municipal Structures Act, to represent a demarcated council ward.

Establishment of Ward Committee System

2. (1) Ward committees for all wards of the Municipality are hereby established in terms of the Municipal Structures Act.
- (2) The ward committees established come into effect once committee members have been elected, as set out below.

Composition of Ward Committees

3. (1) Each ward committee must comprise of the ward councillor, as chairperson, and 10 (ten) elected community members.
- (2) The 10 ward committee members must be residents of the ward to whose ward committee they have been elected.
- (3) Notwithstanding the provisions of section 3(2), any person who is not a resident of that ward, may become a ward committee member provided that the person represents an interest group or sector stationed in the ward, or owns a business or property in the ward.
- (4) No person may be a member of more than 1 (one) ward committee at the same time.
- (5) The composition of the ward committee must reflect the following factors:
 - (a) Female representation;
 - (b) Population diversity and interests of the ward;
- (6) The elected ward committee members must assume office upon election.
- (7) PR councillors appointed to serve in the Municipality are *ex officio* and non-voting members of the ward committee of the ward they reside in, or any other ward committee assigned to them by the Chief Whip in consultation with the Speaker.

- (8) In the course of the term of office of the ward committee, any person deemed to be necessary for the success of the committee, or who could add value to the ward committee system as a whole, can be co-opted by the committee in consultation with the ward councillor to serve *ex officio* in an advisory capacity on that ward committee without the right to vote.

Political Affiliation in Ward Committees

4. (1) Ward committee members must not be elected to represent political parties, or for the unofficial benefit of any political party.
- (2) Canvassing for election of ward committee members must not be motivated by political party concerns.

Role and Functions of the Electoral Committee

5. (1) The Office of the Speaker must, in collaboration with the Municipal Electoral Officer, form the election body and appoint the Electoral Committee. The Electoral Committee will conduct and oversee the election of members of the ward committee.
- (2) The Electoral Committee will appoint a presiding officer, one or more election officers and counting officers for each of the municipal wards to manage and administer the ward committee elections in their respective wards.
- (3) A person may not be appointed as an officer in a ward committee election if that person -
 - (a) is a ward committee member contesting the election;
 - (b) holds political or executive office in a political party.
- (4) An officer exercises the powers and performs the duties conferred on or assigned to that officer subject to the directions, control and disciplinary authority of the Electoral Committee.
- (5) The Electoral Committee must determine in writing the terms and conditions of appointment of an officer, including remuneration payable to that officer (subject to approval of the Municipal Council).
- (6) The area agent, presiding, election and counting officers -
 - (a) must manage, co-ordinate and supervise the voting process at the voting station concerned;
 - (b) must take all reasonable steps to ensure orderly conduct at the voting station;
 - (c) may order a member of security services to assist in ensuring orderly conduct of the voting station.
 - (d) may order any person within the boundary of the voting station whose conduct is not conducive to a free and fair election at that voting station, to leave the premises;
 - (e) must count and announce the votes received for each nominee from the ward community members present at the voting station;
 - (f) must secure the number of votes received by each nominee in writing on the relevant nomination form.
 - (g) must declare the voting process open and closed
 - (h) must submit the election results and the report to the Election Committee for submission to the office of the speaker.
- (7) If a person refuses to comply with an order of a presiding, election or counting officers presiding, in ward committee election or counting officers in charge may order member of security services to forcefully remove the person or declare the voting process closed and submit report to the election committee.

Nomination and Election Process

6. (1) (a) The Office of the Speaker must invite all CBOs and NGOs in every ward to nominate individuals as their representatives on the ward committee. Only persons 18 years and older, and representing an interest group or sector stationed in the ward, or owning a business or property in the ward may be nominated.

- (b) The Electoral Committee must give public notice of the time, venues and mode whereby nominations for ward committee members must be accepted. This notice must be published in at least 1 (one) newspaper of general circulation at least 30 (thirty) calendar days before each ward committee election.
 - (c) Only persons 18 years and older, and who represent an interest group or sector stationed in the ward, or own a business or property in the ward will have the right to nominate candidates for the ward committee of that ward.
 - (d) Nomination forms must be available to the ward residents at the Office of the Speaker or any other municipal office. After completion of each nomination form, it must be handed to the Electoral Committee, which will designate offices for this purpose and formally acknowledge receipt of each nomination.
 - (e) The Electoral Committee must keep a register of the nominations received as well as the completed nomination forms in a safe place until the day of the ward committee election, when they will be handed over to the presiding officer at the voting station.
- (2)
- (a) The Electoral Committee must, in consultation with the Speaker and the ward councillor, give the ward community written notice of the date, time and venue of the election of ward committee members in each ward at least 30 (thirty) calendar days before the election. This notice must be published in at least 1 (one) newspaper of general circulation at least 30 (thirty) calendar days before each ward committee election.
 - (b) If an election should be postponed for any reason, a written public notice of the time and venue of the postponed election must be published in at least 1 (one) newspaper of general circulation at least 30 (thirty) calendar days before the new date of the ward committee election.
 - (c) The election must be conducted in accordance with the Council's-approved policy in this regard.
 - (d) Only persons 18 years and older who are residents or owners of businesses and/or property in each ward have the right to vote.
 - (e) The election procedure must ensure that at least 3 (three) of the 10 (ten) community members elected onto the ward committee are women. Should no women be elected, the first 7 (seven) elected male members will qualify to serve on the ward committee and the remaining 3 (three) positions must be reserved for women, to be appointed later by the Electoral Committee on recommendation of the ward councillor.
- (3) The Electoral Committee must keep the records of nominations and the ballot papers in a safe place for 1 (one) year after the election.
- (4)
- (a) The term of office of the ward committee members is 3 (three) years, unless extended by the Speaker for a period of no more than 6 (six) months.
 - (b) Elected members may not stand for election for more than two consecutive terms.
- (5) The ward councillor must be the chairperson of the ward committee.
- (6)
- (a) The ward councillor must appoint a ward coordinator from among the elected ward committee members.
 - (b) The ward coordinator will be responsible for the administration of the committee and ensure that the committee is functioning in the proper manner.
 - (c) The ward coordinator will oversee the minute taking of the committee and the record keeping of the minutes.

Vacation of Office by a Ward Committee Member

7. (1) A ward committee member vacates his or her office if a member -
- (a) Absents him or herself from 3 (three) consecutive meetings without an apology.
 - (b) Absents him or herself in an *ad hoc* fashion from 6 (six) meetings with an apology.
 - (c) Is proven to be actively involved in campaigns for the removal of the ward councillor without having raised grievances against the ward councillor in the ward committee meeting.
 - (d) Acts in a manner that undermines the authority of the ward councillor, the Council and/or the ward committee.
 - (e) Commits a crime that results in a conviction without the option of a fine.
 - (f) Consistently exhibits violent, abusive and intimidatory behaviour towards other committee members and/or the community.
 - (g) Attends a meeting under the influence of alcohol and/or illegal drugs.
 - (h) Is proven to have accepted a bribe from any party that has an interest in a development project for that particular ward.
 - (i) Is proven to have used his or her membership of the ward committee to extract, or attempt to extract, favours of any kind.
 - (j) Is elected as a councillor in the Municipality.
 - (k) Is appointed as a staff member of the Municipality.
 - (l) Without good cause, acts against the decision(s) of the ward committee.
 - (m) Is involved in party political canvassing or similar activity during ward committee meetings.
 - (n) Resigns.
 - (o) Dies.
 - (p) Is guilty of an infringement of this by-law.
 - (q) If, after being found guilty of an infringement of this by-law, is ordered by the Speaker to vacate his or her office.
 - (r) Is ordered to vacate the office by an order of the High Court of South Africa.
- (2) The Speaker will appoint a disciplinary committee to deal with matters of discipline and the Ward Committee Chairperson, in consultation with the Speaker, may suspend member from ward committee activities pending the investigation and hearing of disciplinary matters.

Filling of Vacancies

8. (1) Vacancies of a ward committee will be filled as follows -
- (a) When a vacancy occurs as a result of the departure of a sectoral representative, the affected sector must be requested to nominate their sectoral replacement. The sectoral nominee will then be part of the ward committee. Should the affected sector fail to nominate a replacement or fail to agree on the person to be nominated the ward councillor as chairperson shall nominate a replacement after consultation with the relevant sector representatives.
 - (b) When a vacancy occurs as a result of the departure of an unorganised sector representative, the ward councillor must nominate 2 (two) people from the affected group, which nomination will be put before the ward committee for a decision. The ward committee must, after deliberations, appoint 1 (one) person who will be part of the ward committee.
 - (c) The ward committee must fill vacancies only if they do not exceed the majority of elected members. In the event of 50% (fifty percent) plus 1 (one) of elected members ceasing to be ward committee members, the ward councillor must notify the Speaker to arrange for the election of a new ward committee.
- (2) It is the responsibility of the ward committee, together with the ward councillor, to fill vacancies on the ward committee.

Powers, Functions, Duties and Obligations of Ward Committees

9. (1) A ward committee has the following powers, functions, duties and obligations -
 - (a) Giving inputs towards the preparation, implementation and review of the integrated development plan (IDP);
 - (b) Participating in the establishment, implementation and review of the Municipality's management system;
 - (c) Monitoring and reviewing the Municipality's performance, including the outcomes and impact of such performance;
 - (d) Participating in the drafting of the Municipality's budget;
 - (e) Giving inputs on strategic decisions relating to the provision of municipal services;
 - (f) Supplying inputs in the form of recommendations to the Municipality through the ward councillor;
 - (g) Making recommendations on matters affecting their ward through the ward councillor;
 - (h) Acting in an advisory capacity to the ward councillor;
 - (i) Acting as a consultative body for the Municipality and its departments and provincial and national government, and canvassing community opinion on any matter;
 - (j) Exercising any power and authority delegated in writing by the Council to the ward committee;
 - (k) Acting as a consultative agent for NGOs and CBOs, without incurring any liability for the Municipality, unless the consultation is part of a specific official municipal project.
 - (l) Co-opting members to the ward committee in the event of vacancies.
 - (m) Co-opting non-voting members with specialist skills to the ward committee.
- (2) The above functions and powers may not be interpreted as to permit interference with the Council's right to govern and to exercise its executive and legislative authority nor with the ward councillor's roll, rights and responsibilities.

Ward Committee Meetings

10. (1) The ward councillor must convene meetings of the ward committee at least once a month, and a list of the meeting dates must be supplied to the Office of the Speaker for inclusion in the official municipal calendar not later than 31 January of the year following the election of ward committees.
- (2) The ward councillor must decide on the place, dates and times of ward committee meetings in consultation with members of the ward committee and the Office of the Speaker.
- (3) Notice of the time and place of every meeting of the ward committee must be served on every member at least 7 (seven) days before the meeting.
- (4) The validity of a meeting is not affected if the notice of the meeting is mistakenly not served on a member.
- (5) Every member attending a meeting must sign his or her name in the attendance register kept for this purpose.
- (6) (a) A quorum of the ward committee must be 50% plus 1 (one) members of the ward committee.
- (b) If a quorum is not formed within 10 minutes after the time appointed for a meeting, the meeting will not be held unless it is decided by the chairperson that a further ten minutes should be allowed to enable a quorum to be formed.
- (c) If a quorum is still not formed after the extended time contemplated in paragraph (b), the chairperson may rule to adjourn the meeting until another time.
- (d) Notice of an adjourned meeting must be given in accordance with section 10 (3).
- (7) (a) A ward committee must strive to reach decisions through consensus.
- (b) If a matter remains unresolved after thorough discussion, the matter will be decided by a vote.
- (c) If the votes are equal, the chairperson will have the deciding vote.
- (8) (a) If the ward councillor is unable to attend a ward committee meeting, he or she must appoint a ward committee member to chair the meeting.

- (b) If the ward councillor is unable to appoint a substitute chairperson, the ward committee must do so at the start of the meeting.
- (9) Ward committee meetings are open to interested parties in an observer capacity.

Dissolution of Ward Committees

- 11. (1) The Council may dissolve a ward committee based on the recommendation of the Speaker. Instances that might lead to such a recommendation include, but are not limited to, the failure to fulfil its objectives as set out in legislation, non-adherence to this by-law or resignation of more than 50% (fifty percent) of the members of a ward committee.
- (2) Procedure for dissolution of a ward committee -
 - (a) The Speaker must investigate the circumstances surrounding actions of the ward committee and report his or her findings and recommendations to the Council.
 - (b) After the Council has resolved to dissolve the ward committee, notice of the dissolution of the ward committee must be given to the ward councillor and the ward committee, at which time the ward committee will cease to exist.
 - (c) Notice of the reconstitution of the ward committee will be given in terms of section 6 of this by-law.
 - (d) With the exception of the ward councillor, members of the ward committee that has been dissolved will not be eligible for re-election to the ward committee for a period of one year after its dissolution.

Sub-Committees of Ward Committees

- 12. Each ward committee may form sub-committees to advise the ward committee on special issues, handle sectoral matters or form working groups to research any matter that needs special attention in the ward.

Role of Council Officials on Ward Committees

- 13. (1) No municipal official may stand for election on the ward committee.
- (2) Should a municipal official wish to stand for election as a ward committee member, he or she must first resign his or her position as a municipal official.
- (3) Ward committees must invite municipal officials within their scope of work and other people with specialised knowledge to advise them on matters affecting their wards when deemed necessary.
- (4) When the need arises for municipal officials or their departments to consult with the ward communities, they must arrange these consultations with the Office of the Speaker at least 3 (three) weeks in advance.

Administrative Arrangements, Funding and Reimbursement

- 14. (1) The Municipality must make administrative arrangements to enable ward committees to perform their functions and exercise their powers effectively. In doing so the Municipality must use its resources and allocate funds in its budget to the Office of the Speaker to further the objectives of ward committees.
- (2) All administrative support to enable effective functioning of the ward committees must be located in the Office of the Speaker.
- (3) The Municipality must, through the Office of the Speaker, reimburse ward committee members for travelling and out-of-pocket costs incurred as a result of attendance of ward committee meetings. This reimbursement will be done in accordance with the approved budget and policy of the Municipality.
- (4) Membership and duties of the ward committee members must be regarded as voluntary service for the benefit of the community.
- (5) The ward coordinator appointed by the ward councillor should, as part of the voluntary service to the community, be able and willing to assist in the administration of the ward.

Dispute Resolution Mechanisms for Ward Committees

15. (1) Every effort must be made to deal with disputes internally if they do not involve the ward councillor.
- (2) When a dispute arises, the ward councillor should appoint a person or persons to try and resolve the dispute through mediation.
- (3) If the attempt at mediation fails, the ward councillor must arbitrate.
- (4) If one of the parties is still aggrieved, the matter must be referred to the Speaker.
- (5) If the matter involves the ward councillor, it should be referred to the Office of the Speaker, where the Speaker will be the arbiter.
- (6) The Speaker must appoint a disciplinary committee and an appeal committee to deal with matters of discipline.

Vacation of Office by the Ward Councillor

16. (1) When the ward councillor is no longer in office, the ward committee will continue to function for the rest of its term as determined by the Council.
- (2) A temporary chairperson must be appointed by the political party of the original councillor. If the councillor was an independent candidate, the Chief Whip must appoint an interim chairperson from the PR councillors assigned to the ward.
- (3) The new or interim councillor must re-appoint a coordinator for the ward.

Role of Proportional Representative Councillors in Ward Committees

17. (1) The Chief Whip must, in consultation with the Speaker, deploy PR councillors to specific ward committees.
- (2) Ward councillors must allow PR councillors allocated to their ward committees the right to freely participate in the activities of the ward committee.

Declaration of Interests by Ward Committee Members

18. (1) A member must declare his or her interests to the ward committee in those matters that are before the ward committee.
- (2) The ward councillor is responsible for the maintenance of the register of declared interests of members of the ward committee.

Code of Conduct for Ward Committee Members

19. Ward committee members are elected to represent the communities in their respective wards, to ensure that wards have mechanisms of accountability to local communities, and to meet the priority needs of the community on ward matters, including the performance of the Municipality in terms of established indicators. The Code of Conduct contained in the Annexure applies to every member of a ward committee.

Short title and Commencement

20. These By -laws are called the Ward Committee By -laws, 2011.

Annexure

CODE OF CONDUCT FOR WARD COMMITTEE MEMBERS

1. Definition

In this schedule, "partner" means a person who permanently lives with another person in a manner as if married.

2. General conduct of members

A member must -

- (a) perform the functions of office in good faith, honestly and in a transparent manner; and
- (b) at all times act in the best interest of the ward committee and in such a way that the credibility and integrity of the ward committee are not compromised.

3. Attendance of meetings

A member must attend each meeting of the ward except when -

- (a) a written (including electronic) apology is rendered before or at the meeting;
- (b) leave of absence is granted by the chairperson of the ward committee;
- (c) a member is required in terms of this Code to withdraw from the meeting.

4. Disclosure of interests

A member must -

- (a) disclose to the ward committee, or to any sub-committee of which that member is a member, any direct or indirect personal or private business interest that that member, or any spouse, partner or business associate of that member may have in any matter before the ward committee; and
- (b) withdraw from the proceedings of the ward committee when the matter is considered by the ward committee.

5. Personal gain

- (1) A member may not use the position or privileges of a ward member, or confidential information obtained as a member, for private gain or to improperly benefit another person.
- (2) Except with the prior consent of the Office of the Speaker, a member may not -
 - (a) be a party to or beneficiary under a contract for -
 - (i) the provision of goods or services to the ward; or
 - (ii) the performance of any work done in the ward.
 - (b) obtain a financial interest in any business of the ward committee.
- (3) If more than one quarter of the members object to consent being given to a member in terms of sub-item (2), such consent may only be given to the member with the written approval of the Speaker of the Council.

6. Rewards, gifts and favours

A member may not request, solicit or accept any reward, gift or favour in return for -

- (a) voting or not voting in a particular manner on any matter before the ward committee;
- (b) persuading the ward committee with regard to the exercise of any power, function or duty; and
- (c) disclosing privileged or confidential information.

7. Unauthorised disclosure of information

- (1) A member may not without the permission of the ward councillor or a committee of the Council disclose any privileged or confidential information of the ward or ward committee to any unauthorised person.
- (2) For the purpose of this item, "privileged or confidential information" includes any information-
 - (a) declared by the Council or ward committee to be privileged or confidential;

- (b) that would violate a person's right to privacy; or
- (c) declared to be privileged, confidential or secret in terms of the law.
- (3) This item does not derogate from any person's right of access to information in terms of national legislation.

8. Municipal property

A member may not use, take, acquire or benefit from any property or asset owned, controlled or managed by the Municipality to which he has no right.

9. Duty of chairpersons of ward committees

- (1) If the chairperson of a ward committee, on reasonable suspicion, is of the opinion that a provision of this Code has been breached, the chairperson must -
 - (a) authorise an investigation of the facts and circumstances of the alleged breach;
 - (b) give the member a reasonable opportunity to reply in writing regarding the alleged breach; and
 - (c) report the matter to a meeting of the ward committee after the provisions of paragraphs (a) and (b) have been complied with.
- (2) A report in terms of sub item (1) (c) is open to the public.
- (3) The chairperson must ensure that each member, when taking office, is given a copy of this Code and that a copy of the Code is available in every room or place where the ward committee meets.

10. Breaches of Code

- (1) The Speaker may -
 - (a) investigate and make a finding on any alleged breach of a provision of this Code;
 - (b) establish a special committee or appoint a person -
 - (i) to investigate and make a finding on any alleged breach of this Code; and
 - (ii) to make appropriate recommendations to the Speaker.
- (2) If the special committee finds that a member has breached a provision of this Code, the special committee may -
 - (a) issue a formal warning to the member;
 - (b) reprimand the member;
 - (c) request the Speaker to suspend the member for a period; or
 - (d) request the Speaker to remove the member from the ward committee.
- (3) If the Speaker is of the opinion that the member has breached a provision of this Code, and that such contravention warrants a suspension or removal from office, the Speaker may -
 - (a) suspend the member for a period and on conditions determined by the Speaker; or
 - (b) remove the member from office.
- (4) (a) Any member who has been warned, reprimanded, suspended or removed from office may, within 14 days of having been notified of the decision of the Speaker, appeal to the Speaker in writing, setting out the reasons on which the appeal is based. The Speaker will then convene an appeal committee to finalise the matter.
- (b) A copy of the appeal must be provided to the Speaker.

MATJHABENG LOCAL MUNICIPALITY



DRAFT WARD COMMITTEE BY-LAW

PREAMBLE

The Municipality of Matjhabeng ("the Municipality") hereby publishes the Water Services By-Laws set out below. These By-Laws have been promulgated by the Municipality in terms of section 156(2) of the Constitution of the Republic of South Africa, 1996, section 13(a) of the Local Government: Municipal Systems Act 32 of 2000 and section 21 of the Water Services Act 108 of 1997.

WATER SERVICES BY-LAW

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

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CHAPTER I

GENERAL PROVISIONS

PART 1 DEFINITIONS

1. Definitions

For the purpose of these By-Laws, any word or expressions to which a meaning has been assigned in the Water Services Act 108 of 1997, the Local Government: Municipal Systems Act 32 of 2000 or the National Building Regulations made in terms of the National Building Regulations and Building Standards Act, 1977 shall bear the same meaning in these By-Laws and unless the context indicates otherwise and a word in any one gender shall be read as referring also, to the other two genders:

“Account” means a notification by means of a statement of account to a person liable for payment of any amount for which he or she is liable to pay the Municipality in respect of water services provided;

“Adequate” means as much or as good as deemed necessary by the Municipality for the intended purpose;

“Agreement” means a contractual relationship between the Municipality and a Customer that arises, either as a result of the Municipality’s approval of a written application for municipal services made in terms of the Municipality’s by-laws relating to credit control and debt collection;

“Approved” means approved by the Municipality in writing;

“Authorised Agent” means

- (i) any person who has been authorised by the Municipality to administer, implement or enforce the provisions of these By-Laws;
- (ii) any person whom the Municipality has delegated the performance of certain rights, duties and obligations in respect of providing water and sanitation services; or
- (iii) any person appointed by the Municipality in a written contract as a Service Provider for the provision of water services to customers on its behalf, to the extent authorized in such contract.

“Basic Sanitation” means the minimum standard of safe and hygienic sanitation services and sewage disposal rendered to households, prescribed in terms of the Water Services Act, 108 of 1997, under regulation 2 of Government Notice R509 of 8 June 2001, as amended from time to time, or any substitution for that regulation;

“Basic Water Supply” means the minimum standard of water supply services necessary for the reliable supply of water to households to support life and personal hygiene, prescribed in terms of the Water Services Act, 108 of 1997 under regulation 3 of Government Notice R509 of 8 June 2001, as amended from time to time, or any substitution for that regulation;

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

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

“Charge” means the rate, charge, tariff, flat rate or subsidy prescribed by the Municipal Council;

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

“Commercial Customer” means any customer other than domestic customer, including, but not limited to, a business, industrial, governmental or institutional customers;

“Communal Water Connection” means a connection through which water services are supplied to more than one customer and “communal water services work” has a corresponding meaning;

“Connecting Sewer” means a pipe owned by the Municipality and installed by it for the purpose of conveying sewage from a drainage installation on a premises to a sewer beyond the boundary of those premises or within a servitude area or within an area covered by a way-leave or by agreement;

“Connection” means the point at which a customer gains access to Water Services;

“Connection Pipe” means a pipe, owned by the Municipality and installed by it for the purpose of conveying water from a main to the Customer's water installation, and includes a “water communication pipe” referred to in SANS 0252 Part I;

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

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

“Customer” means a person with whom the Municipality has concluded an agreement, or is deemed to have concluded, an agreement for the provision a municipal service as provided for in the Municipality's policy relating to credit control and debt collection and includes a consumer as defined in the Water Services Act, 108 of 1997;

“Determined” means a decision made by the Municipality;

“Domestic Customer” means a Customer who, primarily for residential purposes, occupies a dwelling, structure or premises;

“Domestic Purposes” in relation to the supply of services means services supplied to premises used predominantly for residential purposes;

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

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

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

“Estimated Consumption” means the consumption that a customer, whose consumption is not measured or accurately measured during a specific period is deemed to have consumed during a specific period, based on an estimate by the Municipality on rational grounds such as the average consumption of municipal services by the users of a service within the area where the service is rendered or the average consumption of municipal services by the Customer during a prior or later period;

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

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

“French Drain” means a soil soak pit for the disposal of sewage and effluent from a Septic Tank;

“General Surcharge” means an additional charge to the normal prescribed charge.

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

“Industrial Effluent” means effluent emanating from the use of water for industrial purposes and includes for purposes of these By-Laws any effluent other than standard domestic effluent or storm water;

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

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

“Interest” means interest as may be prescribed by the Minister of Justice in terms of section 1 of the Prescribed Rate of Interest Act 55 of 1975;

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

“Main” means a pipe, other than a connection pipe, of which the ownership vests in the Municipality and which is used by it for the purpose of conveying water to customers;

“Measuring Device” means any method, procedure, process, device, apparatus or installation that enables the quantity of water services provided to be quantified and includes any method, procedure or process whereby the quantity is estimated or assured;

“Meter” means any meter, method, procedure, process, device, apparatus or installation that enables the quantity of water services provided to be quantified and includes any method, procedure or process whereby the quantity is estimated or assumed;

“Municipality” means—

(a) the Matjhabeng Municipality, a local municipality established in terms of section 2 of the Structures Act and its successors-in-title; or

(b) the Municipal Manager or

(c) an authorised official or agent of the Municipality;

“Municipal Council” means a municipal council as referred to in section 157(1) of the Constitution of the Republic of South Africa, 1996;

“Municipal Services” means, for purposes of these By-Laws, services provided by a municipality, including refuse removal, water supply, sanitation, electricity services and rates;

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

“On-site Sanitation Services” means any sanitation services other than water borne sewerage disposal through a sewerage disposal system;

“Owner” means—

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

(b) where the registered owner of the premises is insolvent or deceased, or for any reason lacks legal capacity, or is under any form of legal disability, that has the effect of preventing him from being able to perform a legal act on his own behalf, the person in whom the administration and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;

(c) where the Municipality is unable to determine the identity of the owner, a person who has a legal right in, or the benefit of the use of, any premises, building, or any part of a building, situated on them;

(d) where a lease has been entered into for a period of 30 (thirty) years or longer, or for the natural life of the lessee or any other person mentioned in the lease, or is renewable from time to time at the will of the lessee indefinitely or for a period or periods which, together with the first period of the lease, amounts to 30 years, the lessee or any other person to whom he has ceded his right title and interest under the lease, or any gratuitous successor to the lessee;

(e) in relation to—

- (i) a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act, 95 of 1986, the developer or the body corporate in respect of the common property, or
- (ii) a section as defined in the Sectional Titles Act, the person in whose name such section is registered under a sectional title deed and includes the lawfully appointed agent of such a person; or
- (iii) a person occupying land under a register held by a tribal authority or in accordance with a sworn affidavit made by a tribal authority;

“Person” means any person, whether natural or juristic;

“Phase 3” means a permanent disconnection of a water installation from the connection pipe. After disconnection, a Customer must re-apply for a Connection and pay the prescribed charge.

“Plumber” means a Person who has passed a qualifying Trade Test in Plumbing or has been issued with a certificate of proficiency in terms of the Manpower Training Act 56 of 1981 or such other qualification as may be required under national legislation;

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

“Pre-payment Meter” is a measuring device that includes a mechanism that limits the volume of water supplied through the measuring device to a free basic amount per month and an amount in excess of the free basic amount in proportion to the amount pre-paid by the customer;

“Premises” means any piece of land, the external surface boundaries of which are delineated on—

- (a) a general plan or diagram registered in terms of the Land Survey Act 8 of 1997 or in terms of the Deeds Registries Act 47 of 1937;
- (b) a sectional plan registered in terms of the Sectional Titles Act 95 1986 ; or
- (c) a register held by a tribal authority or in accordance with a sworn affidavit made by a tribal authority;

“Prescribed” means adopted by the Municipal Council by means of a Council resolution.

“Professional Engineer” means a person registered in terms of the Engineering Profession Act, 2000 as a professional engineer;

“Public Notice” means publication in the media including one or more of the following:

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

“SANS” means the South African National Standards;

“Sanitation Services” has the same meaning assigned to it in terms of the Act and includes for purposes of these by-laws the disposal of industrial effluent;

“Sanitation System” means the structures, pipes, valves, pumps, meters or other appurtenances used in the conveyance through the sewer reticulation system and treatment at the sewage treatment plant under the control of the Municipality and which may be used by it in connection with the disposal of sewage;

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

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

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

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

“Standpipe” means a tap and associated fittings that is free standing and is located outside of any structure;

“Standard Domestic Effluent” means domestic effluent with the characteristics normally associated with sewage discharges from domestic premises within the jurisdiction of the Municipality, but shall not include industrial effluent;

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

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

“Terminal water fitting” means water fitting at an outlet of a water installation that controls the discharge of water from a water installation’

“Trade Premises” means premises upon which industrial effluent is produced;

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

“Unauthorised Connection” means; but is not limited to;

- a) A connection which has not been Approved;
- b) A connection which was made by an unauthorised person;
- c) A connection which have been made with unapproved fittings;
- d) A connection which is providing services for an unapproved use;

“Unauthorised Service” means the receipt, use or consumption of any municipal service which is not in terms of an agreement with, authorised or approved by, the Municipality;

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

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

“Water Services” means water supply services and sanitation services;

“Water Services Intermediaries” has the same meaning as that assigned in the Water Services Act.

“Water Supply Services” has the same meaning assigned to it in terms of the Water Services Act and includes for purposes of these by-laws water for industrial purposes and fire extinguishing services;

“Water Supply System” means the structures, aqueducts, pipes, valves, pumps, meters or other apparatus relating thereto of which the ownership vests in the Municipality and which are used or intended to be used by it in connection with the supply of water, and includes any part of the system; and

“Working Day” means a day other than a Saturday, Sunday or public holiday.

CHAPTER 2

APPLICATION OF BY-LAWS

2. Application of By-laws

- (1) This by-law applies to all Water and Sanitation Services rendered to a Customer by the Municipality and are subjected to the Municipality’s by-laws relating to credit control and debt collection.
- (2) This by-law is binding on the Municipality as an Organ of State.
- (3) The purpose of the by-law is to provide, in conjunction with other applicable legislation, an effective legal and administrative framework:
 - (a) to ensure that the way in which the Municipality controls, manages and develops water and sanitation services is environmentally sustainable, and is in the long-term interests of the whole community of Matjhabeng including future generations; and
 - (b) which clearly defines the rights and obligations of the public in relation to water services.

CHAPTER 3

SERVICE LEVELS

3. Service Levels

- (1) The Municipality may, from time to time, and in accordance with National Policy, by public notice, determine service levels it is able to provide to customers. The municipality provide the following levels of service:
 - (a) **Level 1:** A metered communal stand pipe within a maximum radius of 200 meters from consumer households.
 - (b) **Level 2:** A metered communal stand pipe within a maximum radius of 200 meters from consumer households with a conservancy tank.
 - (c) **Level 3:** A metered connection on each stand and a pour flush toilet not directly connected to a sewer connection but to a conservancy tank. Cleaning by a Road Haulage (Honeysucker).
 - (d) **Level 4:** A metered water connection on each stand **AND** a sewer connection on each stand.
- (2) The Municipality must install either a credit meter or a pre-payment meter as determined by the Municipality as a measurement device for water consumption.

CHAPTER 4

CONDITIONS FOR WATER SUPPLY SERVICES

PART 1

CONNECTION TO WATER SUPPLY SYSTEM

4. Provision of Water Supply Connection Pipe

- (1) If an Agreement for Water Supply Services in respect of Premises has been concluded in accordance with the Municipality's Credit Control and Debt Collection policy and no Connection pipe exists in respect of the Premises, the Owner / Applicant shall make application on the approved form and pay the prescribed charge for the installation of such a pipe.
- (2) If an application is made for Water Supply Services, in accordance with the Municipality's by-laws relating to credit control and debt collection, which are of such an extent or so situated that it is necessary to extend, modify or upgrade the water supply system in order to supply water to the Premises, the Municipality may agree to the extension provided that the Owner / Applicant shall pay for the cost of the extension, as determined by the Municipality.
- (3) Only the Municipality may install a Connection pipe and water meter, but the Owner may connect the water installation to the Connection pipe on the owner's side of the water meter.
- (4) No Person may commence any development on any premises, unless the Municipality has installed a Connection pipe and Water Meter.
- (5) No person may, for the purpose of conveying water derived from whatever source, lay or construct a pipe or associated component on, in or under a street, public place or other land by or under the control of the Municipality, except with the prior written permission of the Municipality, subject to such conditions as the Municipality may impose and any other applicable law.

5. General Conditions of supply

- (1) The supply of water by the Municipality do not constitute an undertaking to maintain at any time or at any point in its water supply system-
 - (a) An uninterrupted supply;
 - (b) A specific pressure or rate of flow;
- (2) Provided that if the water supply is interrupted to a specific consumer of consumers for more than 24 hours, the Municipality will endeavour to provide an alternative basic water supply as soon as reasonably possible.
- (3) If an owner requires an uninterrupted supply, a specific pressure or a specific standard on the premises, the owner must make his or her own arrangements for compliance to such requirements.
- (4) Subject to provisions of the By-law, the Municipality may interrupt the supply of water to any premises without prior notice, where the Municipality did not anticipate any condition which led to the interruption.
- (5) If the consumption of water on any premises adversely affects the supply of water to other premises, the Municipality may apply such restrictions as deemed fit to the supply of water to the first-mentioned premises, in order to ensure reasonable supply of water to the other premises and must inform the owner or consumer of such restrictions.
- (6) The Municipality may install a Water Demand Management Device at any premises as part of the water meter to-

- (a) Encourage water demand management. Where installed the Municipality may set the water supply to a predetermined daily volume; or
- (b) Ensure implementation of an affordable approach in providing access to basic water services.

6. Location of Water Connection Pipe

- (1) A Water Connection Pipe provided and installed by the Municipality shall—
 - (a) be located in a position determined by the Municipality and be of a suitable size as determined by the Municipality;
 - (b) terminate at—
 - (i) the boundary (inside or outside) of the land owned by or vested in the Municipality, or over which it has a servitude or other right; or
 - (iii) the outlet of the water meter or isolating valve if it is situated on the Premises.
 - (iv) the isolating valve before the water meter is the property of the municipality and for municipal use only. Each property owner must install an isolation valve after the meter for private use.
- (2) The Municipality may on application, subject to such conditions as the Municipality may impose and for the cost of the Applicant, agree to a connection to a main other than that which is most readily available for the provision of water supply to the Premises; provided that the applicant shall be responsible for any extension of the water installation to the connecting point designated by the Municipality and for obtaining at his cost, any servitudes over other premises that may be necessary.

7. Disconnection of Water Installation from the Connection Pipe

- (1) The Municipality may disconnect a water installation from the Connection pipe and remove the Connection pipe on termination of an agreement for the provision of Water Supply Services in accordance with the Municipality's Credit Control and Debt Collection Policy. To give effect to this provision, the Municipality may, by written notice, inform the owner of the intention to:
 - (a) Disconnect the domestic supply on a specified date, and disconnect such supply on or after that date; or
 - (b) Disconnect the supply of water to all other non-domestic consumers on a specified date, and disconnect such supply on or after that date;
- (2) The consumer or owner must pay the charge for the Disconnection of supply and restoration of the water supply in terms of the Municipality's approved tariff list, provided that all such charges are paid prior to the restoration of the water supply;
- (3) A consumer whose access to water supply services has been disconnected, and who unlawfully reconnects it will, immediately, without further notice, be disconnected from the water supply connection, and shall be liable for the costs incurred by the Municipality, charged to their services account.
- (4) The Municipality may, at the written application of the owner and on the dates requested and subject to the owner providing access to the premises (where needed) to the Municipality –
 - (a) Disconnect the supply of water to the premises, by means of a Phase 3;
 - (b) The owner must on approval of the application, pay the prescribed charge.
- (5) The Municipality may disconnect a water connection from the main supply pipe if the-
 - (a) The Owner or Occupier has unlawfully interfered with the water supply system serving the premises concerned;

- (b) Premises are vacant or the building is demolished or vandalized and a water loss occur on the premises;
- (c) The Municipality may, at written notice, disconnect the water supply to a premises where continuous water loss is experienced and the owner do not respond within 48 hours, to any notice of the municipality to rectify the leak.

PART 2 STANDARDS

8. Quantity, Quality and Pressure

Water Supply Services provided by the Municipality must comply with the Compulsory National Standards and Measures to Conserve Water Published under GN R509 in GG 22355 of 8 June 2001 or latest National Standards.

9. Testing of Pressure in Water Supply Systems

The Municipality may, on application by an Owner and on payment of the prescribed charge, record and furnish the Owner with the minimum and maximum pressure recorded in the Water Supply System relating to his premises over such period as the Owner may request.

10. Pollution of Water

An Owner must provide and maintain approved measures to prevent the entry of any substance into—

- (a) the Water Supply System; and
- (b) Any part of the water installation on his premises.

11. Water Restrictions and Water Conservation

- (1) The Municipality may for purposes of water conservation or where, in its opinion drought conditions are imminent or existing, by public notice, impose the following restrictive measures —
 - (a) prohibit or restrict the consumption of water in the whole or part of its area of jurisdiction—
 - (i) in general or for 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) a restriction 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 the restricted quantity; and
 - (iii) a general surcharge on the prescribed charges in respect of the supply of water; and
- (2) The Municipality may for purposes of water conservation, where drought conditions are imminent or existing, by virtue of a Council Resolution, impose water restrictions.
- (3) The Municipality may restrict the application of the provisions of a notice contemplated by sub-section (1) to specified areas and categories of customers or users of premises, and activities, and may permit deviations and exemptions from, and the relaxation of, any of its provisions where there is reason to do so.
- (4) The Municipality—
 - (a) may take, or by written notice require a customer at his own expense to take, such measures, including the installation of water saving devices, as may in its opinion be necessary to ensure compliance with a notice published in terms of sub-section (1); or
 - (b) may, subject to notice, and for such period as it may consider fit, restrict the supply of water to any premises in the event of a contravention of these By-Laws that takes place on or in such premises or a failure to comply with the terms of a notice published in terms of sub-section (1); and

- (c) shall, where the supply has been discontinued, restore it only when the prescribed charge for discontinuation and reconnecting the supply has been paid.
- (5) Any owner or consumer must at all times comply with the water conservation and demand management best practices prescribed by the Municipality.
- (6) A consumer may apply for exemption or relaxation of restrictions imposed on them and such permission must be approved by the Municipal Manager.

12. Specific Conditions of Supply

- (1) The granting of a supply of water by the Municipality shall not constitute an undertaking by it to maintain at any time or any point in its Water Supply System—
 - (a) an uninterrupted supply, subject to the provisions of regulations 4 and 14 of Regulation 22355 promulgated in terms of the Act on 8 June 2003; or
 - (b) a specific pressure or rate of flow in such supply other than requires in terms of regulation 15(2) of Regulation 22355 promulgated in terms of the Act on 8 June 2003.
- (2) The Municipality may, subject to the provisions of sub-section (1)(b), specify the maximum pressure to which water will be supplied from the Water Supply System.
- (3) The Municipality may, in an emergency or during maintenance, interrupt the supply of water to any premises without prior notice.
- (4) If in the opinion of the Municipality the consumption of water by a customer adversely affects the supply of water to another customer, it may apply such conditions or restrictions as it may consider fit, in order to ensure a reasonable supply of water to the other customer and must notify the affected customer about the restrictions.
- (5) The Municipality shall not be liable for any damage to property caused by water flowing from any water installation that is left open when the water supply is re-instated, after an interruption in supply.
- (6) Every steam boiler, hospital, industry and any Premises which requires, for the purpose of the work undertaken on the Premises, a continuous supply of water shall have a storage tank, which must comply with the specification for water storage tanks as stipulated in SANS 0252 Part 1 or latest version, with a capacity of not less than 24 hours water supply calculated as the quantity required to provide the average daily consumption, where water can be stored when the continuous supply is disrupted.
- (7) No customer shall resell water supplied to him by the Municipality.

PART 3 MEASUREMENT

13. Measurement of Quantity of Water Supplied

- (1) The Municipality—
 - (a) shall provide either a credit meter or a water demand management device on every new water supply connection pipe used to supply water to a Customer,
 - (b) shall progressively fit a credit meter or a water demand management device on every existing water supply connection pipe used to supply water to a Customer; and
 - (c) may provide a credit meter or a water demand management device on a water supply connection pipe used for a communal water supply.

- (2) The Municipality may replace a credit meter with a water demand management device as a means of limiting the flow to a customer who is in arrears, after meeting the notice requirements provided for in the Municipality's Credit Control and Debt Collection Policy.
- (3) The Municipality shall, at minimum once every twelve (12), record the quantity of water that was supplied through a credit meter.
- (4) Any water meter and its associated apparatus through which water is supplied to a Customer by the Municipality, shall be provided and installed by the Municipality, shall remain its property and may be changed and maintained by the Municipality when it consider it necessary to do so.
- (5) The Municipality may install a water meter, and its associated apparatus, at a point on the water installation instead of, or in addition to, installing a meter on the water Connection pipe.
- (6) If the Municipality install a measuring device together with its associated apparatus on a water installation, the Owner shall—
 - (a) provides a place satisfactory to the Municipality in which to install it;
 - (b) ensures that unrestricted access is available to it at all times;
 - (c) be responsible for its protection and be liable for the costs arising from damage to it, excluding damage arising from normal fair wear and tear or proven theft and vandalism.
 - (d) ensures that no Connection is made to the pipe in which the measuring device is installed between the measuring device and the Connection pipe serving the installation;
 - (e) not use, or permit to be used on any water installation, any fitting, machine or appliance which causes damage or which, in the opinion of the Municipality, is likely to cause damage to any meter.
- (7) No person other than the Municipality shall—
 - (a) disconnect a water meter and its associated apparatus from the pipe on which they are installed;
 - (b) break a seal which the Municipality has placed on a meter; or
 - (c) in any other way interfere with a water meter and its associated apparatus.
- (8) If the Municipality considers that, a measuring device is a meter whose size is unsuitable because of the quantity of water supplied to premises, he may install a meter of a size that he considers necessary.

14. Measuring of Water Supply to Several Customers on the Same Premises

- (1) Where water is supplied to any premises on which several occupiers are located, the Municipality may, in its discretion, provide and install either—
 - (a) a single water meter in respect of the premises as a whole; or
 - (b) a separate water meter for each occupier or any number thereof, subject to written approval by the Municipal Manager.
- (2) Where the Municipality has installed more than one meter on the same premises, there shall be one agreement with the Owner for water supplied through each meter in terms of the Credit Control and Debt Collection Policy.

15. Defective water meters

- (1) If a consumer has reason to believe that a water meter is defective, he or she may, on payment of the prescribed charges, apply for the meter to be tested.
- (2) The prescribed charges referred to in subsection (1) will be-

- (a) Retained by the Municipality if the meter is found to be not defective; or
 - (b) Receive a credit equal to the charge paid against their services account if the meter is found to be defective.
- (3) A water meter is deemed to be defective if, when tested in accordance with the regulations published under the Trade Metrology Act, 1973 (No 77 of 1973), it is found to have a percentage error in over-registration or under-registration greater than that permitted for a meter in use in terms of those regulations.
 - (4) Where a water meter ceased to function and does not register the consumption through it, it is deemed to be defective.

16. Estimation of quantity of water supplied to consumer through a defective water meter

- (1) If a water meter is found to be defective in terms of Section 15, the Municipality may estimate the quantity of water consumed during the period which such water meters was defective, on the basis of the average daily quantity of water supplied over-
 - (a) A period between two successive meter readings subsequent to the replacement of the meter;
 - (b) A period in the previous year corresponding to the period in which the meter was defective; or
 - (c) The period between three successive meter readings prior to the meter becoming defective; whichever the Municipality considers the most appropriate.
- (2) If the quantity of water supplied to a consumer during the period when the water meter was defective cannot be estimated in terms of Subsection (1), the Municipality may estimate the quantity on any other basis that is available.
- (3) The consumer must be informed of the method used by the Municipality to estimate the quantity of water supplied, as contemplated in sections (1) or (2), and given an opportunity to make representations to the Municipality before a final estimate is arrived at.

17. Adjustment of quantity of water supplied if a water meter is defective

Adjustment of the quantity of water supplied through a defective meter must be made for a period determined by the Chief Financial Officer, but not for a period exceeding 24 months.

18. Quantity of Water Supplied to Customer

- (1) The quantity of water supplied to a customer during a billing period will be measured or estimated in accordance with the Credit Control and Debt Collection Policy.
- (2) For the purposes of ascertaining the quantity of water that has been measured by a measuring device installed by the Municipality and that has been supplied to a customer over a specific period, it will, for the purposes of these by-laws, be presumed, unless the contrary is proved that:
 - (a) the quantity, where the measuring device designed to provide an uncontrolled volume of water, is the difference between measurements taken at the beginning and end of that period;
 - (b) the quantity, where the measuring device to provide a controlled volume of water, is the volume dispensed by the measuring device;
 - (c) the measuring device was accurate during that period; and
 - (d) the entries in the records of the municipality were correctly made; and
 - (e) if water is supplied to, or taken by, a customer without having passed through a measuring device, the estimate by the municipality of the quantity of that water shall be presumed to be correct unless the contrary is proved by the owner.

- (3) Where water supplied by the Municipality to any premises is in any way taken by the customer without the water passing through any measuring device provided by the Municipality, the Municipality may, for the purpose of rendering an account, estimate, in accordance with subsection (4), the quantity of water supplied to the customer during the period that water is so taken by the customer.
- (4) For the purposes of subsection (3), an estimate of the quantity of water supplied to a customer shall, as the municipality may decide, be based either on:
 - (a) the average monthly consumption of water on the premises recorded over three succeeding measuring periods after the date on which an irregularity referred to in subsection (3) has been discovered and rectified, or
 - (b) the average monthly consumption of water on the premises during any three consecutive measuring periods during the twelve months immediately before the date on which an irregularity referred to in subsection (3) was discovered.
- (5) No section in this by-laws shall be construed as imposing on the municipality an obligation to cause any measuring device installed on any premises to be measured at the end of every month or any other fixed period, and the Municipality may charge the customer for an average consumption during the interval between successive measurements by the measuring device.
- (6) Until such time that the measuring device has been installed in respect of water supplied to a customer, the estimated or shared consumption of that customer during a specific period, must be based on the average consumption of water supplied to the specific supply zone within which the customer's premises are situated.
- (7) Where, in the opinion of the Municipality, it is not reasonably possible or cost effective to measure water that is supplied to each customer within a determined supply zone, the Municipality may determine a tariff or charge based on the estimated or shared consumption of water supplied to that supply zone.
- (8) The Municipality must within seven days, on receipt of a written notice from the customer and subject to payment of the determined charge, measure the quantity of water supplied to the customer at a time, or on a day, other than that upon which it would normally be measured.
- (9) If a contravention of subsection (8) occurs, the customer must pay to the Municipality the cost of whatever quantity of water was, in the opinion of the Municipality, supplied to him.

19. Special Measurement

If the Municipality requires, for purposes other than charging for water consumed, to ascertain the quantity of water which is used in a part of a water installation, the Municipality may, after written notice and at its own cost, install a water meter at any point in the water installation that it may specify.

20. No reduction of Amount Payable for Water Wasted

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

PART 4 AUDIT

21. Water Audit

- (1) The Municipality may require a commercial customer / user to undertake a water audit at the Customer's own cost.
- (2) Major users (those using in excess of 10 000 kilolitres per annum), including those comprising multiple dwelling units, must undertake an annual water audit. The audit must be conducted within two weeks after the end of each financial year and submitted to the Municipality within one month from the date of audit.

- (3) The audit must include, where applicable, a report on the following —
- (a) the amount of water used during the financial year of the Municipality;
 - (b) the amount paid for water during the financial year of the Municipality;
 - (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 for the financial year of the Municipality;
 - (f) the water pollution monitoring methods;
 - (g) the current initiatives for the management of the demand for water;
 - (h) the plans to manage the demand for water;
 - (i) a comparison of the report with any report that may have been made during the previous three years;
 - (j) estimates of consumption by various components of use; and
 - (k) a comparison of the above factors with those reported in each of the previous three years, where available.

PART 5 INSTALLATION WORK

22. Approval of Installation Work

- (1) An owner must obtain the Municipality's approval prior to doing installation work; provided that approval shall not be required in the case of water installations in dwelling units or installations where no fire installation is required in terms of SANS 0400 or in terms of any Municipal by-laws, or for the repair or replacement of an existing pipe or water fitting.
- (2) Application for the approval referred to in sub-section (1) shall be made on an approved form and shall be accompanied by—
 - (a) the prescribed charge, if applicable; and
 - (b) copies of the drawings as may be determined by the Municipality, giving information in the form required by Clause 4.1.1 of SANS Code 0252: Part I;
 - (c) a certificate certifying that the installation has been designed in accordance with SANS Code 0252: Part I by a Professional Engineer, if required.
- (3) The Municipality may specify the validity period for any approval to do installation work.
- (4) A complete set of approved drawings of the installation work must be available at the site of the work at all times until the work has been completed.
- (5) If installation work has been done in contravention of sub-section (1) or (2), the Municipality may on notice order the owner—
 - (a) to rectify the contravention within a specified period;
 - (b) if work is in progress, to cease the work; and
 - (c) to remove all such work which does not comply with these By-Laws.

- (6) Any external service provider who want to install services within the Matjhabeng Municipality area of jurisdiction, must for approval from the Municipality and must comply to any Special and General conditions set by the Municipality.

23. Persons Permitted to do Installation and Other Work

- (1) Only a Plumber or a person working under the control of a Plumber, shall be permitted to:-
 - (a) do installation work other than the replacement or repair of an existing pipe or water fitting;
 - (b) replace a fixed water heater or its associated protective devices;
 - (c) inspect, disinfect and test a water installation, fire installation or storage tank;
 - (d) service, repair or replace a back-flow preventer; or
 - (e) install, maintain or replace a meter provided by an Owner in a water installation;
- (2) No person shall require or engage a person who is not a Plumber to do the work referred to in sub-section (1).
- (3) Notwithstanding the provisions of sub-section (1), the Municipality may permit a Person who is not a Plumber, but working under the control of a Plumber, to do installation work on his own behalf on Premises owned and occupied solely by himself and his immediate household. After completion, the Plumber must submit to the Municipality a Certificate of Compliance.

24. Provision and Maintenance of Water Installations

- (1) An Owner must provide and maintain his water installation at his own cost and except where approved by the Municipality, must ensure that the installation is situated within the boundary of his Premises.
- (2) An Owner must install an isolating valve at a suitable point on the service pipe immediately inside the boundary of the property in the case of a meter installed outside the boundary, and in the case of a meter installed inside the boundary of the Premises at a suitable point on his service pipe.
- (3) Before doing work in connection with the maintenance of a portion of his water installation, which is situated outside the boundary of his premises, an owner shall obtain the written consent from the Municipality or the owner of the land on which the portion is situated, as the case may be.

25. Technical Requirements for a Water Installation and an Electrical Storage Water Heater

All water installations shall comply with SANS 0252 Part 1 and all fixed electrical storage water heaters shall comply with SANS 0254.

26. Use of pipes and water fittings to be approved

- (1) No person shall, without the prior approval of the Municipality, install or use a pipe or water fitting in a water installation unless it—
 - (a) bears the standardisation mark of the South African Bureau of Standards in respect of the relevant SANS specification issued by the Bureau;
 - (b) bears a certification mark issued by the South African Bureau of Standards to certify that the pipe or water fitting complies with an SANS Mark specification or a provisional specification issued by the SANS;
- (2) The Municipality may, in respect of any pipe or water fitting, impose any special conditions, as it may consider necessary in respect of the use or method of installation.

PART 6 COMMUNAL WATER SUPPLY SERVICES

27. Water Supply from a Communal Standpipe

The Municipality may install a metered communal standpipe for the provision of Water Supply Services to several customers at a location it considers appropriate provided that the maximum walking distance to the stand pipe from any premises is not greater than 200 (two hundred) meters.

PART 7 TEMPORARY WATER SUPPLY SERVICES

28. Water Supplied from a main or another water connection point

- (1) The Municipality may, on application, approve a temporary supply of water, subject to general and special conditions (where necessary) imposed by the Municipality and for any period and on payment of prescribed charges, including a deposit.
- (2) Application must be made on an approved application form.
- (3) The Municipality shall install a Water Meter and the fittings necessary to enable the temporary supply of water on payment of the prescribed deposit.
- (4) The Water Meter and fittings provided by the Municipality for the temporary supply of water from remain the property of the Municipality and may only be removed by the Municipality upon written notice by the Consumer.

PART 8 BOREHOLES

29. Notification of Boreholes

- (1) No person shall drill a Borehole without the prior consent of the Municipality. Any Owner or Occupier of any Premises, who wish to drill a borehole are required—
 - (a) To register the Borehole on an Approved form and provides such information about the Borehole that it may require; and
 - (b) Not to commence with the drilling of a Borehole without the prior approval of the Municipality.
- (2) The Municipality may require the Owner or occupier of any Premises who applies to drill a Borehole, to undertake an environmental impact assessment of the intended Borehole, before granting approval for the Borehole.
- (3) The Municipality may by notice to an Owner or occupier or by public notice, require an Owner or occupier who has an existing Borehole that is used for Water Supply Services to—
 - (a) obtain approval from it for the use of a Borehole for potable Water Supply Services in accordance with sections 6, 7 and 22 of the National Water Act (36) of 1998; and;
 - (b) the Municipality may impose conditions in respect of the use of a Borehole for potable Water Supply Services.

NOTE: Section 22(1) of the National Water Act, 36 of 1998, authorises persons to use water without a licence for those purposes as set out in Schedule 1 of the same Act.

PART 9: FIRE SERVICE CONNECTIONS

30. Connection to be approved by the Municipality

- (1) The Municipality shall be entitled in his absolute discretion to grant or refuse an application for the connection of a fire extinguishing installation to the Municipality's main. (Unless it is recommended, and required by the Fire Department's by-laws)
- (2) No water shall be supplied to any fire extinguishing installation until a certificate that the Municipality's approval has been obtained and that the installation complies with the requirements of any other by-laws of the Municipality, has been submitted.
- (3) If in the Municipality opinion a fire extinguishing installation, which he has allowed to be connected to the municipality's main, is not being kept in proper working order, or is otherwise not being properly maintained, or is being used for purpose other than firefighting, the Municipality may on 14 (fourteen) working days notice entitled either to require the installation to be disconnected from the main or may itself disconnect it at the Customer's expense

31. Special Provisions

The provisions of SANS 0252-1 & SANS 10400 (Parts A, T & W) shall apply to the supply of water for firefighting purposes.

32. Dual and Combined Installations

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

33. Connection Pipes for Fire Extinguishing Services

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

34. Valves and Meters in Connection Pipes

- (1) Every connection pipe to a fire extinguishing installation must be fitted with valves and a water meter which shall be:
 - (a) supplied by the Municipality at the expense of the owner of the premises;

- (b) installed between the property and the Municipality main; and
- (c) installed in such position as may be determined by the Municipal Fire Department.

35. Meters in Fire Extinguishing Connection Pipes

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

36. Sprinkler Extinguishing Installation

The Municipality does not guarantee any minimum or maximum pressure at any time, in any connection used for fire extinguishing purposes. To maintain a specific pressure a Jockey Pump must be installed, at the cost of the owner of the premises.

37. Header Tank or Double Supply from Main

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

38. Sealing of Private Fire Hydrants

- (1) Except where a system is a combined system with a combination meter, all private Hydrants and Fire Hose Reels must be sealed by the Fire Servicing Company, and the seals must not, except for the purposes of opening the hydrant or using the hose when there is a fire, be broken by any person other than by the Fire Servicing Company while servicing and testing of the equipment.
- (2) The customer must give the Municipal Fire Department at least 48 hours' notice, prior to the servicing and tested of a fire extinguishing installation.
- (3) The cost of resealing Hydrants and Fire Hose Reels shall be borne by the customer except when the seats are broken by the Municipal Fire Department officers for testing purposes.
- (4) Any water consumed through a fire installation or sprinkler system shall be paid for by the customer, at the charges determined by the Municipality.

CHAPTER 5

CONDITIONS FOR SANITATION SERVICES

PART 1

CONNECTION TO SANITATION SYSTEM

39. Obligation to Connect to Sanitation System

- (1) All Premises on which Sewage is produced must be connected to the Municipality's Sanitation System if a Connecting Sewer is available, unless the Municipality has approved the use of On-site Sanitation Services either for the individual Premises or for a specified area.
- (2) The Municipality may, by notice, order the Owner of Premises not connected to the Municipality's Sanitation System to connect to the Sanitation System.
- (3) An Owner of any Premises who connects the Premises to the Municipality's Sanitation System must inform the Municipality in writing of any Sanitation Services, provided by the Municipality on the site, which will no longer required as a result of the connection to the Sanitation System.

- (4) The Owner of Premises will be liable for any charge payable in respect of Sanitation Services on the site, until an Agreement for rendering those services has been concluded in accordance with the Municipality's by-laws relating to Credit Control and Debt Collection.
- (5) If the Owner fails to connect the Premises to the Sanitation System after having had a notice in terms of sub-section (2) the Municipality, notwithstanding any other action that it may take in terms of these By-Laws, may impose the prescribed penalty.

40. Provision of Connecting Sewer

- (1) If an Agreement for Sanitation Services in respect of Premises has been concluded in accordance with the Municipality's by-laws relating to credit control and debt collection and no Connecting Sewer exists in respect of the Premises, the Owner shall make application on the Approved form, and pay the prescribed tariffs and charges for the installation of a Connecting Sewer.
- (2) If an application is made for Sanitation Services which are of such an extent or so situated that it will become necessary to extend, modify or upgrade the Sanitation System in order to provide Sanitation Services to any Premises, the Municipality may require the Owner to pay for the cost, as determined by the Municipality, of the extension, modification or upgrading of the services.
- (3) Only the Municipality may install a Connecting Sewer; but the Owner may connect the sanitation installation to the Connection pipe.
- (4) No person may commence any development on any premises that must be connected to the Municipality's Sanitation System unless the Municipality has installed a Connecting Sewer.

41. Location of Connecting Sewer

- (1) A Connecting Sewer that has been provided and installed by the Municipality must—
 - (a) be located in a position determined by the Municipality and be of a suitable size determined by the Municipality; and
 - (b) terminate at—
 - (i) the boundary of the Premises; or
 - (ii) at the connecting point if it is situated on the Premises.
- (2) The Municipality may on the application of the Owner, approve, subject to any conditions that it may impose, a connection to a Connecting Sewer other than one that is most readily available for the provision of Sanitation Services to the Premises; in which event the Owner shall be responsible for any extension of the drainage installation to the connecting point designated by the Municipality and for obtaining, at his own cost, any servitude over other Premises that may be necessary.
- (3) Where an Owner is required to provide a Sewage lift as provided for in terms of the Building Regulations, or the Premises are at a level where the drainage installation cannot discharge into the Sewer by gravitation, the rate and time of discharge into the Sewer must be approved by the Municipality.
- (4) The first connection point per stand, will be provided by the Municipality. For any additional connection, charges must be paid (as determined by the Municipality at the time of application), before connection may be made to the Connecting Sewer.

42. Provision of One Connecting Sewer for Several Customers on Same Premises

- (1) Unless otherwise approved, only one connecting sewer to the sanitation system may be provided for the disposal of sewage from any premises.

- (2) Where the provision of more than one Connecting Sewer is approved by the Municipality, the prescribed tariffs and charges for the provision of a Connecting Sewer are payable in respect of each Sewage connection so provided.

43. Interconnection between Premises

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

44. Disconnection of Connecting Sewer

The Municipality may disconnect a drainage installation from the connection pipe and remove the connection pipe on the termination of an agreement for the provision of Water Supply Services in accordance with the Municipality's by-laws relating to Credit Control and Debt Collection.

PART 2 STANDARDS

45. Standards for Sanitation Services

Sanitation Services provided by the Municipality must comply with the minimum standards set for the provision of Sanitation Services in terms of the section 9 of the Water Services Act.

PART 3 METHODS FOR DETERMINING CHARGES

46. Measurement of Quantity of Domestic Effluent Discharged

The quantity of domestic effluent discharged shall be determined as a fixed percentage of water supplied by the Municipality to the Customer and supplied from other sources if any; provided that where the Municipality is of the opinion that such a percentage in respect of specific Premises is excessive, having regard to the purposes for which water is consumed on those Premises, the Municipality may reduce the percentage applicable to those Premises to a figure which, in its opinion and in the light of the available information, reflects the proportion between the likely quantity of Sewage discharged from the Premises and the quantity of water supplied.

47. Measurement of Quantity and Determination of Quality of Industrial Effluent Discharged

- (1) The quantity of Industrial Effluent discharged into the Sanitation System must be Determined—
 - (a) where a meter is installed on the Connecting Sewer, by the quantity of Industrial Effluent discharged from the Premises as measured by that meter; or
 - (b) until the time that a meter is installed on the Sewer Connection, by a fixed percentage of the water supplied by the Municipality and supplied from other sources to those Premises.
- (2) The Municipality may require the Owner of any Premises to install on any drainage installation conveying Industrial Effluent to a Sewer, a meter of an Approved type and in the control of the Municipality for the purpose of ascertaining to the satisfaction of the Municipality, the tempo, volume and composition of the effluent.
- (3) The Municipality may install and maintain a meter referred to in sub-section (2) at the expense of the Owner of the Premises on which it is installed.
- (4) The Municipality may at its discretion enter into an Agreement with any person discharging Industrial Effluent into the Sanitation System, establishing an alternative method of assessing the quantity and tempo of effluent so discharged.
- (5) Charges relating to the quality of Industrial Effluent will be based on a prescribed formula (as determined from time to time) for Industrial Effluent discharge charges.

- (6) The following conditions apply in respect of the assessment of the concentrations and properties of the Industrial Effluent discharged for purposes of determining the effluent discharge quality charges:
 - (a) each Customer must conduct the tests prescribed in the approval to discharge Industrial Effluent, and report the results to the Municipality;
 - (b) the method of testing must comply with the methods established by SANS, and if not prescribed, then according to a method approved by the Municipality;
 - (c) the Municipality may conduct random compliance tests to confirm the tests referred to in sub-section (a) and, if discrepancies are found, the values of the Municipality shall, unless proved otherwise be presumed to be correct;
 - (d) whenever the Municipality takes a sample for testing purposes, a sample taken at the same point and at the same time must be made available to the Customer;
 - (e) the weighted average results of the tests taken during the period of charge, will be used to determine the effluent discharge quality charges payable;
- (7) At the discretion of the Municipality, the charges for Industrial Effluent may be changed to a fixed monthly charge determined by taking into consideration the strength and volume of the effluent discharged by a Customer.

PART 4 DRAINAGE INSTALLATIONS

48. Technical Requirements for Drainage Installations

All Drainage Installations shall comply with SANS code 0252 and the National Building Regulations.

49. Installation of Drainage Installations

- (1) An Owner must maintain his Drainage Installation at his own cost, unless the installation constitutes a basic sanitation facility as determined by the Municipality and the Owner is registered as an indigent for purposes of receiving subsidised services in terms of the by-laws relating to debt collection and credit control, and except where otherwise approved by the Municipality, must ensure that the installation is situated within the boundary of his Premises.
- (2) The Municipality may prescribe the point in the Sewer, and the depth below the ground, at which any Drainage Installation is to be connected and the route to be followed by the drain to the connecting point and may require the Owner not to commence the construction or connection of the Drainage Installation until the Municipality's Connecting Sewer has been laid.
- (3) The top level of all service access holes, inspection chambers and gullies must be above the 1 in 50 years flood level.
- (4) A Drainage Installations passing through ground which in the opinion of the Municipality is susceptible to movement, shall be laid on a continuous bed of river sand or similar granular material not less than 100 mm thick under the barrel of the pipe and with a surround of similar material and thickness, and the joints of such drains must be flexible joints approved by the Municipality.
- (5) A Drainage Installation or part of it may only be laid within, or under or passing through a building, with the approval of the Municipality.
- (6) A Drainage Installation or part of it which is laid in an inaccessible position under a building may not bend or change gradient.
- (7) After the completion of any Drainage Installation, or after any alteration to any Drainage Installation is completed, the Plumber responsible for the execution of the work must submit to the building inspection section of the

Municipality a certificate certifying that the work was completed to the standards set out in the National Building Regulations, these By-Laws and any other relevant law or by-laws.

- (8) No person shall permit the entry of any liquid or solid substance whatsoever, other than clean water for testing purposes, to enter any Drainage Installation before the Drainage Installation has been connected to the Sewer.

50. Approval of Drainage Installation Work

- (1) A person may only commence with Drainage Installation work after obtaining the Municipality's approval.
- (2) Application for the approval referred to in sub-section (1) must be made on the Approved form and shall be accompanied by—
- (a) the prescribed charge, if such a charge is prescribed;
 - (b) copies of all drawings that may be required and approved by the Municipality; and
 - (c) a certificate by a Professional Engineer certifying that the installation has been designed in accordance with any applicable SANS Codes.
- (3) The Municipality may specify the duration for which the approval is valid.
- (4) When approval has been given in terms of sub-section (1), a complete set of the drawings that have been required and approved by the Municipality must be available for inspection at the site during working hours until the work has been completed.
- (5) If installation work has been done in contravention of sub-sections (1) or (2), the Municipality may require the Owner—
- (a) to rectify the contravention within a specified time;
 - (b) If work is in progress, to cease the work; and
 - (c) to remove all work that does not comply with these By-Laws and National Building Regulations.

51. Persons Permitted to do drainage Installation and Other Work

- (1) No person who is not a Plumber, or working under the control of a Plumber, shall be permitted to—
- (a) do Drainage Installation work other than the replacement or repair of an existing pipe or sanitation fitting;
 - (b) inspect, disinfect and test a Drainage Installation, fire installation or storage tank;
 - (c) service, repair or replace a back flow preventer; or
 - (d) install, maintain or replace a meter provided by an Owner in a Drainage Installation.
- (2) No person shall require or engage a person who is not a Plumber to do the work referred to in sub-section (1).
- (3) Notwithstanding the provisions of sub-sections (1) and (2), the Municipality may permit a person, who is not a Plumber, to do installation work at his own Premises if they are occupied by himself or his own household, but if permission is given, the work must be inspected and approved by a Plumber under the direction of or who has been nominated by, the Municipality.

52. Use of Approved Pipes and Sanitation Fittings

- (1) No person shall, without the prior approval of the Municipality, install or use a pipe or sanitation fitting in a Drainage Installation within the Municipality's area of jurisdiction unless—
- (a) it bears the standardisation mark of the South African Bureau of Standards in respect of the relevant SANS specification issued by the Bureau; or

- (b) it bears a certification mark issued by the South African Bureau of Standards to certify that the pipe or sanitation fitting—
 - (i) complies with an SANS Mark specification; or
 - (ii) a provisional specification issued by the SANS.

53. Testing of Drainage Installations

- (1) No Drainage Installation, nor any part of one, shall be connected to On-site Sanitation Services nor shall the Municipality's Sanitation System be connected to an existing Approved installation, unless any one or more of the following tests have been applied in the presence and to the satisfaction of the Municipality, before the Draining Installation has been enclosed :
 - (a) the interior of every pipe or series of pipes between two points of access shall be inspected throughout its length by means of a mirror and a source of light, and during the inspection, a full circle of light must appear to the observer, and the pipe or series of pipes must be seen to be unobstructed;
 - (c) a smooth ball having a diameter 12mm less than the nominal diameter of the pipe shall, when inserted at the higher end of the pipe, roll down without assistance or interruption to the lower end.
 - (c) after all openings to the pipe or series of pipes to be tested have been plugged or sealed and after all traps associated with them have been filled with water, air shall be pumped into the pipe or pipes until a manometric pressure of 38mm of water is indicated, after which the pressure must remain greater than 25mm of water for a period of at least 3 (three) minutes without further pumping; and
 - (d) all parts of the Drainage Installation are subjected to and required to withstand an internally applied hydraulic test pressure of not less than a 3m head of water for a period of not less than 10 minutes.
 - (e) All tests must be conducted in line with the prescribes of the National Building Regulations and / or any other applicable legislation.
- (2) If the Municipality has reason to believe that any Drainage Installation or any part of it is defective, it may require the Owner of any Premises to conduct any or all of the tests prescribed in sub-sections (1) and (2) and, if the installation fails to pass any test, or all the tests, to the satisfaction of the Municipality, the Municipality may by notice require the Owner to take all reasonable measures that may be necessary to enable the installation to satisfy any or all of them.

54. Disconnection of Drainage Installations

- (1) Except for the purpose of carrying out maintenance or repair work, no Drainage Installation may be disconnected from the connection point other than in accordance with this section.
- (2) Where any part of a Drainage Installation is disconnected from the remainder because it will no longer be used, the disconnected part must be destroyed or entirely removed from the Premises on which it was used, unless the Municipality approves otherwise.
- (3) When a disconnection has been made after all the requirements of the National Building Regulations in regard to disconnection have been complied with, the Municipality must upon the request of the Owner, issue a certificate certifying that the disconnection has been completed in terms of the Building Regulations.
- (4) Charges raised in respect of the disconnected Drainage Installation shall cease to be levied from the end of the month during which such a certificate was issued.
- (5) When a Drainage Installation is disconnected from a Sewer, the Municipality must seal the opening caused by the disconnection and may recover the cost of doing so from the Owner of the Premises on which the installation is disconnected.

55. Maintenance of Drainage Installations

- (1) An Owner must maintain his Drainage Installation at his own cost.
- (2) Where any part of a Drainage Installation is used by two or more Owners or Occupiers, they shall be jointly and separately liable for the maintenance of the installation.
- (3) The Owner of any Premises must ensure that all Manholes and cleaning eyes on the Premises are permanently visible and accessible.

56. Drainage installation and Sewer Blockages

- (1) When the Owner or Occupier of Premises has reason to believe that a blockage has occurred in the Sewer system, he shall immediately inform the Municipality.
- (2) Where a blockage has been removed from a Sewer system by the Municipality and the removal necessitated the disturbance of an Owners paving, lawn or other artificial surface, the Municipality shall not be required to restore them to their previous condition and shall not be responsible for any damage to them unless caused by the wrongful act or negligence of the Municipality.
- (3) When the Owner or occupier of Premises has reason to believe that a blockage has occurred in any drainage installation in or on it, he shall take immediate steps to have it cleared.
- (4) Should any drainage installation on any premises overflow as a result of an obstruction in the sewer, and if the municipality is reasonably satisfied that the obstruction was caused by objects emanating from the drainage installation, the owner of the premises served by the drainage installation shall be liable for the cost of clearing the blockage.
- (5) Where a blockage has been removed from a drainage installation or portion of a drainage installation which serves two or more premises, the owners are jointly and severally liable for the cost of clearing the blockage.

57. Grease Traps

- (1) Grease traps, tanks or chambers of an approved type, size and capacity must be provided in respect of all premises that discharge industrial and commercial effluent which contains, or which, in the opinion of the municipality, is likely to contain, grease, oil, fat or inorganic solid matter.
- (2) No person may cause or permit an accumulation of grease, oil, fat, solid matter, or any other substance in any trap, tank, or chamber that may cause its blockage or ineffective operation.
- (3) Any person discharging industrial and commercial effluent to a tank or chamber must remove grease, oil, fat or solid matter regularly from the tank or chamber and must maintain a register recording—
 - (a) the dates on which the tank or chamber was cleaned;
 - (d) the manner in which the contents of the tank or chamber were disposed of,
 - (e) Disposal must be conducted in line with Health Regulations

58. Mechanical Appliances for Lifting Sewage

- (1) The owner of any premise must obtain the approval of the municipality before installing any mechanical appliance for the raising or transfer of sewage in terms of the National Building Regulations.
- (2) Approval must be applied for by a professional engineer and must be accompanied by drawings prepared in accordance with the relevant provisions of the National Building Regulations and must show details of the compartment containing the appliance, the sewage storage tank, the stilling chamber and their position, and the position of the drains, ventilation pipes, rising main, fat traps and the sewer connection.

- (3) Notwithstanding any approval given in terms of sub-section (1), the municipality shall not be liable for any injury, loss or damage to life or property caused by the use, malfunctioning or any other condition arising from the installation or operation of a mechanical appliance for the raising or transfer of sewage unless the injury or damage be caused by the wrongful intentional or negligent act or negligence of an employee of the municipality.
- (4) Every mechanical appliance installed for the raising or transfer of sewage shall be specifically designed for the purpose and shall be fitted with a discharge pipe, sluice valves and non-return valves located in approved positions.
- (5) Unless otherwise permitted by the municipality, such mechanical appliances shall be installed in duplicate and each such appliance shall be so controlled that either will immediately begin to function automatically in the event of failure of the other.
- (6) Every mechanical appliance forming part of a drainage installation shall be located and operated so as to not cause any nuisance through noise or smell or otherwise, and every compartment containing any such appliance must be effectively ventilated.
- (7) The maximum discharge rate from any mechanical appliance, and the times between which the discharge may take place, shall be as determined by the municipality who may, at any time, require the owner to install such fittings and regulating devices as may in his opinion, be necessary to ensure that the determined maximum discharge rate shall not be exceeded.
- (8) Except where sewage storage space is incorporated as an integral part of a mechanical appliance, a sewage storage tank must be provided in conjunction with such appliance and such a sewage storage tank must—
 - (a) be constructed of durable materials and must be watertight and the internal surfaces of the walls and floor must be smooth and impermeable;
 - (b) have a storage capacity below the level of the inlet equal to the quantity of sewage discharged there into it in 24 hours or 900 litres, whichever is the greater quantity;
 - (c) be so designed that its maximum storage capacity shall be emptied at each discharge cycle of the mechanical appliance; and
 - (d) be provided with a ventilation pipe in accordance with the municipality's specifications.

PART 5 ON-SITE SANITATION AND ASSOCIATED SERVICES

59. Installation of On-Site Sanitation Services

- (1) If approval for on-site sanitation services in respect of premises has been granted, or if it is not reasonably possible or cost effective for the municipality to install a connecting sewer, the owner must install sanitation services specified by the municipality.
- (2) The municipality may undertake or require to be undertaken at the owner's expense such investigations as it may deem necessary to determine if a sanitation facility would have a detrimental impact on health or the environment.

60. Ventilated Improved Pit Latrines

- (1) The municipality may, on such conditions as it may prescribe, having regard to factors such as the nature and permeability of the soil, the depth of the water table, the size of, and access to, the site and the availability of a piped water supply, approve the disposal of human excrement by means of a ventilated improved pit (VIP) latrine.
- (2) A ventilated improved pit latrine must have—
 - (a) a pit of 2 m³ capacity;
 - (b) a slab covering the pit designed to support the superimposed loading;
 - (c) protection preventing children from falling into the pit;

- (d) the pit must be ventilated by means of a pipe, sealed at the upper end with durable insect proof screening fixed firmly in place;
- (e) the ventilation pipe must project not less than 0.5 m above the latrines roof, must be of at least 150 mm in diameter, and must be installed vertically with no bend;
- (f) the interior of the superstructure must be finished smooth so that it can be kept in a clean and hygienic condition.
- (g) the superstructure must be well-ventilated in order to allow the free flow of air into the pit to be vented through the pipe;
- (h) 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;
- (i) the pit latrine must be sited in a position that is independent of the dwelling unit;
- (j) the pit must be sited in a position that is accessible to road vehicles having a width of 3.0 m in order to facilitate the emptying of the pit;
- (k) in situations where there is the danger of polluting an aquifer due to the permeability of the soil, the pit must be lined with an impermeable material that is durable and will not crack under stress; and
- (l) 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.

61. Septic Tanks and Treatment Plants

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

62. French-drains

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

63. Conservancy Tanks

- (1) The municipality may, on such conditions as it may prescribe; approve the construction of a conservancy tank and ancillary appliances for retention of sewage or effluent.
- (2) No rainwater, storm-water, or effluent other than approved by the municipality may be discharged into a conservancy tank.
- (3) No conservancy tank must be used as such unless—
 - (a) the invert of the tank slopes towards the outlet at a gradient of not less than 1 in 10;
 - (b) the tank is gas and water tight;
 - (c) the tank has an outlet pipe, 100 mm in internal diameter, made of wrought iron, cast iron or other approved material, and except if otherwise approved by the municipality, terminating at an approved valve and fittings for connection to the municipality's removal vehicles;
 - (d) the valve and fittings referred to in paragraph (c) or the outlet end of the pipe, as the case may be, are located in a chamber that has hinged cover approved by the municipality and which is situated in a position required by the municipality;
 - (e) access to the conservancy tank must be provided by means of an approved manhole fitted with a removable cast iron cover placed immediately above the visible spigot of the inlet pipe.
- (4) The Municipality may, having regard to the position of a conservancy tank or of the point of connection for a removal vehicle, require the owner or customer to indemnify the Municipality, in writing, against any liability for any damages that may result from rendering of that service as a condition for emptying the tank.
- (5) Where the Municipality's removal vehicle has to traverse private premises for the emptying of a conservancy tank, the owner shall provide a roadway at least 3.5 m wide, so hardened as to be capable of withstanding a wheel load of 4 metric tons in all weather, and shall ensure that no gateway through which the vehicle is required to pass to reach the tank, shall be less than 3.5 m wide for such purposes.
- (6) The owner or occupier of premises on which a conservancy tank is installed shall at all times maintain the tank in good order and condition to the satisfaction of the municipality.

64. Operation and Maintenance of On-Site Sanitation Services

- (1) The operation and maintenance of on-site sanitation services and all costs pertaining to it remains the responsibility of the owner of the premises, unless the occupier is registered as an indigent in accordance with the municipality's Credit Control and Debt Collection Policy.

- (2) The charges for removing or disposing of any sludge from on-site sanitation systems by the municipality shall be assessed in accordance with the prescribed charges.

65. Disused Conservancy and Septic Tanks

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

PART 6 INDUSTRIAL EFFLUENT

66. Approval to Discharge Industrial Effluent

- (1) No person shall discharge or cause or permit industrial effluent to be discharged into the sanitation system except with the approval of the municipality.
- (2) A person must apply for approval to discharge industrial effluent into the sanitation system of the Municipality.
- (3) The municipality may, if in its opinion the capacity of the sanitation system is sufficient to permit the conveyance and effective treatment and lawful disposal of the industrial effluent, for such period and subject to such conditions it may impose, approve the discharge of industrial effluent into the sanitation system.
- (4) Any person who wishes to construct or cause to be constructed, a building which shall be used as a trade premises, must at the time of lodging a building plan in terms of section 4 of the National Building Regulations and Building Standards 103 of 1977, also lodge applications for the provision of sanitation services and for approval to discharge industrial effluent.

67. Withdrawal of Approval to Discharge Industrial Effluent

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

68. Quality Standards for Disposal of Industrial Effluent

- (1) A commercial customer to whom approval has been granted must ensure that no industrial effluent is discharged into the sanitation system of the municipality unless it complies with the standards and criteria set by the Municipality.
- (2) The Municipality may approve standards, provided that it is satisfied that any amendment will not detrimentally affect the operations of the sewage treatment plant.

- (3) Test samples may be taken at any time, without notice, by the municipality to ascertain whether the industrial effluent complies with the standards set by the Municipality.

69. Conditions for the Discharge of Industrial Effluent

- (1) The municipality may on granting approval for the discharge of industrial effluent, or at any time that it considers appropriate, by notice, require a commercial customer to—
 - (a) subject the industrial effluent to such preliminary treatment as in the opinion of the municipality will ensure that the industrial effluent conforms to the standards prescribed by any legislative or regulatory instrument or other standards approved by the Municipality, before being discharged into the sanitation system;
 - (b) install equalising tanks, valves, pumps, appliances, meters and other equipment which, in the opinion of the municipality, will be necessary to control the rate and time of discharge into the sanitation system in accordance with the conditions imposed by it;
 - (c) install for the conveyance of the industrial effluent into the sanitation system at a given point, a drainage installation separate from the drainage installation for other sewage and may prohibit a commercial customer from disposing of his industrial effluent at any other point;
 - (d) construct on any pipe conveying industrial effluent to any sewer, a service access hole or stop-valve in such position and of such dimensions and materials as the municipality may prescribe;
 - (e) provide all information that may be required by the municipality to enable it to assess the tariffs or charges due to the municipality and compliance with the standards of the municipality;
 - (f) provide adequate facilities including, but not limited to, level or overflow detection devices, standby equipment, overflow catch-pits, or other appropriate means of preventing a discharge into the sanitation system in contravention of these by-laws;
 - (g) cause a meter installed in terms of this section to be calibrated by an independent authority at the cost of the commercial customer at such intervals as may be required by the municipality and copies of the calibration to be forwarded to it by the commercial customer; and
 - (h) cause industrial effluent to be tested as often, and in whatever manner, as may be determined by the municipality and to provide it with the results of these tests.
- (2) The cost of any treatment, plant, work or analysis, which a person may be required to carry out, construct or install in terms of sub-section (1), shall be borne by the customer.
- (3) If industrial effluent that neither complies with the prescribed standards is discharged into the sanitation system, the discharger must inform the municipality of the non-compliance and of the reasons for it, as soon as the discharger becomes aware of the non-compliant discharge.

PART 7 SEWAGE DELIVERED BY ROAD HAULAGE

70. Acceptance of Sewage Delivered by Road Haulage

The municipality may, in its discretion, and subject to such conditions as it may specify, accept sewage for disposal that is delivered to the municipality's sewage treatment plants or sewer network by road haulage.

71. Approval for Delivery of Sewage by Road Haulage

- (1) No person shall deliver sewage by road haulage in order to discharge it into the municipality's sewage treatment plants or sewer network, except with the approval of the municipality and subject to any conditions, and any times, that may on reasonable grounds be imposed by the municipality.

- (2) The charges for any sewage delivered for disposal to the municipality's sewage treatment plants shall be assessed by the municipality in accordance with the prescribed tariffs or charges.

72. Withdrawal of Permission for Delivery of Sewage by Road Haulage

- (1) The municipality may on notice withdraw any approval, given in terms of Section 71 if a person who has been allowed to discharge sewerage by road haulage—
 - (a) fails to ensure that the sewage conforms to the standards prescribed and approved by the Municipality, or a condition of approval; or
 - (b) fails or refuses to comply with any notice served on him in terms of these by-laws or contravenes any provision of these by-laws or any condition that has been imposed on him as a condition of approval; and
 - (c) fails to pay all the charges applicable to the delivery of sewage.

73. Conditions for Delivery of Sewage by Road Haulage

- (1) When sewage is to be delivered by road haulage—
 - (a) the date, time and place when delivery is to be made shall be arranged in consultation with the municipality; and
 - (b) the municipality must approve before a delivery is made, that the sewerage is of a nature suitable for road haulage and that the delivery would comply with the provisions, of these by-laws.

PART 8 OTHER SANITATION SERVICES

74. Stables and Similar Premises

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

75. Mechanical Food-Waste or Other Disposal Units

- (1) The municipality may approve the connection or incorporation of a mechanical waste food disposal unit or garbage grinder, into a drainage installation, that has a capacity in excess of 500W, subject to the payment of all applicable charges and to any condition that the municipality may impose, but approval will be given only if—
 - (a) a measurement device is installed by the municipality; and
 - (b) the municipality is satisfied that the municipality's sewerage and sewage treatment system will not be adversely affected.

CHAPTER 6

UNAUTHORISED WATER CONNECTION

76. Unauthorised Services

- (1) No person may gain access to water services unless it is in terms of an agreement entered into with the municipality for the rendering of those services in accordance with the municipality's Credit Control and Debt Collection Policy.
- (2) The municipality may, irrespective of any other action it may take against a person in terms of these by-laws disconnect the service

77. Interference with Infrastructure for the Provision of Water Services

- (1) No person other than the municipality, or a Service Provider, authorized by the Municipality, shall manage, operate or maintain infrastructure, up to and including the water meter, through which water services are provided.
- (2) No person other than the municipality shall make a connection to infrastructure through which water services are provided.
- (3) The municipality may recover any costs associated with repairing damage caused as a result of a contravention of sub-sections (1) and (2) including, but not limited to, the cost associated with repairing the damage, any exploratory investigation, surveys, plans, specifications, schedules of quantities, supervision, administration charge, the use of tools, the expenditure of labour involved in disturbing or rehabilitation of any part of a street or ground affected by the repairs and the environmental cost.
- (4) The municipality may enter any premises for the purposes as indicated in sub-section (1) and (2), at all reasonable times, after having given reasonable written notice to the occupier of the premises of the intention to do so, where appropriate.

78. Obstruction of Access to Infrastructure for the Provision of Water Services

- (1) No person shall prevent or restrict the physical access of the municipality to infrastructure through which water services are provided.
- (2) If a person contravenes sub-section (1), the municipality may—
 - (a) by written notice require such person to restore access at his own expense within a specified period; or
 - (b) When such person do not adhere to (a) above, the Municipality may restore access itself and recover the cost from such person.
- (3) The costs recoverable by the municipality is the full cost associated with restoring access including, but 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 disturbing or rehabilitation of any part of a street or ground affected by restoring access and the environmental cost.

79. Waste of Water

- (1) No customer shall permit the purposeless or wasteful discharge of water.
- (2) An owner shall repair or replace any part of his water and sanitation installation which is in such a state of disrepair that it is either causing or is likely to cause an occurrence listed in sub-section (1).
- (3) If an owner fails to take measures as contemplated in sub-section (2), the municipality shall, by written notice, require the owner to comply with the provisions of sub-section (1).

- (4) The municipality may, by written notice, prohibit the use by a customer of any equipment in a water or sanitation installation if, in its opinion, its use of water is inefficient. Such equipment shall not be returned to use until its efficiency has been restored and a written application to do so has been approved by the municipality.

80. Unauthorised and Unlawful Discharges

- (1) No person may discharge or cause or permit any sewage to be discharged directly or indirectly into a storm water drain, river, stream or other watercourse, whether natural or artificial.
- (2) No person shall allow the discharge or leakage of any liquid other than natural runoff or potable water to any street, storm water drain or watercourse, whether natural or artificial, except where the municipality has approved such discharge.
- (3) Where the hosing down or flushing by rainwater of an open area on any premises is in the opinion of the municipality is likely to cause the discharge of objectionable matter into any street, storm water drain, river, stream or other watercourse, whether natural or artificial, or to cause or contribute towards the pollution of any such watercourse, the municipality may, by notice, require the owner of the premises to take reasonable measures to prevent or minimise such discharge or pollution.
- (4) No person may discharge or cause or permit the discharge into a drainage installation of—
 - (a) any substance, including storm water or swimming pool backwash, other than sewage, domestic waste water or approved industrial effluent;
 - (b) any sewage, industrial effluent or water or any other liquids which—
 - (i) in the opinion of the municipality may be offensive to or may cause a nuisance to the public or damage to the other infrastructure.
 - (ii) is in the form of steam or vapour or has a temperature exceeding 44° C at the point where it enters the sewer;
 - (iii) has a pH value less than 6.0;
 - (iv) contains any substance of whatsoever nature likely to produce or release explosive, flammable, poisonous or offensive gases or vapours in any sewer or treatment plant;
 - (v) contains any material of whatsoever nature, including oil, grease, fat or detergents capable of causing obstruction to the flow in sewers or drains or interference with the proper operation of a sewerage treatment works;
 - (vi) shows any visible signs of tar or associated products or distillates, bitumens or asphalts;
 - (vii) contains any substance in such concentration to produce an undesirable taste after chlorination or an undesirable odour or colour, or excessive foam;
 - (viii) has either a greater PV or COD (Chemical Oxygen Demand) value, a lower pH value, or a higher caustic alkalinity or electrical conductivity than specified in standards set by the Municipality, without the prior approval and subject to the payment of relevant charges and such conditions as the municipality may impose;
 - (ix) contains any substance which in the opinion of the municipality—
 - (aa) cannot be treated at the sewage treatment work to which it could be discharged; or
 - (bb) will negatively affect the treatment processes at the sewage treatment work to which it could be discharged or
 - (cc) will negatively impact on the ability of the sewage treatment work to produce discharges that meet the waste water discharge standards set in terms of the National Water Act, 1998 (Act No 36 of 1998), or
 - (x) either alone or in combination with other substance may—
 - (aa) generate or constitute a toxic substance dangerous to the health of persons employed at the sewage treatment works or entering the council's sewers or manholes in the course of their duties; or
 - (bb) be harmful to sewers, treatment plant or land used for the disposal of treated waste water; or
 - (cc) adversely affect any of the processes whereby sewage is treated or any re-use of sewage effluent.
- (5) No person shall cause or permit the accumulation of grease, oil, fat or solid matter in any drainage installation that will adversely affect its effective functioning.

- (6) The municipality may, notwithstanding any other actions that may be taken in terms of these by-laws, recover from any person who discharges industrial effluent or any substance which is unauthorised or illegal all costs incurred, by the municipality as a result of such discharges, including costs that result from injury to persons, damage to the sanitation system.

81. Interference with Infrastructure

- (1) No person may interfere with infrastructure through which the municipality provides municipal services.
- (2) If a person contravenes sub-section (1), the municipality may—
 - (a) by written notice require such person to seize or rectify the interference at his own expense within a specified period; or
 - (b) without any further notice, prevent or rectify the interference and recover the cost from such person.

82. Use of Water from Sources Other than the Water Supply System

No person shall use or permit the use of water for domestic, commercial or industrial purposes obtained from a source other than from the water supply system or from rain water tanks which are not connected to the water installation, except with the prior approval of the municipality, and in accordance with such conditions as it may impose.

CHAPTER 7

EMERGENCY SITUATIONS

83. Declaration of Emergency Situations

- (1) The municipal council may at any time declare by public notice, that an emergency situation exists in a supply zone or geographical area in respect of a municipal service, if, in its opinion, a significant risk to the financial viability or sustainability of the municipality, or the sustainable rendering of a specific municipal service to the community exists.
- (2) In the event of the declaration of a supply zone as an emergency area in accordance with sub-section (1) the municipal services to that supply zone may be limited.
- (3) The municipality must submit a monthly report to the municipal council on the status of the emergency and of actions being taken to relieve the emergency.
- (4) The municipal council must by public notice declare an area no longer to be an emergency area if the situation on which the declaration was based improves to such an extent that the risks referred to in sub-section (1) no longer warrants that supply zone being declared an emergency area.

CHAPTER 8

NOTICES

84. Power to Serve and Compliance with Notices

- (1) The municipality may, by written notice, order an owner, customer or any other person who fails, by act or omission, to comply with the provisions of these by-laws, or to fulfil any condition imposed in it, to rectify his failure within a reasonable period specified in the notice.
- (2) If a person fails to comply with a written notice served on him by the municipality in terms of these by-laws within the specified period, it may take such action that in its opinion is necessary to ensure compliance, including—
 - (a) undertaking the work necessary itself and recovering the cost of such action or work from that owner, customer or other person;
 - (b) restricting or discontinuing the provision of services; and

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

CHAPTER 9

APPEALS

85. Appeals against decisions of the Municipality

- (1) A customer may appeal in writing against a decision of, or a notice issued by, the municipality in terms of these by-laws.
- (2) An appeal in terms of sub-section (1) must be made in writing and lodged with the municipality within 14 (fourteen) working days after a customer was informed of the decision or notice and must set out the reasons for the appeal;
- (3) The customer must be informed of the outcome of the appeal and the reasons for the municipality's decision within 21 (twenty one) working days after an appeal was lodged, or if the municipality is unable to decide the matter within that time, the municipality must inform the customer when the appeal will be decided.
- (4) If the customer is not in agreement with the outcome of appeal, the customer may lodge a formal request for investigation to a higher authority.

CHAPTER 10

OFFENCES

86. Offences

(1) Subject to sub-section (2), any person who—

- (a) obstruct or hinders the municipality in the exercising of the powers or performance of functions or duties under these by-laws;
- (b) uses, tampers or interferes with municipal equipment, the water supply system, sanitation system and reticulation network or consumption of services rendered;
- (c) contravene or fails to comply with a provision of these by-laws other than a provision relating to payment for municipal services;
- (d) fails to comply with the terms of a notice served upon him in terms of these by-laws;
- (d) reconnects or restores services that have been disconnected or limited without the municipality's approval.
- (e) cause damage to any municipal infrastructure;

is guilty of an offence and is liable to payment of a fine of R2000.00 (Two Thousand Rand) for individual natural persons or imprisonment not exceeding 6 months and R10 000.00 (Ten Thousand Rand) for legal persons (any entity who is not a natural person), or to such imprisonment without the option of a fine or to both such fine and such imprisonment and in the case of any continued offence, to a further fine not exceeding R50 per day, or in default of payment, to imprisonment not exceeding one day for every day during the continuance of such offence, after a written notice has been issued by the municipality and served on the person concerned requiring the discontinuance of such an offence..

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

CHAPTER 11

GENERAL PROVISIONS

87. Customer care

- (1) The municipality must develop a statement that reflects its intention and commitment on service standards in delivering services towards its consumers
- (2) The municipality should as far as reasonably possible ensure that consumers are aware of their rights and obligations regarding the use of water services.
- (3) The municipality may make provision for incentive schemes in order to promote the following:-
 - (a) reporting of the illegal tampering and damage with municipal infrastructure

88. Provision of Information

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

89. Power of Entry and Inspection

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

90. Indemnification from Liability

Neither employees of the municipality nor any person, body, organisation or corporation acting on behalf of the municipality is liable for any damage arising from any omission or act done in good faith in the course of their duties.

91. Conflict of Law

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

92. Repeal of Existing Municipal Water Services By-laws

The provisions of any by-laws relating to water services by the Municipality are hereby repealed insofar as they relate to matters provided for in these by-laws.

93. Transitional Arrangements

- (1) Installation work authorised by the Municipality prior to the commencement date of these by-laws or authorised installation work in progress on that date shall be deemed to have been authorised in terms of these by-laws; and the Municipality may, for a period of 90 (ninety) working days after the commencement of these by-laws, authorise installation work in accordance with the by-laws that regulated that work immediately prior to the promulgation of these by-laws.
- (2) Any reference in these by-laws to a charge and fines prescribed by the Municipality shall be relevant to the applicable Tariff List for the relevant financial year as approved by the Municipal Council.
- (3) Any approval or consent granted under the by-laws repealed by these by-laws shall, subject to the provisions of sub-sections (2) and (4), remain valid.
- (4) No customer shall be required to comply with these by-laws by altering a water installation or part of it which was installed in conformity with any by-laws applicable immediately prior to the commencement of these by-laws; provided that if, in the opinion of the municipality, the installation, or part, is so defective or in a condition or position that could cause waste or undue consumption of water, pollution of the water supply or a health hazard, the municipality may by notice require the customer to comply with the provisions of these by-laws.

94. Short Title and Commencement

- (1) These by-laws are called the Water Services By-law.
- (2) The Municipality may, by notice in the Provincial Gazette, determine that provisions of these by-laws, listed in the notice, do not apply in certain areas within its area of jurisdiction listed in the notice from a date specified in the notice.
- (3) Until any notice contemplated in sub-section (2) is issued, these by-laws are binding.

MATJHABENG LOCAL MUNICIPALITY



DRAFT ELECTRICITY BY-LAWS

PREAMBLE

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

ELECTRICITY SUPPLY BY-LAW

SCHEDULE

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CHAPTER 1: GENERAL

Definitions

1. For the purpose of these by-laws, any word or expressions to which a meaning has been assigned in the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), bears the same meaning. In these by-laws unless the context indicates otherwise—
 - “**accredited person**” means a person registered in terms of the Regulations as an electrical tester for single phase, an installation electrician or a master installation electrician, as the case may be;
 - “**applicable standard specification**” means the standard specifications as listed in Schedule 2 of these by-laws;
 - “**authorised official**” means a person authorised by the municipality in terms of these by-laws to execute work, conduct an inspection and monitor and enforce compliance with these by-laws;
 - “**certificate of compliance**” means a certificate issued in terms of the Regulations in respect of an electrical installation or part of an electrical installation by an accredited person;
 - “**consumer**” in relation to premises means—
 - (a) any occupier of premises or any other person with whom the municipality has contracted to supply, or is actually supplying, electricity at those premises; or
 - (b) if premises are not occupied, any person who has a valid existing agreement with the municipality for the supply of electricity to those premises; or
 - (c) if there is no such person or occupier, the owner of the premises;
 - “**credit meter**” means a meter where an account is issued subsequent to the consumption of electricity;
 - “**electrical contractor**” means an electrical contractor as defined in the Regulations;

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

"high voltage" means the set of nominal voltage levels that are used in power systems for bulk transmission of electricity in the range of 44kV to 220 kV;

"low voltage" means the set of nominal voltage levels that are used for the distribution of electricity and whose upper limit is generally accepted to be an ac voltage of 1000V (or a dc voltage of 1500 V);

"medium voltage" means the set of nominal voltage levels that lie above low voltage and below high voltage in the range of 1 kV to 44 kV;

"meter" means a device which records the demand or the electrical energy consumed and includes conventional and prepayment meters;

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

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

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

"municipality" means the Matjhabeng Local Municipality established in terms of Section 12 of the Local Government: Municipal Structures Act, 1998, and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with these by-laws by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

"municipal manager" means the municipal manager as defined in section 82(1)(a) of the Structures Act;

"occupier" includes any person in actual occupation of the land or premises without regard to the title under which he occupies, and, in the case of premises, or parts of premises, let to a lodger or any other person, includes the person receiving the rent payable by a lodger or any other person whether for himself or as an agent for any other person;

"owner" includes any person that has the title to any premises or land, or any person receiving the rent or profits for allowing the occupation or use of any land, premises or part of any premises who would receive such rent or profit if the land or premises were let or used whether he does so himself or for another;

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

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

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

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

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

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

"SANS Codes" means the South African National Standards Codes or the South African Bureau of Standards Codes as defined in Regulation No 1373 published in Government Gazette 24002, dated 8 November 2002 in terms of the Standards Act, 1993 (Act 29 of 1993) or as may be published in the future in terms of that Act;

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

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

"service delivery agreement" means an agreement between the municipality and a service provider in terms of which the service provider is required to provide electricity services;

"service provider" means any person who has entered into a service delivery agreement with the municipality in terms of section 81(2) of the Systems Act;

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

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

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

"Structures Act" means the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998)

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

"tariff" means the charge to users for the provision of electricity services or for any related charge, determined and promulgated by the municipality, or adjusted by a service provider, in terms of Tariff Policy by-laws adopted under section 75 of the Systems Act;

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

"voltage" means the root-mean-square value of electrical potential between two conductors.

CHAPTER 2: GENERAL CONDITIONS OF SUPPLY

The Provision of Electricity Services

2. (1) The municipality must take reasonable measures within its available resources progressively to ensure regular access by the local community to electricity services-
 - (a) In planning for and setting service standards and levels of service for the provision of electricity services, and
 - (b) In providing electricity services -
 the municipality may differentiate between geographical areas and categories of users within the local community but, in doing so, the municipality must comply with national legislation and in particular the requirements of section 73 of the Systems Act.

Exclusive Provision of Electricity Services

3. Save for Eskom Limited, providing electricity services under the Electricity Act, 1987 (Act No. 41 of 1987), only the municipality may supply or contract for the supply of electricity services within its jurisdiction.

Supply by agreement

4. (1) No person must use or is entitled to use electricity supplied by the municipality or service provider unless or until he or she has entered into an electricity supply agreement in writing with the municipality or service provider for the provision of electricity services.
- (2) The provisions of an agreement relating to the supply of electricity services (henceforth the "Electricity Supply Agreement") together with the provisions of this by-law govern electricity supply in all respects.
- (3) A person who uses an electricity supply without entering into an electricity supply agreement is liable for the cost of electricity used as stated in section 38 of this by-law notwithstanding the fact that he or she has not entered into an agreement.

Application for Supply

5. (1) Application for the supply of electricity services must be made in writing by the prospective consumer on the prescribed form obtainable at the office of the municipality, and the estimated load, in kVA, of the installation, must be stated in the form.
- (2) An application made under subsection (1) must be made as early as possible before the supply of electricity is required in order to facilitate the work of the Municipality.
- (3) An application for the supply of electricity services for a period of less than one year must be regarded as an application for a temporary supply of electricity and must be considered at the discretion of the municipality, which may specify any special conditions to be satisfied in such a case.

Processing of Requests for Supply

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

Permission to Use Property

7. (1) The municipality may refuse to lay or erect a service connection above or below ground on any thoroughfare or land not vested in the municipality, or on any private property, unless and until the prospective consumer has obtained and delivered to the municipality written permission granted by the owner of the private property or by the person in whom is vested the legal title to the land or thoroughfare, as the case may be, authorising the laying or erection of the service connection on the property.

- (2) If permission under subsection (1) is withdrawn at any time, or if the private property or thoroughfare changes, and the new owner refuses to grant or continue such permission, the cost of any alteration required to be made to a service connection in order that the supply of electricity may be continued, as well as that of any removal of a connection which may become necessary in the circumstances, must be borne by the consumer to whose premises the supply of electricity is required to be continued.

Statutory Servitude

8. (1) Subject to the provisions of subsection (3) and in order to provide, establish and maintain electricity services within its municipal area, the municipality may—
 - (a) acquire, construct, lay, extend, enlarge, divert, maintain, repair, discontinue the use of, and close up and destroy electricity supply mains;
 - (b) construct, erect or lay any electricity supply main on, across, through, over or under any street or immovable property and the ownership of any such main vests in the municipality;
 - (c) do any other thing necessary or desirable for or incidental, supplementary or ancillary to any matter contemplated by paragraphs (a) to (c).
- (2) If the municipality constructs, erects or lays any electricity supply main on, across, through, over or under any street or immovable property neither owned by the municipality nor under the control or management of the municipality, it must pay the owner of the street or property compensation in an amount agreed upon by the affected owner and the municipality or, in the absence of agreement, compensation determined either by arbitration or a court of competent jurisdiction.
- (3) The municipality must, before commencing any work other than repairs or maintenance, on or in connection with any electricity supply main on or under immovable property not owned by the municipality or not under the control or management of the municipality, give the owner or occupier of the property reasonable notice of the proposed work and the date on which it proposes to commence its work.

Improper Use

9. (1) If the consumer uses electricity for any purpose, or deals with it in any manner, which the municipality has reasonable grounds for believing interferes in an improper or unsafe manner, or is calculated to interfere in an improper or unsafe manner, with the efficient supply of electricity to any other consumer, the municipality may, with reasonable notice, disconnect the electricity supply but such supply must be restored as soon as the cause for the disconnection has been permanently remedied or removed: Provided that the consumer has been given reasonable notice of the intention to disconnect, and the reasons for doing so, and an adequate opportunity to make representations as to why it should not be disconnected, unless in the opinion of the municipal manager it would be unsafe to do so in the circumstances.
- (2) The fee as prescribed by the municipality for the disconnection and reconnection must be paid by the consumer before the electricity supply is restored, unless it can be shown by the consumer that the consumer did not use or deal with the electricity in an improper or unsafe manner.

Deposits

10. (1) The municipality reserves the right to require the consumer to deposit a sum of money as security in payment of any charges which are due or may become due to it.
- (2) The amount of the deposit in respect of each electricity installation must be determined by the municipality, and each such deposit may be increased if the municipality considers the deposit held to be inadequate.
- (3) Deposits paid under this section must not be regarded as being in payment or part payment of any accounts due for the supply of electricity for the purpose of obtaining any discount provided for in the electricity tariff referred to in this by-law.
- (4) On cessation of the supply of electricity, the amount of such a deposit, free of any interest, less any payments due to the municipality, must be refunded to the consumer by the municipality.

Payment of Charges

11. (1) The consumer is liable to pay for the provision of electricity services according to the tariff, a copy of which is obtainable free of charge from the municipality.
- (2) All accounts are due and payable when issued by the municipality and each account must, on its face, reflect the due date and a warning indicating that the supply of electricity may be disconnected should the charges in respect of such supply remain unpaid after the due date.

- (3) An error or omission in any account or failure to render an account does not relieve the consumer of his or her obligation to pay the correct amount due for electricity supplied to the premises and the onus is on the consumer to satisfy himself or herself that the account rendered is in accordance with the prescribed tariff of charges in respect of electricity supplied to his or her premises.
- (4) Where an authorised official has visited the premises for the purpose of disconnecting the supply of electricity in terms of subsection (2) and is obstructed or prevented from effecting a disconnection, the prescribed fee is payable for each visit necessary for the purpose of disconnecting the service.
- (5) After disconnection for non-payment of an account, the prescribed tariff and any amounts due for electricity consumed must be paid to the municipality before the electricity supply is re-connected.

Interest on Overdue Accounts

- 12. The municipality may charge interest on accounts which are not paid by the due date appearing on the account, at an interest rate as approved by the municipality from time to time.

Principles for the Resale of Electricity

- 13. (1) Unless otherwise authorised by the municipality, no person must sell or supply electricity, supplied to his or her premises under an agreement with the municipality, to any other person or persons for use on any other premises, or permit or suffer such resale or supply to take place.
- (2) If electricity is resold for use upon the same premises, the electricity resold must be measured by a sub-meter of a type which has been approved by the South African Bureau of Standards and supplied, installed and programmed in accordance with the standards of the municipality.
- (3) The tariff, rates and charges at which and the conditions of sale under which electricity is resold under subsection (2) must not be less favourable to the purchaser than those that would have been payable and applicable had the purchaser been supplied directly with electricity by the municipality or a service provider.
- (4) Every reseller must furnish the purchaser with monthly accounts that are at least as detailed as the relevant billing information details provided by the municipality to its electricity consumers.

Right to Disconnect Supply

- 14. (1) The municipality may give notice to any consumer that it intends to disconnect the supply of electricity if, in its opinion, there is an appreciable risk of harm or damage to any person or property.
- (2) The notice referred to in subsection (1) must —
 - (a) be for 7 (seven) days;
 - (b) inform the consumer of the nature of the risk;
 - (c) call upon him or her, if he or she does not wish the discontinuation to take place, to give good and adequate reasons within that period why this should not happen.
- (3) Where he or she has failed either to give good and adequate reasons or to remedy the cause of the risk, the municipality may disconnect the supply of electricity to such premises.
- (4) Where any person, who is liable in law to pay for any supply of electricity, fails to pay for it, the municipality may give such a person notice calling on him or her to make such payment and the notice must —
 - (a) be for 7 (seven) days;
 - (b) inform him or her of the amount due and payable;
 - (c) notify him or her that if he or she does not pay it, his or her electricity must be disconnected unless he or she gives good and adequate reasons within that period why this should not happen.
- (5) Where he or she has failed either to pay the due amount or to give good and adequate reasons as envisaged in subsection (4), the municipality may disconnect the supply of electricity to such premises.
- (6) Where the municipality is of the opinion, on reasonable grounds, that risk or harm to person or property is immediate or imminent, the municipality may, subject to any other provision in these by-laws, disconnect the supply of electricity to any premises.
- (7) In the case where an installation has been illegally reconnected on a consumer's premises after having been previously legally disconnected by the municipality, or in the case where the municipality's electrical equipment has been tampered with to prevent the full registration of consumption by the meter, the electricity supply equipment may be physically removed from those premises by the municipality.

Non-Liability of the Municipality

- 15. (1) A person who applies to the municipality for the supply of electricity in terms of section 5 does so on the basis that, if his or her application is accepted by the municipality, it must be agreed that the municipality is not

liable for any loss or damage, direct or consequential, suffered or sustained by a consumer as a result of or arising from the cessation, interruption or any other abnormality of the supply of electricity.

- (2) The provisions of subsection (1) must be included in the application form and must also be brought to the attention of the applicant by the municipality, where it is possible to do so, when the applicant lodges an application.

Leakage of Electricity

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

Failure of Supply

17. (1) The municipality does not undertake to attend to a failure of supply of electricity due to a fault in the electrical installation of the consumer, except when such failure is due to the operation of the service protective device of the municipality.
- (2) When any failure of supply of electricity is found to be due to a fault in the electrical installation of the consumer or to the faulty operation of apparatus used in connection therewith, the municipality has the right to charge the consumer the tariff as prescribed by the municipality for each restoration of the supply of electricity in addition to the cost of making good or repairing any damage which may have been done to the service main and meter by such fault or faulty operation as aforesaid.

Seals of the Municipality

18. The meter, service protective devices and all apparatus belonging to the municipality must be sealed or locked by an authorised official, and no other person must in any manner or for any reason whatsoever remove, break, deface, or tamper or interfere with the seal or lock.

Tampering With Service Connection or Supply Mains

19. (1) No person must in any manner or for any reason whatsoever tamper or interfere with any meter or metering equipment or service connection or service protective device or supply mains or any other equipment of the municipality.
- (2) Where the municipality has good grounds for believing that a consumer has contravened subsection (1), the municipality has the right to disconnect the supply of electricity immediately and without prior notice to the consumer in circumstances where, in the opinion of the municipality, there are good grounds to believe that a failure to disconnect could constitute an appreciable risk of harm or damage to person or property, in which case the person is liable for all tariffs levied by the municipality for such disconnection; but if that risk is not immediate or imminent or appreciable, the provisions of subsections 14(1) to (3) must apply with any necessary changes.
- (3) Where a consumer or any person has contravened subsection (1) and the contravention has resulted in the meter recording less than the true consumption, the municipality must have the right to recover from the consumer the full cost of his or her estimated consumption.

Protection of Municipality's Supply Mains

20. (1) No person must, except with the consent of the municipality and subject to any conditions imposed by it—
- (a) construct, erect or lay, or permit the construction, erection or laying of any building, structure or other object, or plant trees or vegetation over or in such a position or in a manner which interferes with or endangers the supply mains;
 - (b) excavate, open up or remove the ground above, next to, under or near any part of the supply mains;
 - (c) damage, endanger, remove or destroy, or do any act likely to damage, endanger or destroy any part of the supply mains;
 - (e) make any unauthorized connection to any part of the supply mains or divert or cause to be diverted any electricity there from; and
 - (f) the owner or occupier must limit the height of trees or length of projecting branches in the proximity of overhead lines, or provide a means of protection which in the opinion of the municipality will adequately prevent the tree from interfering with the conductors should the tree, or a branch of it, fall or be cut down; and should the owner fail to observe this provision, the municipality has the right, after prior written notification, or at any time in an emergency, to cut or trim the trees or any

other vegetation, in such a manner as to comply with this provision and must be entitled to enter the property for this purpose.

- (2) The municipality may subject to obtaining an order of court, demolish, alter or otherwise deal with any building, structure or other object constructed, erected or laid in contravention with these by-laws.
- (3) The municipality may in the case of an emergency or disaster remove anything damaging, obstructing or endangering or likely to damage, obstruct, endanger or destroy any part of the electrical distribution system.

Prevention of Tampering with Service Connection or Supply Mains

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

Unauthorised Connections

- 22. No person other than a person specifically authorised thereto by the municipality in writing must directly or indirectly connect, attempt to connect or cause or permit to be connected any electrical installation or part thereof to the supply mains or service connection.

Unauthorised Reconnections

- 23. (1) No person other than a person specifically authorised thereto by the municipality in writing must reconnect, attempt to reconnect or cause or permit to be reconnected to the supply mains or service connection any electrical installation or installations which has or have been disconnected by the municipality.
- (2) Where the supply of electricity that has previously been disconnected is found to have been reconnected—
 - (a) the consumer using the supply of electricity is liable for all charges for electricity consumed between the date of disconnection and the date the electricity supply was found to be reconnected and any other charges raised in this regard;
 - (b) the municipality reserves the right to remove part or all of the supply equipment until such time as payment has been received in full; and
 - (c) the consumer will be responsible for all the costs associated with the reinstatement of such supply equipment.

Temporary Disconnection and Reconnection

- 24. (1) The municipality must, at the request of the consumer, temporarily disconnect and reconnect the supply of electricity to the consumer's electrical installation upon payment of the tariff prescribed for each such disconnection and subsequent reconnection.
- (2) In the event of a necessity arising that requires the municipality to effect a temporary disconnection and reconnection of the supply of electricity to a consumer's electrical installation, and if the consumer is in no way responsible for bringing about this necessity, the municipality is not entitled to payment of the tariff referred to in subsection (1).
- (3) Where there are circumstances which the municipality has good grounds to believe are exceptional, the municipality may temporarily disconnect the supply of electricity to any premises without notice for the purpose of effecting repairs or carrying out tests or for any other legitimate purpose, but, where there are no such exceptional circumstances, the municipality must provide adequate notice to the user of the electricity before a temporary disconnection of electricity services may take place.

Temporary Supplies

- 25. (1) A person who receives a temporary supply of electricity receives it on the clear understanding that it is a condition of the temporary supply of electricity that, if such a supply is found to interfere with the efficient and economical supply of electricity to other consumers, the municipality has the right, after giving reasonable written notice to the consumer, or, under circumstances which it has good grounds to consider exceptional without notice, to terminate the supply at any time and, the municipality is not liable for any loss or damage occasioned to the consumer by such a termination other than loss or damage caused by a wrongful intentional or negligent act or omission by the municipality.
- (2) A person who receives a temporary supply of electricity must be notified by the municipality, before or at the time when he or she receives it, of the provisions of subsection (1).

Temporary Work

26. (1) Electrical installations requiring a temporary supply of electricity must not be connected directly or indirectly to the supply mains except with the special permission in writing of the municipality.
- (2) Full information as to the reasons for and nature of temporary work must accompany the application for permission, and the municipality may refuse the permission or may grant the permission upon terms and conditions as it may consider desirable and necessary.

Load Reduction

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

High, Medium and Low Voltage Switchgear and Equipment

28. (1) In cases where a supply of electricity is given at either high, medium or low voltage, the supply and installation of the switchgear, cables and equipment forming part of the service connection must, unless otherwise approved by the municipality, be paid for by the consumer.
- (2) All equipment contemplated in subsection (1) must be compatible with the municipality's electrical performance standards.
- (3) No person must open, close, isolate, link or earth high or medium voltage switchgear or equipment without giving reasonable prior notice to the municipality.
- (4) In the case of a high or medium voltage supply of electricity, where the consumer has high or medium voltage switchgear installed, the municipality must be advised of the competent person appointed by the consumer in terms of the Regulations, and of any changes made to the appointment.
- (5) In the case of a low voltage supply of electricity, the consumer must provide and install a low voltage main switch and any other equipment required by the municipality or any authorised official.

Substation Accommodation

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

Wiring Diagram and Specification

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

Standby Supply

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

Consumer's Emergency Standby Supply Equipment

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

Circular Letters

33. The municipality may from time to time issue Circulars detailing its requirements regarding matters not specifically covered in the Regulations or these by-laws but which are necessary for the safe, efficient operation and management of the provision of electricity services.

CHAPTER 3: SERVICE PROVIDERS

Agreement and Assignment

34. (1) The municipality may, subject to its responsibilities under section 81 of the Systems Act, discharge any of its obligations under section 2 of these by-laws by entering into a service delivery agreement with a service provider or service providers.
- (2) Subject to the provisions of the Systems Act or any other law, the municipality may assign to a service provider any right or power enjoyed by the municipality under these by-laws whenever the assignment is required to enable the service provider to discharge an obligation under its service delivery agreement.
- (3) If a municipality has entered into a service delivery agreement with a service provider, it must publish a notice in the Provincial Gazette listing which rights and powers of the municipality under which provisions of these by-laws have been assigned to the service provider.
- (4) Where the term "municipality" appears in a provision of these by-laws listed in the notice in subsection (3) it must be read as "service provider" in that provision.

Customer Charter

35. Service providers must provide services in accordance with a customer charter which must be drawn up in consultation with the municipality and must—
- (a) accord with the provisions of these by-laws;
 - (b) be accessible to the public;
 - (c) establish the conditions of supplying the service; and
 - (d) provide for the circumstances in which electricity services may be limited.

CHAPTER 4: RESPONSIBILITIES OF CONSUMERS

Consumer to Erect and Maintain Electrical Installation

36. Any electrical installation connected or to be connected to the supply mains, and any additions or alterations to it which may be made from time to time, must be provided and erected and maintained and kept in good order by the consumer at his or her own expense and in accordance with these by-laws and the Regulations.

Fault in Electrical Installation

37. (1) If any fault develops in the electrical installation, which constitutes a hazard to any person or to livestock, or property, the consumer must immediately disconnect the electricity supply and without delay give notice to the municipality which must immediately take steps to remedy the fault.
- (2) The municipality may require the consumer to reimburse it for any expense it may incur in connection with a fault in the electrical installation.

Discontinuance of Use of Supply

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

Change of Occupier

39. (1) A consumer vacating any premises must give the municipality not less than two full working days' notice in writing of his or her intention to discontinue using the electricity supply, failing which he or she remains liable for the supply.
- (2) If the person taking over occupation of the premises wishes to continue using the electricity supply, he or she must make application in accordance with the provisions of section 5 of this by-law, and if he or she fails to make application for electricity services within ten working days of taking occupation of the premises, the supply of electricity must be disconnected, and he or she is liable to the municipality for the provision of electricity services from the date of occupation till the time when the supply is disconnected.
- (3) Where premises are fitted with a pre-payment meter any person occupying the premises at that time is presumed to be a consumer, unless he or she satisfies the municipality that he or she did not use the electricity supplied to the premises, and if he or she fails to satisfy the municipality, he or she is liable for all tariffs owed to the municipality for that metering point as well as for any outstanding tariffs whether accrued by him or her or not until he or she ceases to occupy the premises or until an application made by him or her in terms of section 5 has been accepted, whichever happens sooner.

Service Apparatus

40. (1) A consumer who applies for the supply of electricity services in terms of section 5 does so on the basis that if the application is granted, he or she is liable for all costs to the municipality arising from damage to or loss of any metering equipment, service protective device, service connection or other apparatus on the premises, unless such damage or loss is shown to have been occasioned by an Act of God or an act or omission of an employee of the municipality or caused by an abnormality in the supply of electricity to the premises; and the municipality must inform him or her that it agrees to supply it to him only on that basis.
- (2) If, during a period of disconnection of an installation from the supply mains, the service main, metering equipment or any other service apparatus, being the property of the municipality and having been previously used, are removed without its permission or damaged so as to render reconnection dangerous, the owner or occupier of the premises during such period must bear the cost of overhauling or replacing the equipment or service apparatus.
- (3) Where there is a common metering position, the liability detailed in subsection (2) must devolve on the owner of the premises.
- (4) The amount due in terms of subsection (2) must be stated in a certificate from the municipality which is presumed, unless the contrary is proved, correctly to reflect the amount stated to be due.

CHAPTER 5:
SPECIFIC CONDITIONS OF SUPPLY

Service Connection

41. (1) The consumer bears the cost of the service connection.
- (2) Notwithstanding subsection (1), ownership of the service connection, laid or erected by the municipality, vests in the municipality and the municipality is responsible for the maintenance of the service connection up to the point of supply.

- (3) The municipality must determine what work should be carried out in order to install a service connection to the consumer's premises.
- (4) A service connection must be laid underground, whether the supply mains are laid underground or erected overhead, unless an overhead service connection is specifically required by the municipality.
- (5) The consumer must provide, fix and maintain on his or her premises ducts, wire ways, trenches, fastenings and clearance to overhead supply mains as are required by the municipality for the installation of the service connection.
- (6) The conductor used for the service connection must have a cross-sectional area according to the size of the electrical supply but must not be less than 10 mm² (copper or copper equivalent), and all conductors must have the same cross-sectional area, unless otherwise approved by an authorised official.
- (7) Unless otherwise approved by the municipality, only one service connection must be provided by the municipality to each registered erf.
- (8) In respect of two or more premises belonging to one owner and situated on adjacent erven, a single bulk supply of electricity may be made available provided the erven are consolidated or notarially tied.
- (9) Any covers of a wire way carrying the supply circuit from the point of supply to the metering equipment must be made to accept the seals of the municipality.
- (10) Within the meter box, the service conductor or cable, as the case may be, must terminate in an un-obscured position and the conductors must be visible throughout their length when cover plates, if present, are removed.
- (11) In the case of blocks of buildings occupied by a number of individual consumers, separate wire ways and conductors or cables must be laid from the common metering room or rooms to each individual consumer in the blocks of buildings. Alternatively, if trunking is used, the conductors of the individual circuits must be clearly identified (tied together every 1,5m) throughout their length.

Metering Accommodation

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

CHAPTER 6: SYSTEMS OF SUPPLY

Load Requirements

43. Alternating current supplies must be provided as prescribed by the Electricity Act, 1987 (Act No. 41 of 1987), and in the absence of a quality of supply agreement, as set out in applicable standard specification.

Load Limitations

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

Interference with Other Persons' Electrical Equipment

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

Supplies to Motors

46. (1) Unless otherwise approved by the municipality, the rating of a low voltage single-phase motor must be limited to 2kW and the starting current must not exceed 70A; and motors exceeding these limits must be wound for three phases at low voltage or a higher voltage as may be required.
- (2) The starting current of three-phase low voltage motors permitted must be related to the capacity of the consumer's service connection, as follows:

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

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

Power Factor

47. (1) If required by the municipality, the power factor of any load must be maintained within the limits 0,85 lagging and 0,9 leading.

- (2) Where, for the purpose of complying with subsection (1), it is necessary to install power factor corrective devices, such corrective devices must be connected to the individual appliance terminals unless the correction of the power factor is automatically controlled.
- (3) The consumer must, at his or her own cost, install such corrective devices.

Protection

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

CHAPTER 7: MEASUREMENT OF ELECTRICITY

Metering

- 49. (1) The municipality must, at the consumer's cost in the form of a direct charge or prescribed fee, provide, install and maintain metering equipment rated by the municipality at the point of metering for measuring the electricity supplied.
- (2) Except in the case of prepayment meters, the electricity used by a consumer during any metering period must be ascertained by the reading of the appropriate meter or meters supplied and installed by the municipality and read at the end of such period except where the metering equipment is found to be defective, or the municipality invokes the provisions of section 51(3) of this by-law, in which case the consumption for the period must be estimated.
- (3) Where the electricity used by a consumer is charged at different tariff levels, the consumption must be metered separately for each rate.
- (4) The municipality must be entitled to meter the supply to blocks of shops and flats, tenement-houses and similar buildings for the buildings as a whole, or for individual units, or for groups of units.
- (5) No alterations, repairs or additions or electrical connections of any description must be made on the supply side of the point of metering unless specifically approved in writing by the municipality.

Accuracy of Metering

- 50. (1) A meter is presumed, unless the contrary is proved, to be registering accurately if its error, when tested in the manner prescribed in subsection (6), is found to be within the limits of error as provided for in the applicable standard specifications.
- (2) The municipality has the right to test its metering equipment.
- (3) If it is established by test or otherwise that the municipality's metering equipment is defective, the municipality must—
 - (a) in the case of a credit meter, adjust the account rendered; or
 - (b) in the case of prepayment meters—
 - (i) render an account where the meter has been under-registering, or
 - (ii) issue a free token where the meter has been over-registering.
- (4) The consumer is entitled to have the metering equipment tested by the municipality on payment of the prescribed fee. If the metering equipment is found not to comply with the system accuracy requirements as provided for in the applicable standard specifications, an adjustment in accordance with the provisions of subsections (3) and (7) must be made and the aforesaid fee must be refunded.
- (5) In case of a dispute, the consumer has the right at his or her own cost to have the metering equipment under dispute tested by an independent testing authority, approved by the municipality, and the result of the test is final and binding on both parties.
- (6) Meters must be tested in the manner as provided for in the applicable standard specifications.
- (7) When an adjustment is made to the electricity consumption registered on a meter, the adjustment must either be based on the percentage error of the meter as determined by the test referred to in subsection (5) or upon a calculation by the municipality from consumption data in its possession, and where applicable, due allowance must be made, where possible, for seasonal or other variations which may affect the consumption of electricity.
- (8) When an adjustment is made as contemplated in subsection (7) the adjustment may not exceed a period of six months preceding the date on which the metering equipment was found to be inaccurate, but the application of this section does not prevent a consumer from claiming back overpayment for any longer period where the consumer is able to prove his or her claim in a court of competent jurisdiction.

- (9) Where the actual load of a consumer differs from the initial estimated load provided for under section 5(1) to the extent that the municipality considers, on good grounds, that it necessary to alter or replace its metering equipment to match the load, the costs of such alteration or replacement must be borne by the consumer.
- (10) Prior to the municipality making any upward adjustment to an account in terms of subsection (7), it must—
 - (a) notify the consumer in writing of the monetary value of the adjustment to be made and the reasons therefore;
 - (b) in such notification provide sufficient particulars to enable the consumer to submit representations relating to what has been said in the notice, and
 - (c) call upon the consumer in such notice to provide it with reasons in writing, if any, within 21 days or such longer period as the municipality may permit, why his or her account should not be adjusted as notified.
- (11) The municipality is entitled to adjust the account as notified in subsection (10), but may do so only if—
 - (a) it has considered any reasons provided by the consumer in terms of subsection (10) and must not make any adjustment unless satisfied that there are good grounds for doing so; and
 - (b) an authorized official decides, after having considered the representation made by the consumer that the representations do not establish a case warranting an amendment to the monetary value established in terms of subsection (7), the municipality is entitled to adjust the account as notified in terms of subsection (10), subject to the consumer's right to appeal against the decision of the official in terms of section 62 of the Systems Act.

Reading of Credit Meters

- 51. (1) Unless decided otherwise by the municipality, credit meters must normally be read at intervals of one month and the fixed or minimum charges due in terms of the tariff must be assessed accordingly.
- (2) The municipality is not obliged to effect any adjustments to the charges contemplated in subsection (1).
- (3) If for any reason the credit meter cannot be read, the municipality may render an estimated account based on rational principles taking into account factors including previous usage; and the electrical energy consumed must be adjusted in a subsequent account in accordance with the electrical energy actually consumed.
- (4) When a consumer vacates a property and a final reading of the meter is not possible, an estimation of the consumption may be made by the municipality and the final account rendered accordingly.
- (5) If a special reading of the meter is desired by a consumer, this may be obtained upon payment of the prescribed fee to the municipality.
- (6) If any calculating, reading or metering error is discovered in respect of any account rendered to a consumer, the error must be corrected in subsequent accounts; and any such correction must only apply in respect of accounts for a period of 6 months preceding the date on which the error in the accounts was discovered, and must be based on the actual tariffs applicable during the period.
- (7) The application of subsection (6) does not prevent a consumer from claiming back overpayment for any longer period where the consumer is able to prove the claim in any court of competent jurisdiction.

Prepayment Metering

- 52. (1) No refund of the amount tendered for the purchase of electricity credit must be given at the point of sale after initiation of the process by which the prepayment meter token is produced.
- (2) Copies of previously issued tokens for the transfer of credit to the prepayment meter may be issued at the request of the consumer.
- (3) When a consumer vacates any premises where a prepayment meter is installed, no refund for the credit remaining in the meter must be made to the consumer by the municipality.
- (4) The municipality is not liable for the reinstatement of credit in a prepayment meter lost due to tampering with, or the incorrect use or the abuse of, prepayment meters or tokens.
- (5) The municipality may, at its discretion, appoint vendors for the sale of credit for prepayment meters and must not guarantee the continued operation of any vendor.

CHAPTER 8: ELECTRICAL CONTRACTORS

Additional Requirements

- 53. (1) Where an application for a new or increased supply of electricity has been made to the municipality, it may at its discretion accept notification of the completion of any part of an electrical installation, the circuit

arrangements of which permit the electrical installation to be divided up into well-defined separate portions, and such part of the electrical installation may, at the discretion of the municipality, be inspected, tested and connected to the supply mains as though it were a complete installation.

- (2) An application for a new or increased supply of electricity is done on the condition that the person making the application accepts that the examination, test and inspection that may be carried out at the discretion of the municipality, in no way relieves the electrical contractor, accredited person or the user or lessor, as the case may be, from his or her responsibility for any defect in the installation; and the examination, test and inspection and must not be taken under any circumstances (even where the electrical installation has been connected to the supply mains) as indicating or guaranteeing in any way that the electrical installation has been carried out efficiently, or with the most suitable materials for the purpose, or that it is in accordance with these by-laws or the safety standard, and the municipality must not be held responsible for any defect or fault in such electrical installation.
- (3) Before the municipality accepts notification in terms of subsection (1), it must inform the applicant of the provisions of subsection (2).

Damage by Electrical Contractors

54. Where an electrical contractor, or any person accredited by the municipality, performs work on a consumer's premises, he or she does so on behalf of the consumer and under the control or supervision of the consumer, and the municipality is neither liable for the cost arising from the work done nor in any way liable for any loss or damage which may be occasioned by fire or by an accident arising from the state of the wiring on the premises.

CHAPTER 9: COST OF WORK

Cost of Work

55. (1) The municipality may repair and make good any damage to property done in contravention of these by-laws or resulting from a contravention of these by-laws, provided that in effecting any repairs it does so in a manner that is fair.
- (2) The cost of any such work carried out by the municipality which was necessary due to the contravention of these by-laws by a consumer must be borne by the consumer and must be reflected as a debit against his or her account.

CHAPTER 10: ADMINISTRATIVE ENFORCEMENT PROVISIONS

Part I: Appointment of Authorised Officials

Appointment of Authorised Officials

56. (1) The municipality must appoint authorised officials vested with the power to exercise the powers of an authorised official under these by-laws and to discharge the municipality's right of access to premises in terms of section 101 of the Systems Act.
- (2) An authorised official is not a peace officer within the meaning of the Criminal Procedure Act, 1977 (Act No. 51 of 1977) and has no powers of arrest in respect of any offence in terms of these by-laws.
- (3) In appointing an authorised official, the municipality must have regard to—
 - (a) a person's technical understanding and experience of matters related to electricity services; and
 - (b) any other factor that may be relevant to supervision and enforcement of these by-laws, whether technical or administrative.
- (4) An authorised official may be an employee of the municipality or any service provider of the municipality.
- (5) Upon appointment, authorised officials must be issued with a means of identification by the municipality which must state the name and function of the authorised official, and must include a photograph of the officer.
- (6) An authorised official, acting within the powers vested in him or her by these by-laws, is required to present identification on demand by any member of the public.

Part II: Powers of Authorised Officials

Right of Admittance to Inspect, Test or do Maintenance Work

57. (1) An authorised official may, by notice in writing served on the owner or occupier of any property, require the owner or occupier to provide, on the day and at the hour specified in such notice, access to such property to the authorised official for the purpose of—
- (a) doing anything authorised or required to be done by the municipality under these by-law or any other law;
 - (b) inspecting and examining any service mains and anything connected with it;
 - (c) enquiring into and investigating any possible source of electricity supply or the suitability of immovable property for any work, scheme or undertaking of the municipality and making any necessary survey in this connection;
 - (d) ascertaining whether there is or has been a contravention of the provisions of these by-law or any other law, and
 - (e) enforcing compliance with the provisions of these by-laws or any other law,
- (2) Notwithstanding subsection (1), an authorised official who has reasonable grounds to suspect that harm or damage to property may arise or has arisen as a result of the electricity supply to a premises, or in any way related with the provision of electricity services, the authorised official may, without notice, enter and search any affected premises and take any action necessary to prevent the harm or damage to property including disconnecting the system in terms of section 9.
- (3) Any action under this section, must be conducted with strict regard to decency and order, respect for a person's dignity, freedom and security, and personal privacy.

Refusal or Failure to Give Information

58. (1) In order to monitor or enforce compliance with these by-laws, an authorised official, may, require any person to disclose information, either orally or in writing, and either alone or in the presence of witnesses, on any matter to which these by-laws relate and require that the disclosure be made on oath or affirmation.
- (2) An authorised official may be accompanied by an interpreter and any other person reasonably required to assist the authorised official in conducting the inspection.
- (3) An authorised official must, on request by a person requested to give information, provide his identification as an authorised official.
- (4) No person must refuse or fail to give such information as may be reasonably and lawfully required of him or her by any authorised official or render any false information to any such official regarding any electrical installation work completed or contemplated.

Refusal of Admittance

59. No person must wilfully hinder, obstruct, interfere with or refuse admittance to any authorised official in the performance of his or her duty under these by-laws or of any duty connected with or relating to this by-law.

CHAPTER 11: JUDICIAL ENFORCEMENT PROVISIONS

Offences

60. (1) Subject to subsection (2), any person who—
- (a) contravenes or fails to comply with any provisions of this by-law, other than a provision relating to payment for electricity services;
 - (b) fails to comply with any notice or order issued or condition imposed in terms of or for the purposes of this by-law;
 - (c) fails to comply with any lawful instruction given in terms of or for the purposes of this by-law; or
 - (d) who obstructs or hinders any authorised representative or employee of the municipality in the execution of his or her duties under this by-law;
- is guilty of an offence and is liable to payment of a fine of R2000.00 (Two Thousand Rand) for individual natural persons or imprisonment not exceeding 6 months and R10 000.00 (Ten Thousand Rand) for legal persons (any entity who is not a natural person), or to such imprisonment without the option of a fine or to

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

- (2) Any person committing a breach of the provisions of this by-law is liable to recompense the municipality for any loss or damage suffered or sustained by it in consequence of the breach.

CHAPTER 12: GENERAL

Service of Documents and Process

61. For the purposes of the service of any notice, order or other document relating to non-payment for the provision of electricity services, the address of the owner of the premises to which electricity services are provided is the place where service of documents and process must be made.

Service of Notices

62. (1) Any notice, order or other document that is served on any person in terms of these by-laws must, subject to the provisions of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), be served personally, failing which it may be regarded as having duly been served—
- (a) when it has been left at that person's place of residence or business, or, where his or her household is situated in the Republic, when it has been left with a person who is apparently 16 years or older;
 - (b) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic either personally or in the manner provided by paragraphs (a), (c) or (d);
 - (c) if that person's address and the identity or the address of his or her agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the property or premises, if any, to which it relates; or
 - (d) subject to section 61, if sent by registered post, whether service by registered post is, or is not required, if effected by sending it by properly addressing it to the addressee's last known residence, place of business or postal address, prepaying and posting a registered letter containing the notice, order or other document, and unless the contrary be proved, is presumed to have been effected at the time at which the letter would be delivered in the ordinary course of post.
- (2) When any notice or other document must be authorised or served on the owner, occupier or holder of any property or right in any property, it is sufficient if that person is described in the notice or other document as the owner, occupier or holder of the property or right in question, and it is not necessary to name that person.
- (3) Any legal process is effectively and sufficiently served on the municipality when it is delivered to the municipal manager or a person in attendance at the municipal manager's office.
- (4) Any legal process is effectively and sufficiently serviced on the service provider when it is delivered to the managing director or a person in attendance at the managing director's office.

Compliance with Notices

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

CHAPTER 13: REPEAL OF BY-LAWS

Repeal of By-Laws

64. (1) Any by-laws relating to electricity supply adopted by the Municipality or any municipality now comprising an administrative unit of the Municipality is repealed from the date of promulgation of these by-laws.
- (2) Any permission obtained, right granted, condition imposed, activity permitted or anything done under a repealed law, must be deemed to have been obtained, granted, imposed, permitted or done under the corresponding provision (if any) of this By-law, as the case may be.

Short title

65. This By-law is called the Electricity Supply By-law.

MATJHABENG LOCAL MUNICIPALITY



DRAFT WATER RESTRICTIONS BY-LAWS

PREAMBLE

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

WATER RESTRICTIONS BY-LAW.

SCHEDULE

WATER RESTRICTIONS BY-LAW

Purpose

To limit or restrict the use of water in terms of section 21 of the Water Services Act, 1997 (Act No. 108 of 1997), as read with section 156 of the Constitution of the Republic of South Africa, 1996.

Definitions

1. In this by-law, unless the context indicates otherwise—
 "Council" means the Municipality of Matjhabeng and includes any authorised committee, functionary or official;
 "consumer" means any end user who receives water from Council, including an end user in an informal settlement;
 "emergency situation" means any situation declared as such in terms of a law;
 "water supply services" means the abstraction, conveyance, treatment and distribution of potable water, water intended to be converted to potable water or water for commercial use or water for industrial use.

Limitation or discontinuation of water supply services

2. (1) Council may limit or discontinue the provision of water supply services or the use of water where—
 - (a) national disasters or regional disasters cause disruptions in the provision of services; or
 - (b) sufficient water is not available for any other reason.
- (2) Council may differentiate between types of consumers or areas within the Municipal area.
- (3) Council may determine the form and manner in which the limitation, discontinuance or use will apply.
- (4) Council must, if it intends limiting or discontinuing the provision of water supply services or the use of water in terms of subsection (1), do so in accordance with the procedure set out in section 4, unless—
 - (a) other consumers would be prejudiced thereby;
 - (b) there is an emergency situation; or
 - (c) it intends applying the limitation or discontinuation in respect of an individual consumer who has interfered with a limited or discontinued service.

Measures for the promotion of water conservation

3. Council may impose measures to limit, discontinue and restrict the use of water for the promotion of water conservation and must do so in accordance with the procedure set out in section 4.

Procedure

4. (1) After Council has determined that it wishes to limit or discontinue the supply of water services or the use of water in terms of section 2, or wishes to impose measures to restrict the use of water for the promotion of water conservation in terms of section 3, Council must immediately cause to be conspicuously displayed at a place installed for this purpose at the offices of Council as well as at such other places within the Municipal Area as may be determined by Council, a notice stating—
 - (a) the general purport of the intended limitation, discontinuation or water conservation measures, including—
 - (i) the duration of the limitation, discontinuation or water conservation measures, if known;
 - (ii) the particular use of water to be limited or discontinued or in respect of which water conservation measures are to be applied;
 - (iii) the area in which the limitation, discontinuation or water conservation measures are to be applied, if they are not applicable throughout the Municipal Area;

- (iv) the circumstances in which the proposed limitation, discontinuation or water conservation measures are to be applied, if they are not generally applicable;
 - (b) the date on which the limitation, discontinuation or water conservation measures comes into operation;
 - (c) the date on which the notice is first displayed;
 - (d) the penalties which will be imposed for contravention of the notice; and
 - (e) that any person who wishes to object to the intended limitation, discontinuation or water conservation measures must do so in writing within 14 days after the date on which the notice is first displayed.
- (2) Council must also immediately cause a copy of the notice referred to in subsection (1) to be published in the press in the manner determined by Council.
- (3) Where—
- (a) no objection in writing is received within the period referred to in subsection (1)(e), the limitation, discontinuation or water conservation measures comes into operation on the date contemplated in subsection (1)(b);
 - (b) an objection is received within the period referred to in subsection (1)(e), Council must consider every objection and may amend or withdraw the intended limitation, discontinuation or water conservation measures and may determine a date other than the date contemplated in subsection (1)(b) on which the limitation, discontinuation or water conservation measures shall come into operation, whereupon it must cause a copy of the notice referred to in subsection (1), with the necessary changes, to be published in the press in the manner determined by Council and any limitation, discontinuation or water conservation measure will apply from such other date.

Exemptions

5. Any person may apply in writing for exemption from the provisions of any notice published in terms of this Bylaw and Council may grant exemption and impose conditions in respect of the exemption.

Offences and penalties

6. Any person who—
- (1) contravenes the terms of any notice issued under this By-law; or
 - (2) reconnects a service which has been discontinued under this By-law,
- is guilty of an offence and is liable to payment of a fine of R2000.00 (Two Thousand Rand) for individual natural persons or imprisonment not exceeding 6 months and R10 000.00 (Ten Thousand Rand) for legal persons (any entity who is not a natural person), or to such imprisonment without the option of a fine or to both such fine and such imprisonment.
- (3) committing a breach of the provision of these by- laws is liable to compensate the municipality for any loss or damage suffered or sustained by it in consequence of the breach of this By-law.

Transitional provision

7. Any limitation or discontinuation of a water supply service or any measure for the promotion of water conservation imposed within the municipal area prior to the promulgation of this by-law is deemed to have been done in terms of this by-law.

Repeal

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

Short title

9. These by-laws are called the Water Restrictions By –laws.

MATJHABENG LOCAL MUNICIPALITY



DRAFT INDIGENT SUPPORT BY-LAW

PREAMBLE

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

SCHEDULE

INDIGENT SUPPORT BY-LAW

WHEREAS National Government has a constitutional duty to provide an equitable share of nationally raised revenue to municipalities.

AND WHEREAS the aforesaid equitable share enables municipalities to provide basic services to poorer communities in an affordable manner and improve administrative capacity to ensure democratic governance at the local level.

AND WHEREAS Section 74 of the Local Government: Municipal Systems Act 2000,(Act No. 32 of 2000) requires a Municipal Council to adopt and implement a Tariff Policy which must, inter alia, take into consideration the extent of subsidisation of tariffs for poor households.

The Council hereby makes the following by-law -

DEFINITIONS

1. In the interpretation of these by-laws, the singular includes the plural and vice versa and the following words and expressions have the meanings respectively assigned to them hereunder, unless such meanings are repugnant to or inconsistent with the context in which they occur:-

"Council" means the Council of Matjhabeng Local Municipality and includes any duly authorised political structure or office bearer as defined in the Local Government: Municipal Finance Management Act No. 56 of 2003 and/or any duly authorised official of the Council;

"Household Income" means all sources of income being formal and/ or informal of nature including, but not restricted to, salaries, revenue generated, pensions, fixed deposits, investments, state subsidies and or grants, private financial support or contributions from outside the indigent household;

"Indigent" means an indigent household whose total household income is as determined by Council annually during the budget process.

"Indigent debtor" means the head of an indigent household, inclusive of destitute indigents and indigents, being old age pensioners, the unemployed and households with a total monthly income as determined in the Indigent Support Policy -

- (a) who applies for the provision of services from the municipality; and
- (b) who makes application for indigent support in terms of these by-laws; and
- (c) who is regarded as the representative of all members of his or her household

"Indigent Households" include all individual residing at the residential premises of the indigent debtor, inclusive of destitute indigent and indigents, by whom and for which application is made, which premises has access to municipal services;

"Indigent and Free Basic Services Subsidy Policy" means the policy for the provision of indigent subsidies to qualifying indigent debtors in terms of the Council's policy relating to the following -

- (a) Free basic electricity;
- (b) Free basic water;
- (c) Subsidised sewerage rates and refuse;
- (d) Assisted arrear debt recovery programme as determined by Council annually during the budget process, in line with National norm and guidelines;

Municipality means the Local Municipality established in terms of Section 12 of the Municipal Structures Act No. 117 of 1998, and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with these by-laws by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

"Municipal Manager" means the Municipal Manager of the Municipality or his or her delegatee acting in terms of power delegated to him or her by the said Municipal Manager with the concurrence of the Council;

"Poverty" is if a household earns gross income lower than a set amount that household and its members are deemed to be living in poverty.

INDIGENT SUPPORT POLICY

2. (1) The Council must adopt an Indigent and Free Basic Services Subsidy Policy, which must embody and provide procedures and guidelines for the subsidisation of basic services and tariff charges to indigent households in its municipal area.
- (2) The object of the Indigent and Free Basic Services Subsidy Policy referred to in Section 2 must be to ensure -
 - (a) The provision of basic services to the community in a sustainable manner within the financial and administrative capacity of the Council; and
 - (b) The provision of procedures and guidelines for the subsidisation of basic service charges to indigent households.

GUIDING PRINCIPLES

3. (1) The following guiding principles must be contained in the Indigent and Free Basic Services Subsidy Policy referred to in Section 2 -
 - (a) Relief will be provided by the Council to registered residential consumers of services who are declared indigent by the Council.
 - (b) The Council must, wherever possible, ensure that any relief provided in terms of this bylaw and its policy is constitutional, practical, fair, equitable and justifiable in order to avoid the alienation of any group of households.
 - (c) Differentiation between residential consumers must, in accordance with the Bylaws, Policies and resolutions of the Council and legislation, be permitted.
 - (d) Differentiation must also be permitted in respect of the level of service provided to or to be provided to indigent households.
 - (e) The application of the indigent support subsidy for minimum service levels should not result in the creation of a massive bureaucratic administration that would not be cost effective to implement.
 - (f) A differentiation must be made between those households who cannot afford to pay for basic services and those households who refuse to pay for such services.
 - (g) The payment for services rendered should be affordable for the indigent.
 - (h) The Indigent and Free Basic Services Subsidy Policy will apply during each financial year of Council.
 - (i) Financial support to the indigent will be dependent upon the availability of funds to enable the Council to provide such support.
 - (j) The Council must, annually, review and amend the qualification criteria for indigent support provided by it if and when necessary.
 - (k) The collective or joint gross income of members of indigent households will always be taken into account to determine the level of financial support to be granted to indigent households.
 - (l) Indigent households must formally apply on the prescribed application form for indigent support and will qualify for such support according to prescribed criteria or principles to be laid down by the Council.
 - (m) The household income must be correctly reflected on the application form requesting indigent support.
 - (n) The applicant who signs the prescribed application form is regarded as the indigent debtor and the representative of the indigent household.
 - (o) After the application form for indigent support has been completed by an indigent debtor it must be assessed in terms of the policy.
 - (p) All approved indigent debtors should be registered on a municipal database system.
 - (q) The onus will be on the approved indigent debtor to inform the Council of any change in his or her status or personal household circumstances.
 - (r) All indigent households should be re-evaluated after a period of six months or such period as the Council may determine to assess the provision of continued basic services and indigent support to them.
 - (s) Disciplinary measures decided by the Council, should be imposed on indigent debtors who misuse the indigent support policy of the Council and/or provide incorrect information to the Municipality.
 - (t) An approved community communications programme, embodying the principles of transparency and fairness, must be implemented in respect of the indigent support policy.
 - (u) Skills Training and other education related programmes should be supported to develop the indigent to become self - sufficient and thereby reduce the rate of indigence.

QUALIFICATION, ACCEPTANCE AND REGISTRATION CRITERIA

4. The qualification, acceptance and registration criteria for indigent support and the services qualifying for such support must be determined by Indigent and Free Basic Services Subsidy Policy as reviewed annually during the budget process.

PROVISION OF INDIGENT SUPPORT SUBSIDIES

5. Indigent Support Subsidies will be provided by the Council on the following basis -
 - (a) Relief will only be provided to those indigent households who apply and qualify therefore.
 - (b) The relief must be significant so as to relieve the recipient of an indigent subsidy from the financial hardship of paying fully for services received from the Municipality for a specific period.
 - (c) All registered indigents will be charged the determined subsidised tariff or charge for a service.
 - (d) The indigent will receive a monthly account, which will reflect the amount due and payable.
 - (e) The subsidised amount will be reflected against the indigent subsidy vote.
 - (f) Subject to annual resubmission by the applicant of the application to Council on the date as determined by Council.

BALANCE ON SERVICE CHARGES, TARIFFS AND FEES

6. Council must implement a procedure to assess and recover any arrear debt due by an indigent, after deduction of the indigent support subsidy, from him or her in accordance with the Credit Control Policy of the Council.

INDIGENT STATUS

7. The Council must not amend, alter, withdraw, or suspend in terms of these bylaws and its policy the indigent households status without first having forwarded notification thereof to the said indigent household.

SPECIAL TARIFF FOR SERVICES

8. The Council may determine special tariffs for indigent households, subject to the availability of funds and compliance with prescribed criteria for municipal services and amenities

RESPONSIBILITIES OF MUNICIPAL MANAGER

9. It is the responsibility of the Municipal Manager -
 - (a) To create, maintain and update a register of all debtors receiving indigent support subsidies from the Council in terms of these by-laws;
 - (b) To reflect the indigent status of debtors in the accounting records of the Municipality;
 - (c) To advise and keep indigent debtors informed of the approval, amendment, suspension or withdrawal of an application for indigent support in terms of these bylaws and the conditions under which such support will be granted, including the renewal of indigent support applications;
 - (d) To report any instances of misuse of the Council's Indigent and Free Basic Services Subsidy Policy to the Council;
 - (e) To report at regular intervals as may be required by Council on the progress or otherwise of the implementation of the Council's Indigent and Free Basic Services Subsidy Support Programme.
 - (f) To publish a copy of these by-laws, policy and any amendments thereto on the official website of the Municipality.

BUDGETING FOR INDIGENT SUPPORT

10. (1) The Council must annually budget for the total indigent subsidy to be granted to indigent debtors in terms of these by-laws. Such amount must, upon approval of the budget of the Council, be reflected against a separate vote in the name of indigent subsidy.

- (2) The total value of indigent subsidies for all subsidised services must be reflected against such indigent subsidy vote on a monthly basis.

REVIEW AND AMENDMENT OF INDIGENT SUPPORT POLICY

- 11. (1) The Council has the discretionary power to amend any clause, stipulation or tariff embodied in its Indigent and Free Basic Services Subsidy Policy in the interests of all the parties concerned at the annual budgetary review of Council policies in conjunction with the consideration of the annual budget of the Council.
- (2) Indigent and Free Basic Services Subsidy Policy adopted in terms of these bylaws must be regarded as a budget-related policy and must be reviewed on an annual basis by the Council during the annual budget review. Any amendment thereto must be considered and adopted in conjunction with the adoption of the annual budget of the Council.

OFFENCES

- 12. Any indigent household who -
 - (a) Obstructs or hinders the Council in the exercise of its powers or performance of functions or duties under these by-laws;
 - (b) Uses or interferes with Council equipment or consumption of services supplied;
 - (c) Tampers or breaks any seal on any meter installed, or with the water restrictor system installed or on any equipment belonging to the Council, or for any reason as determined by the Chief Financial Officer causes interference with the service provision and the service used;
 - (d) Furnishes misleading information knowing it to be false or misleading;
 - (e) Contravenes or fails to comply with a provision of these by-laws;Is guilty of an offence and is liable upon conviction to a fine not exceeding R1000 or to imprisonment for a period not exceeding three months or both such a fine and imprisonment and, in addition, may be charged for usage, as estimated by the Chief Financial Officer based on average usage during the previous six months or as may be determined by resolution of the Council from time to time.

NOTICES AND DOCUMENTS

- 13. (1) A notice or document issued by the Council in terms of these by-law is deemed to be duly issued if signed by an employee duly authorized by the Council.
- (2) If a notice is to be served on a person in terms of these by-laws, such service must be effected by -
 - (i) Delivering the notice to him or her personally;
 - (ii) By delivering the notice at his or her residence or to a person apparently not less than sixteen years of age and apparently residing or employed there;
 - (iii) If he or she has nominated an address for legal purposes, by delivering the notice to such an address; or
 - (iv) By registered or certified post addressed to his or her last known address; or
 - (v) If service cannot be effected in terms of the aforesaid subsections by affixing it to the principal door of entry to the premises, or displaying it on a conspicuous place on the land.

AUTHENTICATION OF DOCUMENTS

- 14. (1) Every order, notice or other document requiring authentication by the Council is sufficiently authenticated, if signed by the Municipal Manager or by a duly authorized employee of the Council;
- (2) Delivery of a copy of the document must be deemed to be delivery of the original.

RESPONSIBILITY OF COMPLIANCE WITH THESE BY-LAWS

- 15. The indigent debtor is responsible for ensuring compliance with these by-laws in respect of all or any matters relating to the indigent support granted. The indigent debtor is responsible for compliance with these by-laws and policy in respect of matter relating to the use of any water, electricity, sanitation installation and other services provided by Council.

AVAILABILITY OF BY-LAWS

16. (1) A copy of these by-laws must be included in the municipalities Municipal Code as required in terms of section 15 of the Municipal Systems Act, 2000 (Act No. 32 of 2000) and shall be displayed on the official website of the municipality.
- (2) A copy of these by-laws must be available for inspection at the municipal offices at all reasonable times.
- (3) A copy of the by-laws may be obtained against payment of a prescribed fee from the Council.

APPEALS AGAINST DECISIONS OF THE COUNCIL

17. An indigent household application, which has been declined may appeal against such decision which appeal procedure must be laid down within the policy.

CONFLICT OF BY-LAWS

18. If there is any conflict between these by-laws and the Credit Control and Debt Collection by-law will prevail if applicable.

SHORT TITLE AND COMMENCEMENT

19. This By - Law is called the Indigent Support By-Law.

MATJHABENG LOCAL MUNICIPALITY



FRESH PRODUCE MARKETS BY-LAWS

PREAMBLE

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

SCHEDULE

FRESH PRODUCE MARKETS BY-LAW

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CHAPTER 1

1. Definitions

1. In these By-laws, any word or expression which has been defined in the Agricultural Produce Agents Act, 1992 (Act No. 12 of 1992), has that meaning and, unless the context otherwise indicates -
 - "Act"** means Agricultural Produce Agents Act, 1992 (Act No. 12 of 1992);
 - "Administrative Tribunal"** means any administrative tribunal charged by law or delegation of the Council to resolve disputes in terms of this by-law.
 - "approved"** means approved by the Council;
 - "article"** means any produce, goods, object or thing brought onto the market for any purpose whatsoever,
 - "Buyer"** means any person entering the precincts of the market site for the purpose of buying any article on the market or any person who has concluded a direct sale, a direct purchase or a private treaty sale in terms of this by-law;
 - "Buyer's Card"** means a card referred to in section 30 (1) issued to a buyer for the purposes of enabling such buyer to purchase produce on the market;
 - "Consignment"** means any quantity of produce entrusted to the Council or a market agent for sale on behalf of any person;
 - "Constitution"** means the Constitution of the Republic of South Africa, 1996;
 - "Container"** means any box, carton, pallet, tray, pocket, package or other receptacle of a shape and size approved by the Council;
 - "Council"** means
 - (a) the Local Municipality of Matjhabeng established in terms of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), exercising its legislative and executive authority through its municipal Council;
 - (b) its successor in title;
 - (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, 2000 (Act No 32 of 2000) or any other law, as the case may be.
 - "Direct sale"** means any sale of produce concluded by a market agent between a vendor and a buyer, which is in accordance with this by-law, but in respect of which delivery of produce is made directly between vendor and the buyer, which sale is recorded in Council's official trading system without the produce concerned arriving at or being placed on the market site;
 - "Direct purchase"** means the sale of produce concluded between a vendor and a buyer which is in accordance with this by-law without the sale being concluded by a market agent and which sale goes through Council's official trading system on the market and takes place on the market site;
 - "Loading Bay"** means any area on the market site demarcated by the Council as a "loading bay" with signs and markings laid down under the regulations made under the Road Traffic Act, 1989 (Act No. 29 of 1989);
 - "Market"** means Council's National Fresh Produce Market established on the area known as Matjhabeng / Welkom Market and includes all land, buildings, plat-forms and other property within the said area, used either wholly or partially, directly or indirectly for the purpose of conducting the market; or any other market established by the Council within its area of jurisdiction;
 - "Market Agent"** means a fresh produce agent as defined in the Act, or someone who facilitates sales of any produce for the acquisition of gain for his or her own account or in a partnership or who, on behalf of any other person, buys or sells any produce on the market or negotiates in connection therewith or canvasses or undertakes or offers to canvass to a buyer or vendor therefore, or who concludes a direct sale, direct purchase or private treaty sale;

"Market dues" means all monies due and owing to the Council by any party to any market transaction in terms of this by-law read with the market tariffs;

"Market tariffs" means the tariffs determined by the Council from time to time;

"Nuisance" means any act, omission or conduct which is offensive to any person or which materially interferes with the orderly conduct of the market;

"Private Treaty Sale" means a sale negotiated and concluded between a market agent and a buyer which is recorded in Council's official trading system;

"Procurement" means the distribution of information with a view to gather, store, or organise the movement of or the handling of produce;

"Produce" means any kind of agricultural or horticultural produce, or commodity as approved by Council from time to time;

"Produce entry document" means a document issued to a seller by the Council prior to the entry of the vendor into the market which must contain such information as the Council may determine;

"Sales docket" means a document issued by the Council containing the information set out in section 30 (5);

"Salesperson" means a person in the employ of a market agent, who acts on behalf of such market agent in any transaction on a fresh produce market or who concludes a direct sale, direct purchase or private treaty sale and is duly authorised by the Council to be employed as a salesperson on that market and who is in possession of a valid permit issued by the Council;

"Salesperson's Permit" means the document issued by the Council authorising a salesperson, employed by a market agent, to operate on a fresh produce market in a specific sales section;

"Unit" means the quantity of any produce which forms the basis upon which the price of such produce is calculated, except where the produce is contained in an unbroken container, in which case such produce, as so contained, must constitute a unit;

"Vendor" means the owner of produce consigned to or brought onto a produce market for sale, or any person bringing any article onto the market for sale or any other purpose, either for himself or for any other person through a market agent, or any other person on whose behalf a market agent has concluded a direct sale, direct purchase or private treaty sale.

"Wholesaler" means a person on the market site who, in terms of a valid contract with the Council, has a right to procure or buy produce, be involved in a direct sale or provide produce to other vendors within an approved designated facility and within Council's official trading system.

CHAPTER 2

Applicability of By-Law

2. This by-law is applicable on all markets established, controlled or managed by the Council within its jurisdiction.

CHAPTER 3

General Regulations on Market Site

Business Hours

3. The market must be opened on such days and during such hours as the Council may from time to time determine.

Vehicles and Security

4. (1) The Council must control and regulate the volume and movement of vehicles entering the market or within the precincts of the market by way of written or oral instructions.
- (2) The Council is empowered to set aside parking spaces on the market from time to time and regulate the use of such parking spaces.
- (3) The Council must set aside loading bays to cater for the loading and off-loading of goods.
- (4) The Council may forbid any vehicle or any class of vehicle from entering or being on the market.
- (5) The Council or its authorised representative or any Peace Officer may on the market, without warrant, search any vehicle or receptacle of whatever nature and seize any article in respect of which any offence has been, or on reasonable grounds, is suspected to have been committed.

Conduct and Control

5. The conduct of the market is under the control of the Market Master in accordance with all relevant laws and resolutions of the Council, and all persons on the market must obey his or her lawful instructions and all such relevant laws and resolutions, including the provisions of these by-laws.

General Conduct of Persons on the Market Site

6. (1) The Council must take all reasonable steps as may be necessary to ensure the safety and health of all persons on the market and an appropriate environment for the conduct of a fresh produce market and to this end must control and regulate the conduct of persons entering and upon the market site by way of written or oral instructions, directives or policies as amended from time to time.
- (2) No person must enter any part of the market without the permission of the Council subject to such conditions as it may impose, and no child under the age of 16 years must at any time be admitted to any part of the market except when under the direct supervision of an adult who will be responsible and accountable for such minor.

Registration of Porters or Carriers

7. (1) No person must ply for hire as a porter or carrier on the market, unless in possession of a permit issued by the Market Master. Such a permit is valid for one week and may be issued to persons approved by the Market Master upon payment of a charge determined in terms of the Act.
- (2) Every person plying for hire as a porter or carrier on the market must be in possession of a permit as mentioned in subsection (1) by the Market Master.
- (3) No porter or carrier on the market must ply or canvass for hire by shouting or by persistently following a buyer or prospective buyer or fail to keep his or her person and clothing in a clean and tidy condition to the satisfaction of the Market Master.
- (4) No porter or carrier on the market must, at any time while he or she is not engaged or plying for hire be upon any portion of the market other than an enclosure or area set aside by the Market Master for such purpose.
- (5) Any porter or carrier contravening subsections (1) to (4) inclusive must be ordered off the market by the Market Master who may also cancel his or her permit, and no refund of any charge paid by such person must be made in such event.

Market Sales

8. (1) The Council must take all reasonable steps as may be necessary -
 - (a) to ensure that the business conducted on the commission floor is transacted in accordance with the laws relating to fresh produce markets.
 - (b) to ensure that all disputes relating to market transactions are resolved as expeditiously as possible.
- (2) The Council may -
 - (a) satisfy itself in such manner as it may determine that a consignment is truly represented by any sample displayed or offered for sale on the market;
 - (b) inspect any goods brought onto the market site;
 - (c) inspect any goods purchased on the market whilst such goods are on the market site;
 - (d) impound any goods which is the subject of any, dispute on the market site until such time as such dispute is resolved.
- (3) The Council may by reasonable notice on a notice board or otherwise forbid the sale of any item on the market;
- (4) If the Council reasonably suspects that any articles submitted for sale on the market are stolen property, it must refuse to allow such articles to be offered for sale or to permit them to be sold, and it must, if it so suspects only after the sale, retain the proceeds of such sale until it has been satisfied as to the ownership of such articles.
- (5) The Council may at the cost of the owner impound, reject or decline to accept any article which in its opinion is offensive, diseased, unsound, unwholesome or unfit for consumption by human beings or animals, or is contained in a container likely to contaminate it or any other article with which such a container may come into contact.

- (6) The Council may by reasonable notice on a notice board or otherwise prohibit or prescribe the use of certain containers for different classes of articles.
- (7) The Council may refuse to release any article if it has reason to believe that either a buyer, vendor, market agent or employee of a market agent has failed to comply with any condition of sale imposed by the Council or this by-law.
- (8) The Council may issue such internal directives regarding sales or purchases as it may deem necessary.

Market Agents

- 9. The Council must keep a register of all market agents in which is recorded all details of the ownership and the directorate of each market agent and of all persons employed by such market agent.

Information

- 10. (1) The Council may demand any information, for statistical or any other lawful purpose, from any person relating to any aspect of sales on the market.
- (2) The Council may post internal managerial directives relating to the market upon a notice board in a prominent position on the market site and such posting must be deemed to be sufficient notice of any such matter to all persons concerned.

Monies and dues

- 11. (1) The Council may demand, sue for and recover any amount due to or due by any person on behalf of whom or to whom any produce has been sold. If such a person fails to comply with a demand so made, the Council may set off such amount against any monies in its possession or under its control belonging to such a person.
- (2) If the Council has reason to believe that if monies in its possession are paid out to any person other than the person to whom they are lawfully due, or will not reach the person entitled to them, it may withhold payment of such monies until it is satisfied that they will reach the person entitled to them, or direct that they be paid directly to the person so entitled in a manner determined by the Council.
- (3) The Council is empowered to set off any outstanding debts owed to it against any monies in its possession belonging to the debtor.
- (4) No liability must devolve on the Council for any action taken in good faith in terms of this section.
- (5) Any person operating or trading on the market must pay to the Council such market dues as prescribed in the applicable market tariffs determined by Council from time to time.

Disputes

- 12. In the event of any dispute arising on the market site, the Council may impound and hold as sequester any property on the market belonging to any party to the dispute, of a value it considers to be sufficient to satisfy the claim of any other party, and may hold such property until such time as the dispute has been determined by the Council or a court of law,

Sequestration of Property

- 13. (1) Any article -
 - (a) left on the market site which is not claimed within 24 hours by the person entitled thereto;
 - (b) already sold but which remains behind at the time of the closing of sales on any day, or
 - (c) impounded by the Council in terms of subsection 8 (4), 8 (5) or 12 must be sequestered to the Council and the Council may:-
 - (i) sell the articles referred to in subsection (1) (a) forthwith;
 - (ii) re-sell the articles referred to in subsection (1) (b) on the following day, or
 - (iii) sell the articles referred to in section 12 on the determination of the dispute.

Market Management Board

- 14. (1) The Council may appoint a Market Management Board in terms of the Council's Delegation of Operation and Decision Making Powers as amended by the Council from time to time or such other document issued by the Council.
- (2) The Market Management Board have an advisory function and must assist the Council in resolving disputes relating to the market and must provide the Council with proposals regarding internal managerial, financial and operational matters on request.

- (3) The Constitution and the functions of the Market Management Board are those contained in Council's Delegation of Operation and Decision-making Powers.

CHAPTER 4

The Business of Market Agents and their Sales Personnel

Register of Market Agents

15. (1) Market agents are entitled to operate on the market after being approved by Council according to the procedure which is in place at the time.
- (2) No person must carry on the trade or business of a market agent on the market unless he or she is in possession of a valid market agent's licence.
- (3) Every market agent must, prior to any change in directorship, ownership or change of personnel, obtain the written approval of the Council.
- (4) No market agent must be involved in or trade in any other agency registered with the Council or trade in or be involved in any sub-agencies.
- (5) Every market agent so applying must satisfy the Council that -
- (a) he or she is a fit and proper person to carry on the trade or business as a market agent; and
- (b) he or she is qualified to conduct the business of a market agent;
- (6) The Council is empowered to refuse to issue, suspend or renew a licence if the market agent concerned -
- (a) has an interest, either directly or indirectly, or involved in any other business established for the production, sale, purchase or dealing in. produce or articles of any kind usually sold on the market; or
- (b) has been found guilty of the contravention of any law, by-law or regulation relating to the market;
- (c) is not a fit or proper person to be trading on or employed at the market;
- (d) has acted in any way prejudicial to the interest of the market.
- (7) Refusal by the Council to issue, suspend or renew a licence must not debar an applicant from again applying for a licence within a reasonable time from his application being refused.
- (8) Every licence must be valid from its date of issue until cancelled or withdrawn by the Council.

Permits

16. (1) No salesperson must be employed as a salesperson until a valid salesperson's permit has been issued by the Council.
- (2) All applications for permits must be submitted to the Council on the prescribed form.
- (3) Every salesperson so applying must satisfy the Council that -
- (a) he or she is a fit and proper person to carry on the trade or business of a salesperson;
- (b) he or she is legally qualified to conduct the business of a salesperson;
- (4) The Council is empowered to refuse to issue, suspend or renew a permit if the salesperson concerned -
- (a) has an interest, either directly or indirectly, or involved in any other business establishment for the production, sale, purchase or dealing in. produce or articles of any kind usually sold on the market; or
- (b) have been found guilty of the contravention of any law, by-law or regulation relating to the market;
- (c) is not a fit or proper person to be trading on or employed at the market; or
- (d) has acted in any way prejudicial to the interest of the market.
- (5) Any refusal by the Council to issue, suspend or renew a permit, must not debar an applicant from again applying for a permit within a reason time from his application being refused.
- (6) Every permit must be valid from its date of issue until cancelled or withdrawn by the Council.

Employees

17. (1) Every market agent must be responsible for the conduct of all persons in his or her employ, and is personally liable for any damage done to any property on the market by himself or herself or any of his or her employees.
- (2) No market agent may -
- (a) fail to terminate the services of any employee convicted of a criminal offence of any law, by-law or regulation relating to the market, or
- (b) engage or re-engage within the market any person whose services have been terminated in terms of paragraph (a).

- (3) Every employee of any person operating on the market site must be in possession of a valid permit issued by Council in terms of internal directives issued by Council from time to time.

Business Principles

18. (1) No market agent must conduct his or her business other than in accordance with the provisions of the Act, the Rules made under section 22(1) of the Act or this by-law.
- (2) No market agent must, when conducting private treaty sales, show preference to any person in any way whatsoever.
- (3) No market agent or employee of a market agent must purchase produce on the market except for private use and at a price not lower than the price at which similar produce was sold on the market on the same day.

CHAPTER 5

General Practices on the Market Site

Delivery Notes and Waybills

19. (1) Every person bringing or causing to be brought onto the market any produce must, immediately on its entry on the market premises, register such produce with the Council and the relevant part to whom the article is consigned.
- (2) The Council may obtain from the transporting organisation a copy of every delivery, note or waybill issued by the organisation and any other particulars required by him or her in respect of every article delivered to the market by the said organisation.
- (3) The Council must issue a goods received note based on the waybill or delivery note presented by the vendor or transporter showing -
 - (a) the date of arrival;
 - (b) the full name and address of the vendor,
 - (c) the description of the article;
 - (d) the description of the container.
 - (e) the mass or quantity;
 - (f) the variety or quality;
 - (g) the name or code mark of the market agent or party to whom such article is sent;
 - (h) the registration number of the vehicle, if any, and
 - (i) any other particulars that may from time to time be required by the Council.
 and every vendor is obliged to furnish the council with the full and correct information.

Containers

20. (1) Every container must have the name and address of the consignor and market agent clearly and legibly marked in capital letters on such container or on a label securely attached to it.
- (2) All other names, addresses or marks, except the name of the consignee, must be obliterated.

Passage of Risk

21. Every article brought onto the market must at all times be at the sole risk of the market agent or party to whom it is consigned until it is sold, where after the risk must pass to the new owner.

The Vendor

22. (1) Any vendor who wishes to remove from the market any article brought onto the market site by him or her must first obtain the prior written consent of the Council before removing such article.
- (2) No person must bring onto the market or display, any produce which is packed in such a manner that the produce at the top or sides of the container is of better quality or larger size than the produce in any other part of the container.
- (3) No person other than a person who is a registered market agent may be a vendor on the market sales floors.

Implied Conditions of Agency

23. Every market agent must account promptly, correctly and in full to the vendor for the proceeds of any sale after receiving payment from the Council and must pay the vendor the amount owing to him or her after deducting from such monies or any amount which he or she is legally entitled to do.

CHAPTER 6

Sales Practice

General

24. (1) No-one must canvass on the sales floor or anywhere on the market, directly or indirectly or by any means whatsoever, with a view to secure direct dealings with potential buyers.
- (2) No articles must be sold except according to quality, mass, number or otherwise required by law or as determined by the Council.

Direct Sales

25. (1) No person must conduct a direct sale unless -
- (a) he or she has obtained prior written approval from the Council.
 - (b) such details of such sale and such relevant documents and information required for consignment auditing purposes in relation to such sale have been furnished to the Council upon request:
- (2) Council may from time to time publish commodity lists of products which it deems fit to prohibit direct sales.

Direct Purchases

26. (1) No person must enter into any direct purchase arrangement with a vendor unless -
- (a) he or she has obtained prior written approval from the Council;
 - (b) the full details of such purchase are declared at the entry gates and the original copy of the waybill(s) is handed in at such control gates;
 - (c) such details of such purchase and such relevant documents and information required for consignment auditing purposes in relation to such purchase have been furnished to the Council upon request;
- (2) No delivery of a declared direct purchase may be received on any part of the market except at the approved trading facility allocated to the recipient.
- (3) No produce received as a direct purchase must be stored in the Council's own cold-storage facilities or market agency owned cold-storage facilities unless specific prior written approval from the Council has been acquired.
- (4) Council may from time to time publish commodity lists of products which it deems fit to prohibit for direct purchases.

Procurement

27. (1) No person must co-ordinate, store, serve as broker, trade by computer, or negotiate the movement, storage, trading, assembling or procuring of any produce or consignment thereof on or off the market sales floor or market site, without having obtained prior written approval from the Council.
- (2) No person must in whatsoever way serve as a middle-man, communicator, exporter or importer unless prior approval has been granted by the Council.

Market Agents

28. (1) It is the responsibility of the market agent concerned to ensure that articles which are required to be sold by mass are arranged in units, the mass of which must comply with any legal requirements, before such articles are displayed for sale, offered for sale or sold and such mass must be clearly and legibly marked on such articles and their containers.
- (2) No articles must be displayed for sale, offered for sale or sold unless the container is marked in the manner described in section 20.
- (3) No article required by law to be graded, must be offered for sale or sold on the market unless it has been submitted by the market agent concerned for inspection and has been inspected as prescribed by law and the grade assigned to it as a result of such inspection has been clearly marked on it by such market agent
- (4) No article required by law to be offered for sale or sold by mass, or to be packed, marked or graded in a prescribed manner must be offered for sale or sold or removed from the market agent unless it complies in every respect with the requirements of such law, provided that the Council may, in its discretion, direct that any article be sold if it deems it expedient to do so.
- (5) All sales by market agents must be conducted by private treaty, unless otherwise directed by the Council.
- (6) No market agent must offer for sale or sell any article by private treaty unless he or she is in a position to deliver the article concerned as soon as the purchase price has been paid by the buyer, except in the case of a direct sale when delivery may be effected directly between buyer and vendor.

- (7) No market agent must conclude a direct sale between a vendor and a buyer and fail to obtain prior authority from the Council, omit or neglect to advise the Council in advance of the details of such direct sale.

Wholesalers

- 29. (1) No wholesaler or his or her personnel may trade on the sale floors or any other area other than the area designated to him by the Council.
- (2) No wholesaler or his or her personnel may be involved in retail trading unless Council's prior written approval has been obtained.
- (3) No wholesaler or his or her personnel may introduce business practices that will result in such wholesaler or his or her personnel competing with the trade on the commission sales floor.

Purchases and Payment

- 30. (1) All buyers must obtain from the Council a buyer's card which must be issued by the Council in the prescribed manner.
- (2) In the case of all sales, whether by private treaty, direct sale or by public auction, the buyer must immediately upon a sale being concluded present his or her buyer's card to the market agent concerned who must record the details of such sale in the prescribed manner.
- (3) No market agent or his or her employees must receive or handle cash in respect of any purchase on the trading floor except as prescribed by internal directives issued by Council from time to time.
- (4) No buyer may remove any produce from the market site unless he or she is in possession of a valid sales docket
- (5) Every sales docket referred to in subsection (4) must be clearly and legibly completed and must contain the following information -
 - (a) the date of transaction;
 - (b) the market agent's name;
 - (c) in the case of a credit buyer, his or her full code, name and number;
 - (d) a description of the article sold;
 - (e) a description of the type of container used;
 - (f) the quality of the article sold;
 - (g) the mass, quantity or number of units, as the case may be of the article sold;
 - (h) the price per unit;
 - (i) the full purchase price; and
 - (j) such other information as may be required by the Council from time to time.
- (6) In the event of a direct sale, the market agent or vendor must for the purpose of obtaining the consent of the Council, provide the Council with the purchase price relating to such a sale, a sales docket and a delivery note showing -
 - (a) the date;
 - (b) the name, code and address of the vendor;
 - (c) the name and address of the buyer;
 - (d) the commodity;
 - (e) the quantity and quality of the article sold;
 - (f) the price per unit; and
 - (g) any other information that the Council must reasonably require in respect of such sale.

Implied Conditions of Sale

- 31. The market agent is responsible for delivering to the buyer the correct quantity, mass, quality, grade and variety of the purchased article in its proper container.

Accounting

- 32. (1) The Council must keep a correct account of all articles sold and monies handled.
- (2) All accounts of the Council and all books, records and documentation relating thereto must at all times be open to inspection by any person as may from time to time be appointed by the Council or the Auditor-General to carry out such inspection.
- (3) The Council must pay the proceeds of the sale of any article consigned to a market agent and sold on the market, or sold by means of a direct sale, to such market agent's Trust account after deducting there from the market dues, levies, duties or charges payable in respect of such sale: Provided that in the case of a

direct sale the Council may withhold such proceeds pending written certification by the market agent that the sale has been completed and delivery effected to the satisfaction of both vendor and buyer.

CHAPTER 7

Procedures

33. (1) All persons must -
 - (a) on arrival, register any article brought to the market for sale thereon with the Council in the prescribed manner;
 - (b) pay, at a time specified by the Council on the produce entry document an ad valorem tariff of the value of the produce brought onto the market as prescribed by the market tariffs and assessed by the Council;
 - (c) refrain from conducting business in any manner otherwise than in accordance with this by-law;
 - (d) keep any vehicle, basket or container brought onto the market site clean and tidy to the satisfaction of the Council;
 - (e) refrain from selling, offering, introducing, hawking or carrying about for sale any produce on the market without the prior permission of the Council;
 - (f) refrain from placing or causing to be placed any objectionable matter in any refuse receptacle;
 - (g) only enter the market if he or she has lawful business thereon.
- (2) Without the scope of the powers vested in the Council being limited in any way, no person must, on the market -
 - (a) smoke in any part where a notice prohibiting smoking is displayed;
 - (b) light a fire, save at such times and in such places as have been authorised by the Council;
 - (c) stand, sit or lie upon or against any produce or container;
 - (d) throw anything at any person or object;
 - (e) without lawful reason tamper with or remove or cause to be removed any produce, container or pallet exposed for sale, or any label on such produce or container,
 - (f) without the written permission of the Council erect any fence or building or convert existing buildings or erect partitions or install wiring or electrical installations or fittings or extend existing wiring or electrical installations or fittings or make any other changes of a like to such premises on the market;
 - (g) introduce or cause or allow to be introduced into or enter any drain, gully or storm water drain any matter likely to cause blockage or damage any sewerage, oil, foul water or other objectionable substance;
 - (h) without the permission of the Council wash, sort, grade or clean fruit, vegetables, any vehicle or other article;
 - (i) interfere with or molest any person or interfere with the proper carrying on of any business;
 - (j) save with the permission of the Council enter or remain or cause any article, animal or other thing to enter or remain on any pan thereof on days or at times when the market is closed;
 - (k) fail or refuse to depart or to remove any vehicle, animal or other thing when lawfully instructed by the Council to do so;
 - (l) spit, loiter, use any threatening, obscene, abusive, violent, offensive or disgusting language, make any loud or unseemly noise or cause a disturbance;
 - (m) touch, taste, handle or move any produce exposed for sale in such a way as to render it liable to contamination;
 - (n) wilfully damage or deface any property;
 - (o) discard or deposit in any place other than receptacles provided for the purpose of any fruit-peel, vegetable leaves or other refuse of any kind whatsoever;
 - (p) drive, propel, or ride any vehicle, trolley, handcart or mechanical handling equipment in such a way as to endanger persons or damage property; or
 - (q) disobey any signs or directions within its roadways.
- (3) No person must offer for sale or sell any produce on the market before the commencement of sales or after the closing of sales.
- (4) No person must -
 - (a) take any vehicle onto the market site without first obtaining the permission of the Council -

- (b) neglect or refuse to place any vehicle under his or her control in the position assigned to such vehicle by the Council or to comply with any lawful direction given to him or her by the Council for the purposes of section 4;
- (c) being in charge of any vehicle, park such vehicle in any place within the market site other than in a space set aside in terms of section 4 (3) hereof, unless he or she is otherwise directed by the Council;
- (d) take or cause or permit to be taken onto the market site any class of vehicle forbidden by the Council in terms of section 4 (4);
- (5) No person in charge of any vehicle must -
 - (a) except by reason of a cause beyond his or her control, allow such a vehicle to remain stationary in a loading bay for any purpose other than for the loading or off-loading of goods;
 - (b) permit any vehicle to remain in a loading bay for a period longer than is absolutely necessary for the loading or off-loading of goods; or
 - (c) drive, propel or ride any vehicle within the precincts of the market in such a way as to endanger persons or property.
- (6) No person must -
 - (a) place any article or thing anywhere on the market site so as to cause inconvenience or obstruction or as to prevent the proper sweeping, washing or cleaning of the market site;
 - (b) ignore an instruction from the Council to immediately remove any article or thing from the market site or from one part of the market site to another when instructed to do so by the Council; or
 - (c) install any article without the prior consent of the Council, subject to the provisions of this by-law, before storing any article on the market site.
- (7) No person must -
 - (a) bring or convey any intoxicating liquor onto the market site, or have intoxicating liquor in his or her possession whilst on the market site, or enter or remain upon the market site while under the influence of intoxicating liquor without the prior consent of the Council;
 - (b) damage, ruin or tamper with any article brought to the market, or any building or property belonging to the Council on the market site;
 - (c) bring onto the market site any refuse, garbage or vegetable matter for the purpose of discarding such refuse, garbage or vegetable matter within the precincts of the market site;
 - (d) cook food or make tea or any other beverage in any part of the market site other than in such places as may have been set aside for the purpose: Provided that the Council may allow tea or any other beverage to be made in premises set aside for market business subject to such premises being kept neat and clean to the satisfaction of the Council;
 - (e) be on the market site when suffering from any contagious or infectious disease;
 - (f) take onto the market site any pets.
- (8) All persons offering for hire as a porter or earner on the Market site must -
 - (a) be in possession of a porter's permit referred to in section 5;
 - (b) wear such identification as may be directed by the Council.
- (9) No porter or carrier on the market site must;
 - (a) at any time while he or she is not engaged or plying for hire, be upon any portion of the market other than an enclosure or other area set aside by the Council for such purpose;
 - (b) ply or canvass for hire by shouting or by persistently following a purchaser or prospective purchaser, or
 - (c) have his or her person and clothing in an untidy, unhygienic or unseemly condition.
- (10) No person must sell, expose or offer for sale -
 - (a) any item precluded for sale by the Council in terms of section 8 (3); or
 - (b) any articles in containers which fail to comply with the prescriptions or specifications of the Council as prescribed under section 8 (6).
- (11) No person, other than the Council must organise or conduct or attempt to organise or conduct any auction sale on the market site.
- (12) No Council official must directly or indirectly be allowed to trade or purchase articles on the market, either for his or her own account or for commission, except such articles as he or she bona fide requires for his or her own private consumption, which articles must not be given to such Council official as a gift or for any price below the normal market value of such articles as traded in the day in question.
- (13) Every market agent must -

- (a) supply to his or her employees such protective clothing as may be required by law and prescribed by the Council;
 - (b) ensure that the clothing referred to in paragraph (a) is -
 - (i) distinctly marked as prescribed by the Council;
 - (ii) at all times kept clean and in good repair, to the satisfaction of the Council.
 - (c) ensure that his or her employees on the market are wearing clothing of the kind prescribed in paragraph (a);
 - (d) remove and effectively separate from any produce in his or her custody for sale on the market, any article which at any time is or shows signs of being deteriorated or damaged; or
- (14) Any person concerned with marketing or the handling of produce -
- (a) must wear clothing of the kind referred to in subsection (13 (a)) whilst performing their duties when required to do so by the Council;
 - (b) must undergo an X-ray or other medical examination for tuberculosis at his or her own expense whenever it is deemed necessary by the Council; and
 - (c) must submit the results of any examination referred to in subsection (b) to the Council.
- (15) All vendors must ensure that their produce is free from pesticide and other chemical residue.
- (16) All vendors must ensure that containers must indicate whether produce has been radiated or chemically treated.

CHAPTER 8

General

34. (1) The Council is not liable for any loss, damage or injury to any property or any injury or death of any person on the market, howsoever arising, except where such loss, damage, injury or death is proved to be due to the wilful misconduct or gross negligence of the Council or of its employees acting in the course and scope of their employment.
- (2) Any person committing a breach of this by-law must pay to the Council the amount of the damage done, as well as the civil penalty imposed for the breach of the by-law concerned as prescribed in the Market Tariffs.
- (3) No claim referred to in section 13 must be recognised after the expiry of 90 days from the date of sale, and in such case all the proceeds of such sale must revert to the market as income.
- (4) Every person is presumed to know the provisions of this by-law and of every instruction of the Council published on the notice board on the market site.
- (5) A certificate issued by a duly authorised Council Official indicating the amount which any person owes to Council constitutes prima facie proof of such person's indebtedness to the Council as at the date of such certificate.

CHAPTER 9

Penalties

35. (1) Any person who -
- (a) contravenes any provisions of this by-law;
 - (b) contravenes any condition imposed upon the granting of any application, consent, approval, concession, relaxation, permit or authority in terms of this by-law;
 - (c) fails to comply with the terms of any notice served on him or her in terms of this by-law; or
 - (d) fails to comply with any lawful instruction of the Council,
- is guilty of an offence and is liable to payment of a fine of R2000.00 (Two Thousand Rand) for individual natural persons or imprisonment not exceeding 6 months and R10 000.00 (Ten Thousand Rand) for legal persons (any entity who is not a natural person), or to such imprisonment without the option of a fine or to both such fine and such imprisonment.
- (2) Failure to comply with the terms of any condition or notice referred to in subsections 35 (1) (b) or (c) constitutes a continuing offence and a person failing to comply with the terms of such condition or notice is guilty of a separate offence for each day during which he or she fails to comply with such terms.

CHAPTER 10

Determination of Market disputes

- 36 (1) In the event of any dispute arising on the market site relating to the sale of any article on the market and not involving the Council as a party, or any direct sale, or any matter incidental thereto, the Council may decide

the issue and, subject to an appeal to the Administrative Tribunal concerned, such decision is final and binding on the parties.

- (2) Subject to the provisions of Section 34 of the Constitution, in the event of any dispute arising on the market site, relating to the sale of any article on the market and involving the Council as a party, the Administrative Tribunal concerned, may decide the issue, and such decision is final and binding on the parties.

Repeal

37. Any by-laws relating to fresh produce markets adopted by the municipality or any municipality now comprising an administrative unit of the Council is repealed from the date of promulgation of these by-laws.

Short title

38. This By-laws is called the Fresh Produce Markets By-law.

MATJHABENG LOCAL MUNICIPALITY



DRAFT DUMPING AND LITTERING BY-LAWS

PREAMBLE

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

DUMPING AND LITTERING BY-LAW

DEFINITIONS

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

"council" means the Matjhabeng Local Municipality or its successor(s) in-law, any councillor or officer employed by the Council or any committee designated by the Council, acting by virtue of a delegated authority vested in him or her or it by the Council in connection with these By-laws.

"dump" means to dispose of waste in any manner other than a manner permitted by law and includes, without derogating from the generality of the foregoing, to deposit, discharge, spill or release waste, whether or not the waste is in a container or receptacle, in or at any place whatsoever, whether publicly or privately owned, including but not limited to vacant land, parks, road side areas, rivers, waterways, catchments and sewage and storm water systems. The act of "littering", which retains its ordinary meaning, is excluded from the definition of "dump";

"municipality" means the Matjhabeng Local Municipality established in terms of Section 12 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee or councillor thereof acting in connection with these by-laws by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;

"person" includes a natural person, company, closed corporation, trust, association and partnership;

"waste" means any matter, whether liquid or solid or a combination thereof, which is a by-product, emission, residue or remainder of any product, process or activity and which has been discarded, but excludes any radioactive matter.

DUMPING AND LITTERING

2. (1) No person may—
 - (a) litter or cause or permit littering of waste;
 - (b) dump or cause or permit the dumping of waste.
- (2) If the provisions of subsection (1) are contravened, Council may direct, by way of a written notice in terms of subsection (4),
 - (a) any person who committed, or who directly or indirectly caused or permitted, the contravention;
 - (b) the generator of the waste, whether or not the generator is responsible for the contravention;
 - (c) the owner of the land or premises where the contravention took place, if the owner failed to take the steps set out in subsection (3);
 - (d) the person in control of, or any person who has or had, at the time of the contravention, a right to use, the land or premises where the contravention took place, if that person failed to take the steps set out in subsection (3);
 - (e) any person who negligently failed to prevent the contravention from taking place; to cease the contravention in a specified time, or to prevent a further contravention or the continuation of the contravention, and to take whatever steps Council considers necessary to clean up or remove the waste, to rehabilitate the affected facets of the environment and to ensure that the waste, and any contaminated material which cannot be cleaned or rehabilitated, is disposed of lawfully.
- (3) A person who owns land or premises, or who is in control of or has a right to use land or premises, may not use or permit the use of the land or premises for unlawful dumping of waste and must take reasonable steps to prevent the use of the land or premises for this purpose.
- (4) Council may issue notices—
 - (a) for the purposes of giving directions in terms of subsection (2);
 - (b) for compelling persons to comply with their obligations under subsections (3); and
 - (c) for any other purpose under this by-law, and may, in the notice, specify a reasonable time within which the directions given in the notice must be complied with.

- (5) In addition, or as an alternative to, the steps set out in subsection (2), or if a person fails to comply with directions given in a notice issued under subsection (4), Council may itself take whatever steps it considers necessary to clean up or remove the waste, to rehabilitate the premises or place and affected facets of the environment at which the waste has been dumped and to ensure that the waste, and any contaminated material which cannot be cleaned or rehabilitated, is disposed of lawfully. Council may appoint contractors or nominees to fulfil this duty on its behalf and council, its contractor or nominee may then recover the costs of taking these steps from any of the persons listed in subsection (2), who shall be jointly and severally liable therefore.
- (6) The costs claimed under subsection (5) must be reasonable and may include, but are not limited to, labour, administrative, overhead, investigation and prosecution costs.

OFFENCES

- 3. Any person who contravenes section 2(1) is guilty of an offence.

PENALTIES AND CONVICTIONS

- 4. (1) Any person guilty of an offence under section 3 is guilty and is liable to payment of a fine of R3000.00 (Three Thousand Rand) for individual natural persons or imprisonment not exceeding 6 months and R15 000.00 (Fifteen Thousand Rand) for legal persons (any entity who is not a natural person), or to such imprisonment without the option of a fine or to both such fine and such imprisonment.
- (2) A court convicting a person of a first offence under this by-law may impose a sentence of community service in place of a fine or imprisonment.
- (3) A court may, when considering sentence, take into account as aggravating circumstances that, inter alia—
 - (a) a convicted person has delayed in complying with the terms of any notice or directions given to the person under this by-law;
 - (b) a financial advantage was or would have been gained by a convicted person in consequence of the commission of the offence;
 - (c) the dumped waste posed a potential or actual threat to public health, public safety or the environment.
- (4) If a person is convicted of an offence under this by-law which has caused damage to or loss of property or which has had an adverse impact on the environment then, in addition to any other sentence it imposes, the court may—
 - (a) if the property belongs to another person, and on the application of the injured person or the prosecutor acting on the instructions of the injured person, order the convicted person to pay the injured person compensation for the damage or loss in accordance with section 300 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977);
 - (b) order the convicted person to, at his or her cost, and to the satisfaction of the Council, repair the damage and/or make good the loss and/or rehabilitate the environment.
- (5) If a person is convicted of an offence under this by-law, the court may, in addition to any other punishment which it imposes, issue an order compelling the person to comply, within a period determined by the court, with the relevant provisions of this by-law or, where applicable, with the relevant provisions of any notice issued under this by-law.
- (6) If—
 - (a) a manager, agent or employee does or omits to do an act which it was his or her duty to do or refrain from doing and which, under this by-law, is an offence for the employer to do or refrain from doing; and
 - (b) the act or the omission of the manager, agent or employee took place because the employer failed to take all reasonable steps to prevent the act or omission;
 - (c) then the employer is guilty of the offence and proof of the act or omission by the manager, agent or employer is prima facie evidence that the employer is guilty under this subsection: Provided that no penalty other than a fine must be imposed if a conviction is based on this subsection.

REPEAL OF BY-LAWS

- 5. Any by-laws relating to dumping and littering adopted by the municipality or any municipality now comprising an administrative unit of the Municipality is repealed from the date of promulgation of these bylaws.

SHORT TITLE

6. This by-law is called the Dumping and Littering By-law

MATJHABENG LOCAL MUNICIPALITY



DRAFT IMPOUNDMENT OF ANIMALS BY-LAWS

PREAMBLE

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

IMPOUNDMENT OF ANIMALS BY-LAW

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Definitions

1. In this by-law, 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 weather and a kid;
 - "horse"** means a stallion, mare, gelding, colt, filly, donkey and mule;
 - "large stock"** means cattle, horses, donkeys, ostriches or any other wild animals;
 - "municipality"** means the Local Municipality of Matjhabeng established in terms of Section 12 of the Municipal Structures Act, 1998 (Act No. 117 of 1998), and includes any political structure, political office bearer, councillor, duly authorised agent or any employee acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;
 - "occupier"** 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, established by the municipality and placed under the control of a pound master, for the housing and care of animals which are astray, lost or at large;
 - "pound master"** means a person who may be -
 - (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;
 - "proprietor"** means any owner, lessee, or occupier of land;
 - "sheep"** means a ram, an ewe, a wether and a lamb;

"small stock" means goats, sheep, pigs, fowl, birds or reptiles;

"stallion" means a male horse, donkey or mule not castrated or partially castrated;

"veterinary surgeon" means a person who is qualified as such in accordance with the provisions of the Veterinary and Para-Veterinary Professions Act, 1982 (Act No.19 of 1982).

Purpose of by-law

2. The purpose of this by-law is to provide facilities for the housing and care of animals which are astray, lost or at large and for procedures, methods and practices to manage the impoundment of such animals.

Impoundment

3. Any person may impound an animal found abandoned upon his or her property or any street, road, road reserve or other public place.

Pound to which animals are to be sent

4. Any person upon whose land an abandoned, lost or stray animal is found, may deliver such animal to the nearest pound or such other pound designated by the municipality.

Receiving of animals by pound master

5. (1) It is the duty of every pound master to receive into his or her charge, for impoundment, all animals brought to his or her pound, during such hours as the municipality may determine.
- (2) Any pound master who unreasonably refuses or fails to receive animals brought to his or her pound as aforesaid commits an offence and is, in addition, liable for any damage caused to the owner of the said animals, or to any other person, by reason of such refusal or failure.

Receipt for impounded animals

6. A pound master must give the person delivering an animal into his or her charge a written receipt, indicating the number and description of animals so delivered.

Number of enclosures

7. The municipality must maintain in good repair and, as far as possible, free from all infection, separate enclosures for-
 - (a) ostriches and horses;
 - (b) cattle;
 - (c) sheep, goats and pigs;
 - (d) dogs; and
 - (e) cats,
 Provided that the municipality may in regard to any pound in its area give permission to the pound master to maintain a smaller number of enclosures thereon.

Destruction of dangerous or contagious animals

8. (1) A pound master may cause to be destroyed any impounded animal suffering from a contagious disease, or which may prove dangerous to human life or other animals impounded, provided that no such animal may be destroyed unless a veterinary surgeon has examined it and has agreed with the pound master as to the necessity for its destruction.
- (2) If any animal suffering from a contagious disease is brought to the pound, or becomes infected while impounded, such animal must be kept separate from other impounded animals.

Notice of impounded animals

9. (1) A pound master who knows the name of the owner of an animal impounded in his or her pound must forthwith give written notice to such owner that the said animal has been impounded.
- (2) If any animal, bearing an identification mark as contemplated in the Animal Identification Act, 2002 (Act No. 6 of 2002), is impounded, the pound master must follow the procedures set out in section 14 of the Animal Identification Regulations promulgated under GN R1683 dated 21 November 2003.
- (3) Where the owner of an impounded animal is not known to the pound master, or he or she must upon receipt of such animal report the impoundment to the nearest South African Police office.

Keeping of pound register

10. (1) A pound master must keep a pound register with the following particulars:
 - (a) the date when, and the cause for which, all animals received by him or her are impounded;
 - (b) the number and description of such animals;
 - (c) the name and residence of the person impounding such animals, and the name and residence of the owner or supposed owner, if known;
 - (d) the date and particulars of the release or sale of the animals, as the case may be; and
 - (e) any other matters which he or she may be directed by the municipality to ascertain and record.
- (2) The entries under subsection (1)(a), (b) and (c) must be made at the time the animals are impounded and the entries under subsection (1)(d) and (e) must be made as soon as the pound master obtains the necessary information. Provided that no entry may be made after the particulars in (a) to (e) has been placed in dispute by any person.
- (3) In case of the death of injury of any impounded animal, the pound master must enter in his or her pound register a description of such animal and the cause of its death of injury.

Inspection of and extracts from pound register

11. A pound register must be kept at the pound or any other approved place and must at all reasonable times be open for inspection, free of charge, to any authorised officer of the municipality, veterinary surgeon, any member of the police service or the public.

Submission of pound register entries after pound sales

12. A pound master must, within 14 days after the date of each pound sale, submit to the municipality a copy of all entries in his or her pound register made since the date of the preceding submission, and the municipality must 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 authorised to conduct the sale, must keep the pound register at the place of sale, and such register must be open for inspection, free of charge, to all persons desirous of inspecting it.

Pound master's fees

14. (1) The municipality may fix fees for the keeping of animals in a pound and may distinguish between different kinds of animals.
- (2) Every pound master is entitled to claim the fees for every animal impounded by him or her in terms of this by-law as per Annexure "A" hereto or any such other or revised fees as approved by council resolution in accordance with section 75A of the Municipal Systems Act No. 32 of 2000

Fees payable

15. (1) The fees determined in terms of section 14 must be paid to the pound master by the owner of the animals impounded.
- (2) The impounded animals may be detained by the pound master in security of payment of the fees and any costs which the pound master may have incurred, provided that if the value of the animals impounded is in excess of the total amount due thereon, and if the owner is unable to pay the said amount, the pound master may detain only so many of the said animals as may be sufficient to secure the total amount due for all the animals, and must deliver the remainder of the animals to the said owner,.
- (3) A pound master who retains any greater number of such animals than is reasonably necessary to secure such amount is liable to the owner for any damages sustained by him or her on account of such retention.
- (4) If the pound master is an official of the municipality, he or she must pay the fees received by him or her in terms of this by-law into the revenue of the municipality, the frequency of which will be determined by the department responsible for finance.
- (5) No pound master may release any impounded animal until the prescribed fees have been paid to him or her.

Notice of sale

16. (1) Every pound master must -
- (a) whenever any impounded animal has not been released within six days from the date of its impoundment, notify the municipality that such animal will be sold by public auction and the date, time and place of such auction;
 - (b) provide the municipality with detail regarding the species, colour, marks and distinguishing features of such animal;
 - (c) post a copy of the notice at a conspicuous place at the pound, there to remain until the day of the sale; and
 - (d) 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.
- (2) The cost of a notice in terms of subsection (1)(a) is recoverable from the owner of the impounded animal and is deemed to be part of the amount to be deducted from the proceeds of the sale of an animal.
- (3) If the said proceeds are less than the amount due, and the owner of the animal sold is unknown, the municipality must make good the deficiency.

Auctioneer

17. (1) Every sale of impounded stock must -
- (a) be conducted by the pound master or some other person duly authorised thereto by the municipality; and
 - (b) commence at the time and date mentioned in the notice in terms of section 16(a).
- (2) No person conducting a pound sale may have any direct or indirect interest in any purchase at any sale so held by him or her.

Sale of animals

18. At every such sale-
- (a) no animal may be put up for sale unless impounded for at least two weeks;
 - (b) all animals, except sheep and goats must be sold individually;
 - (c) sheep and goats must be sold in lots of not more than ten, and sheep and goats, or sheep or goats with different marks or brands may not be sold together in the same lot;
 - (d) animals must be sold for cash, and the proceeds, less the amount of the pound fees and other costs incurred must be handed by the pound master to the municipality, to be paid to the owners of the animals sold; provided that -
 - (i) if in any particular case the sale does not realise sufficient to cover the pound fees due, the proceeds must be first utilised for payment of the compensation due to the pound master, and if the said proceeds are insufficient to cover such compensation, the balance of compensation must be paid to the pound master by the municipality;
 - (ii) any money, being the proceeds of the sale of any impounded animal, not being claimed by the owner of such animal within twelve months from the date of sale, accrues to the municipality;
 - (e) the municipality may fix a reserve price for any animal offered for sale; and
 - (f) the auctioneer may withdraw any animal from the sale if the highest bid received is not satisfactory, irrespective of whether a reserve price has been fixed by the municipality.

Illegal impounding and penalties

19. Any person who illegally impounds any animal commits an offence.

Recovery of loss in respect of impoundment of animals from area of another municipality

20. Any loss suffered by the municipality as a result of the impounding in a pound under its management and control of animals found trespassing within the area of jurisdiction of another municipality, may be recovered from such other municipality.

Use, detention and ill-treatment of animals

21. No person may furiously drive or ill-treat any animal found trespassing.

Appeal

22. 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.

Offences and penalties

23. Any person who -
- (a) contravenes or fails to comply with a provision of this by-law; or
 - (b) deliberately obstructs or interferes with any person in the exercise of any power or the performance of any duty or function in terms of this by-law; or
 - (c) furnishes false, incorrect or misleading information;
is guilty of an offence and is liable to payment of a fine of R2000.00 (Two Thousand Rand) for individual natural persons or imprisonment not exceeding 6 months and R10 000.00 (Ten Thousand Rand) for legal persons (any entity who is not a natural person), or to such imprisonment without the option of a fine or to both such fine and such imprisonment and in the case of any continued offence, to a further fine not exceeding R50 per day, or in default of payment, to imprisonment not exceeding one day for every day during the continuance of such offence, after a written notice has been issued by the municipality and served on the person concerned requiring the discontinuance of such an offence.
 - (d) committed a breach of the provisions of this by-law is liable to recompense the municipality for any loss or damage suffered or sustained by it in consequence of the breach.

Repeal of by-laws

24. Any by-laws relating to impoundment of animals adopted by the Council or any municipality now comprising an administrative unit of the Council is repealed from the date of promulgation of these by-laws

Short title

25. This by-law shall be known as the Impoundment of Animals By-law.

Annexure A

ANIMAL POUND FEES

	Description	Tariffs in Rand
1	Pound Fees	
	Large Stock per head per day	87.98
	Small stock per head per day	55.12
2	Tending Fees	
	Large Stock per head per day	36.04
	Small stock per head per day	18.02
3	Fees for dipping, dressing and treating	
	Large Stock per head	
	Dipping or Spraying	10.60
	Dressing	7.42
	Inoculating	10.60
	Medicine	Actual cost + 20%
	Small Stock per head	
	Dipping or Spraying	7.42
	Dressing	6.63
	Inoculating	6.36
	Medicine	Actual cost + 20%
4	Trespass fee	
	Large stock per head per day	
	On fenced land	50.88
	On unfenced land	36.04
	On grazing land	82.68
	Small stock per head per day	
	On fenced land	36.04
	On unfenced land	50.86
	On grazing land	50.88
5	Transport fee	
	Large stock per head	29.30 / km
	Small stock per head	14.70 / km