

**Provincial  
Gazette**  
**Free State  
Province**



**Provinsiale  
Koerant**  
**Provinsie Vrystaat**

Published by Authority

Uitgegee op Gesag

NO. 75	FRIDAY, 26 NOVEMBER 2021	NR. 75	VRYDAG, 26 NOVEMBER 2021
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[PROVINCIAL NOTICE NO.80 OF 2021]

**MANGAUNG METROPOLITAN MUNICIPALITY**

**PROMULGATION NOTICE**

**Municipal Parks By-law**

Passed by Council on Thursday, 30 September 2021  
Under Item 179.3 – 30/09/2021

- 1) Notice is hereby given in terms of the provisions of section 13 of the Local Government: Municipal Systems, 2000 (Act № 32 of 2000), as amended, that the Council of Mangaung Metropolitan Municipality passed the revised set of Municipal Parks By-law, at the sitting dated 30 September 2021.
- 2) The reviewed Municipal Parks By-law is, as a result of the rationalization process, now applicable and enforceable throughout the jurisdiction of the Mangaung Metropolitan Municipality (MAN).
- 3) The By-laws are published for the purpose of general public notification.

**Mr. Sello More**  
**Acting City Manager**

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**BY-LAW RELATING TO MUNICIPAL PARKS**

**1. Purpose**

The purpose of this By-law is to manage, control and regulate the admission of persons, animals and vehicles to municipal parks and recreational facilities therein, and to provide for matters incidental thereto.

**2. Definitions**

In this By-law, unless the context otherwise indicates —

“**Animal**” includes any mammal, bird, fish, reptile, insect, amphibian or invertebrate;

“**Authorised Official**” means an employee the City authorized to implement and enforce the provisions of this By-law, or any appointed external service provider referred to in section 76(b) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) and includes a law enforcement officer or traffic official of the City who has been declared a peace officer in terms of section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977), acting when on duty and properly identified as such;

“**Municipality/City**” means Mangaung Metropolitan Municipality established by the Provincial Notice №. 155 of 2016 as published in the Provincial Gazette, Free State Province of 22 July 2016, issued in terms of section 12 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

“**Municipal Manager/City Manager**” means the person appointed by the Council of the City as Municipal Manager and shall include any person acting in that position or to whom authority is delegated.

“**Council**” means the Council of the Mangaung Metropolitan Municipality or any political structure, political office bearer, councillor or any staff member acting under council’s delegated or sub-delegated power;

“**Councillor**” means the member of the Council of the Mangaung Metropolitan Municipality;

“**Manager: City Parks**” means the employee of the City in charge of municipal parks of the City;

“**Notice**” means a written notification, or a pictogram issued in terms of this By-law as set out in Schedule 1, prominently and legibly displayed at the entrance to or in any facility or part thereof to which it is intended to apply;

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“**Municipal Park**” means—

- (a) any botanical or other garden, playground, zoned public open space managed by the City, or a park owned or leased by the City, including any portion thereof and any facility or apparatus therein or thereon, but excluding any public road or street; and
- (b) any botanical, other garden or playground which is lawfully controlled and managed in terms of an agreement by a person other than the Council;

“**Vehicle**” means any self-propelled vehicle and includes-

- (a) a trailer; and
- (b) a vehicle having pedals and an engine or an electric motor as an integral part thereof or attached thereto which is designated or adapted to be propelled by means of such pedals, engine or motor, or both such pedals and engine or motor, but does not include –
  - (i) any vehicle propelled by electric power from storage batteries and which is controlled by a pedestrian; or
  - (ii) any vehicle with a mass not exceeding 230 kilograms and specially designed and constructed, and not merely adapted, for the use of any person suffering from some physical defect or disability and used solely by such person.

### 3. **Delegation and Appointment of Authorised Officials**

The City Manager or Head: Social Services may delegate any of his or her powers or assign any of his or her duties in terms of this By-law to any authorised official of the City.

### 4. **Number of Visitors**

- 4.1 The Head: Social Services may determine the maximum number of visitors who may be present at a specific time in a public park, provided that different numbers may be so determined for different parks and for different events.
- 4.2 The numbers contemplated in sub-clause 4.1 must be made known by the Manager: City Parks by means of a notice.

### 5. **Admission to Parks**

- 5.1 A person who is admitted to gain access or visit a municipal park must, subject to the provisions of this By-law, observe and comply with all notices displayed in the park or in the entrance thereto and obey any instructions given to him or her by the authorised official.
- 5.2 Should a person fail to observe and comply with a notice or any instructions referred to in sub-clause 5.1, the City shall not be liable for damage or injury suffered while such person is visiting the municipal park.
- 5.3 A municipal park is, subject to the provisions of this By-law, open to the public on the times determined by the Head: Social Services, provided that different times may be determined in respect of different public parks.
- 5.4 No person shall enter or leave an enclosed public park at a place other than that indicated for that purpose.
- 5.5 The conditions, times and places contemplated in sub-clauses 5.1, 5.2 and 5.3 shall be made known by the Manager: City Parks by means of a notice.

### 6. **Entrance Fee**

- 6.1 Subject to the provisions of this By-law, every person shall have free access to a municipal park.
- 6.2 Despite sub-clause 6.1, Council may, in terms of the Tariff By-law, prescribe fees for entering a municipal park in such special circumstances as determined by it, and such fees shall be made known by means of a notice.

**7. Dumping and Littering**

- 7.1 No person shall in a municipal park —
- (a) dump, drop, litter, bury or place any refuse, rubble, material or any object or thing; or
  - (b) permit any dumping, dropping, littering, burying, placing of any refuse, rubble, material or any object or thing, except in a container identified for that purpose in the park.

**8. Alcoholic Substances and Food**

- 8.1 No person shall bring into, consume, brew, store or sell in a municipal park any liquor or any other alcoholic or intoxicating substance.
- 8.2 No person shall in a municipal park, contrary to a notice, cook or prepare food of any kind whatsoever, except at places set aside for such purposes by notice.
- 8.3 The preparation and cooking of food at places set aside by notice for such purpose in or at a municipal park shall be done in a clean and sanitary manner.
- 8.4 No animal may be killed, skinned or slaughtered in a municipal park without the written consent of the Head: Social Services having first been obtained.

**9. Alive or Dead Animals**

- 9.1 No person shall bring any dead or alive animal into a municipal park except in accordance with the directions of the Head: Social Services provided that different directions may be determined in respect of different municipal parks and different types of animals.
- 9.2 The directions contemplated in sub-clause 9.1 should be made known by means of a notice.
- 9.3 Carcasses may not be buried in a municipal park but must be disposed of at the owner's expense and in a manner approved by the Council.

**10. Use of Parks**

- 10.1 No person shall in a municipal park without the written permission of the Head: Social Services or contrary to any conditions which the Head: Social Services may impose when granting such permission —
- (a) arrange or present any public entertainment;
  - (b) display or distribute any pamphlet, placard, painting, book, handbill, sign, advertisement board or any other printed, written or painted work;
  - (c) arrange or hold a public gathering or procession, or any exhibition or performance;
  - (d) conduct any trade, occupation or business;
  - (e) display, sell or rent or present for sale or rent any wares or articles;
  - (f) hold an auction;
  - (g) off-load or store building or other material.
- 10.2 Subject to any other law, the written permission contemplated in sub-clause 10.1 shall be refused only if anything referred to in sub-clause 10.1(a) to (g)—
- (a) is likely to give rise to —
-

- (i) public rioting;
  - (ii) the disturbance of public peace;
  - (iii) the committing of an offence;
  - (iv) the committing of an indecent act;
  - (v) risks that compromise safety and security; or
  - (vi) a situation where a planned activity in any area of jurisdiction of the City is taking place at the same time as a planned activity in the park, and the activity planned to take place in the park is deemed to have a detrimental impact on the ability of the City to ensure safety and security;
- (b) is detrimental to the public or the users of, or visitors to, the municipal park; or
- (c) is likely to damage or destroy the amenities, wildlife or plant material in the park.

## 11. Trees or Shrubs in Parks

11.1 No person other than an authorized official shall—

- (a) plant or prune a tree or shrub, or in any way cut down a tree or a shrub, in a municipal park or remove it therefrom, except with the written permission of the General Manager: City Parks;
- (b) unless permitted by a notice climb a tree growing in a municipal park or, break or damage such tree; or
- (c) in any way mark or paint any tree growing in a municipal park or attach any advertisement thereto.

11.2 Any tree or shrub planted in a municipal park shall become the property of the City.

## 12. Behaviour in Parks

12.1 No person shall, in a municipal park —

- (a) damage, tamper with or destroy any equipment, amenity or structure;
- (b) plant, pull out, pick, damage or remove any plant, grass, shrub, bulbs, vegetation or flower;
- (c) kill, hurt, follow, disturb, ill-treat, catch, remove, translocate or release any animal or displace, disturb, destroy or remove their habitat;
- (d) use or try to use anything in such park for any purpose other than that for which it is designated;
- (e) discard any burning or smouldering object;
- (f) throw or dislodge any rock, stone or object from any mountains, slope or cliff;
- (g) behave in an improper, indecent, unruly, violent or anti-social manner or cause a disturbance;
- (h) run, walk, stand, sit or lie in a flower bed;
- (i) run, walk, stand, sit or lie on grass contrary to a notice;
- (j) lie on a bench or seating-place or use it in such a manner that prevents others from using it;
- (k) play or sit on play-park equipment, except if the person concerned is 14 years old or younger, or as permitted by a notice;

- (l) swim, walk or play in a fish-pond, fountain, stream, dam or pond;
- (m) skate on roller skates or a skateboard or similar device except where permitted by notice;
- (n) operating a gas or charcoal fired barbeque or stove;
- (o) dig, disturb or remove any mineral substance including soil, sand, gravel or rock;
- (p) damage, dig, disturb, deface, destroy or remove any fossils, bones or historical artefacts;
- (q) operate any remote control device including boats, planes helicopters or cars;
- (r) build, erect, place, create, remove or modify any structure, amenity, pathway, trail, jump or ramp; or
- (s) engage in any activity which may pose a risk or in combination with other activities in the area of jurisdiction of the City;
- (t) wash himself or herself or clothes, vehicles or any other goods;
- (u) shoot, including bows and arrows;
- (v) make fire, in particular, open fires;
- (w) make shelter or structure for purposes of living or sleeping.

12.2 Notwithstanding sub-clause 12.1, the Head: Social Services may, by notice, and subject to such conditions as he or she may deem necessary, authorise or permit any of the actions contemplated in sub-clause 12.1.

### 13. Interference with Water

13.1 No person may in a municipal park—

- (a) misuse, remove, pollute or contaminate any water source, water supply or waste water;
- (b) interfere with or obstruct the flow of any river or seasonal wetland; or
- (c) drain or redirect any water from private land.

### 14. Admission of Vehicles

14.1 No person may bring into a municipal park any truck, bus, motorcar, motorcycle, bicycle, quad bike, motor tricycle, or any other vehicle, craft, hot air balloon or aeroplane, whether driven by mechanical, animal, natural or human power, supermarket or other trolleys, except in accordance with the written permission of the Head: Social Services provided that different requirements or conditions may be determined for different municipal parks and for different vehicles, crafts or aeroplanes.

14.2 The Head: Social Services may determine the speed limit applicable in a municipal park, provided that different speed limits may be determined for different municipal parks and for different vehicles, crafts or aeroplanes.

14.3 The requirements or conditions contemplated in sub-clause 14.1 and the speed limit contemplated in sub-clause 14.2 shall be made known by a notice by the Head: Social Services.

### 15. Playing of Games

15.1 No person may play or conduct any game of any nature that will cause –

- (a) disturbance or potentially disturb; or

- (b) injury to other park users except at places set aside for that purpose by notice and in accordance with the directions of the Head: Social Services.

**16. Unbecoming Gestures or Language**

16.1 No person may in a municipal park —

- (a) perform an act which is indecent or conduct himself or herself improperly by exposure of his or her person or otherwise, or make improper gestures or incite or urge someone to perform a disorderly or indecent act;
- (b) use foul, lewd or indecent language;
- (c) write, paint, draw or in any way make a lewd, explicit or immoral figure, writing, drawing or representation; or
- (d) enter or use a toilet facility intended or indicated as such by notice for members of the opposite sex, provided that this shall not apply to children below the age of seven accompanied by an adult.

**17. Powers to Investigate**

17.1 An authorised official may —

- (a) enter at any time upon in a municipal park to conduct an investigation thereat in order to determine whether the provisions of this By-law are complied with;
- (b) for the effective exercising of any power of any function or duty assigned or granted to him or her, an official can take along an interpreter for communicating a message in an understandable language;
- (c) give instructions to or direct the public, for the purposes of this By-law, to act in a specific manner whilst at the public park.

**18. Amendment, change and addition of a Notice or Pictogram**

18.1 The Head: Social Services may, subject to the provisions of this By-Law, amend, change or add any notice or pictogram in the park.

18.2 The Head: Social Services must, within five (5) working days after an amendment, change or addition of a notice or pictogram as contemplated in sub-clause 18.1, display such amended, changed or added notice or pictogram in the relevant park or at the entrance thereto.

**19. Offences and Penalties**

19.1 Any person who contravenes or fails to comply with a notice issued in terms of, or a condition imposed under, or any other provision of, this By-law, shall be guilty of an offence and if convicted shall be liable for a fine not exceeding R3 000, 00 or imprisonment for a period not exceeding six months, or to both such fine and such imprisonment.

19.2 In addition to imposing a fine or imprisonment in terms of sub-clause 19.1, a court may order any person convicted of an offence under this By-law —

- (a) to remedy the harm caused; or
- (b) to pay damages for harm caused to another person or to property which order shall have the force and effect of a civil judgment.

**20. Conflicting Laws**

If there is any conflict between a provision in this By-law and a provision of any other by-law of the Municipality, the provisions of this By-law shall prevail to the extent of the inconsistency.

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**21. Repeal and Amendment**

Any by-laws relating to municipal parks adopted by the Council or any municipality now comprising part of the City is repealed from the date of promulgation of this By-law.

The Municipal Parks By-laws of the Mangaung Metropolitan Municipality as promulgated in the Local Government Notice No. 35 of June 2016 are hereby amended.

**22. Short Title and Commencement**

This By-law is called **Mangaung, Municipal Parks By-law** and the effected amendments come into operation on the date of promulgation thereof in the Provincial Gazette.

**[PROVINCIAL NOTICE NO. 81 OF 2021]****MANGAUNG METROPOLITAN MUNICIPALITY****PROMULGATION NOTICE****Waste Management By-laws**

Passed by Council on Thursday, 30 September 2021  
Under Item 179.3 – 30/09/2021

- 1) Notice is hereby given in terms of the provisions of section 13 of the Local Government: Municipal Systems, 2000 (Act № 32 of 2000), as amended, that the Council of Mangaung Metropolitan Municipality passed the revised set of Waste Management By-laws, at the sitting dated 30 September 2021.
- 2) The reviewed Waste Management By-laws are, as a result of the rationalization process, now applicable and enforceable throughout the jurisdiction of the Mangaung Metropolitan Municipality (MAN).
- 3) The By-laws are published for the purpose of general public notification.

**Mr. Sello More**  
**Acting City Manager**

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**Preamble**

**WHEREAS** the Mangaung Metropolitan Municipality (the "Municipality") has the Constitutional obligation to provide services including refuse removal, collection and disposal;

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**AND WHEREAS** poor waste management practices can have adverse impact on the environment in and beyond Municipal boundaries;

**AND WHEREAS** the “Municipality” is committed to ensure that all residents, organizations, institutions, businesses, visitors or tourist and public bodies are able to access services from a legitimate waste service provider;

**AND WHEREAS** the “Municipality” wishes and is obligated to regulate waste collection, separation, storage, processing, treatment, recycling, reuse and disposal of waste including littering and illegal dumping and the regulation of facilities used for the management of waste, with the ultimate aim of avoiding or minimizing the generation and impact of waste;

**AND WHEREAS** the “Municipality” promotes the waste hierarchy approach as outlined in the National Waste Management Strategy.

## CHAPTER 1: DEFINITIONS AND INTERPRETATION, OBJECTIVES AND PRINCIPLES

### 1. Definitions and Interpretation

In these by-laws, any word or expression to which a meaning has been assigned in the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) and the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000); and associated regulations shall have the meaning so assigned, unless the context indicates otherwise.

“**Act**” means the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008)

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

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

“**by-law**” means legislation passed by the municipality’s council which is binding on persons who resides within, visiting the area of authority of the municipality or using municipal services;

“**Council**” means the Council of the Mangaung Metropolitan Municipality

“**dump**” means to dispose of waste in any manner other than one permitted by law and includes, without derogating from the generality of the afore-going, 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, rivers, waterways, catchments, sewage and storm water systems, but excludes littering;

“**event waste**” means waste that originates from the activities related to an event that is held in the Municipality;

“**garden waste**” means organic waste which emanates from gardening or landscaping activities at residential, business or industrial premises including but not limited to grass cuttings, leaves, branches, and includes any biodegradable material and excludes waste products of animal origin and bulky waste;

“**health care risk waste**” means waste capable of producing any disease and includes, but is not limited to the following:

- (a) laboratory waste;
- (b) pathological waste;
- (c) isolation waste;
- (d) genotoxic waste;
- (e) infectious liquids and infectious waste;
- (f) sharps waste;
- (g) chemical waste; and
- (h) pharmaceutical waste;

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

“**litter**” means waste, excluding hazardous waste, arising from activities in public areas that has not been deposited into a public litter container and littering shall have a corresponding meaning;

“**municipality**” means Mangaung Metropolitan Municipality, a municipality established in terms of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

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

“**nuisance**” means any injury, harm, damage, inconvenience or annoyance to any person which is caused in any way whatsoever by the improper handling or management of waste, including but not limited to, the storage, placement, collection, transport or disposal of waste or by littering;

“**occupier(s)**” in relation to any premises, means any person who is in actual occupation of such premises and if no person is in actual occupation thereof, any person who, whether as owner, lessee, licensee or otherwise has, for the time being, control of such premises and shall include a street trader who occupies a site for the purposes of such street trader's business;

“**owner**” means the registered owner, lessee or occupier of premises, or the person in charge or control of any premises or part thereof, who is over 18 years of age, and any person who obtains a benefit from the premises or is entitled thereto;

“**receptacle**” means an approved container having a capacity for temporary storage of waste in terms of these by-laws;

“**service provider/contractor**” means the person, firm or company whose tender/quotation has been accepted by or on behalf of the Municipality and includes the contractor's heirs, executors, administrators, trustees, judicial managers or liquidators, as the case may be, but not, except with the written consent of the Municipality, any assignee of the contractor;

“**tariff**” means the prescribed charge determined by the Municipality in terms of any applicable legislation for any service rendered by the Municipality in terms of these by-laws.

“**waste**” means any substance, whether or not that substance can be reduced, re-used, recycled and recovered-

- (a) that is surplus, unwanted, rejected, discarded, abandoned or disposed of;
- (b) which the generator has no further use of for the purposes of production;
- (c) that must be treated or disposed of; or
- (d) that is identified as a waste by the Minister by notice in the Gazette, and includes waste generated by the medical or any other sector, but—
  - (i) a by-product is not considered as waste; and
  - (ii) any portion of waste, once re-used, recycled and recovered, ceases to be waste;

“**waste generator**” means a property owner, a household, organization or business entity, the inhabitants, occupants or employees of which generate waste and includes sorters of waste such as recycling or waste minimization groups, scrap dealers and buy-back centres;

“**waste management officer**” means the officer as designated in terms of subsection 10(3) of the Act No. 59 of 2008.

These by-laws must be read with any applicable provisions of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008).

In the event of any conflict with any other by-law which directly or indirectly, within the jurisdiction of the municipality, regulates waste management, the provisions of this by-law shall prevail to the extent of the inconsistency.

The by-laws do not override any other national and provincial waste related legislation.

## 2. Objectives of these by-laws

(1) The objectives of these by-laws are to –

- (a) give effect to the right contained in section 24 of the Constitution by regulating waste management within the area of the municipality's jurisdiction;
- (b) provide, in conjunction with any other applicable law, an effective legal and administrative framework, within which the Municipality can manage and regulate waste management activities;

- (c) ensure that waste is avoided, or where it cannot be altogether avoided, minimized, reused, recycled, recovered, and disposed of in an environmental sound manner; and
- (d) promote and ensure an effective delivery of waste services.

### 3. Scope of application

- (1) This By-law is applicable within the area of jurisdiction of the Municipality and is binding on any property owner, a household, organization or business entity, the inhabitants, occupants or employees of which generate waste and includes sorters of waste such as recycling or waste minimization groups, scrap dealers and buy-back centres;

### 4. Principles

- (1) Any person exercising a power in accordance with these by-laws must; at all times; seek to promote the waste management hierarchy approach as outlined in the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008) and the National Waste Management Strategy, which is promoting waste avoidance and minimization, waste reuse, recycling and recovery, waste treatment and disposal.
- (2) The by-laws seek to promote sustainable development and environmental justice through fair and reasonable measures for the management of waste within the municipality's jurisdiction.
- (3) The by-laws promote participation of all municipal residents in the promotion of responsible citizenship by ensuring sound waste management practices within residential and industrial environments.

### 5. Obligations of waste generators

- (1) Every person has an obligation to manage any waste generated by his or her activities or the activities of those persons working under his or her direction in such a manner that the waste does not cause harm to human health or damage to the environment. In particular, the person must ensure that:
  - (a) waste generation is avoided and where such waste cannot be avoided, minimize the toxicity and amounts of waste;
  - (b) waste is reduced, reused, recycled or recovered;
  - (c) where waste must be disposed of, the waste is treated and disposed in an environmentally sound manner;
  - (d) the waste is managed in such a manner that it does not endanger health or the environment or cause a nuisance through noise, odour or visual impacts;
  - (e) no soil or hot ash is put in the receptacles for collection;
  - (f) broken glass is properly wrapped in newspaper before being placed into the receptacle;
  - (g) lids of opened tins are bent inward;
  - (h) double bags are used for disposable nappies and fill half to capacity;
  - (i) grass, grass cuttings, weeds, flowers and other plant materials can be placed in refuse bags together with domestic refuse but may not exceed the total of five (5) bags per removal;
  - (j) garden refuse may be dumped at the municipal landfill sites on the areas indicated by a dumping site attendant;
  - (k) the refuse receptacles must be:
    - of size and mass to be easily lifted and emptied into the collection vehicles;
    - fit for the safe storage of waste;
    - able to prevent environmental pollution and harm to health
    - rigid and durable to within reason to prevent accidental tipping, spillage and leaking;
    - intact and not corroded and worn out; and
    - covered to prevent animals and insects from eating.
  - (l) no one may put their refuse anywhere except in front of their premises on a scheduled collection day.
  - (m) only five (5) bags per domestic removal on a scheduled collection day are allowed for collection.
- (2) Any person subject to the obligation imposed in subsection (1) may be required by the Municipality or an authorized official to take measures to ensure compliance with the obligation.
- (3) The measures referred to in subsection (2), that a person may be required to undertake include –

- (a) investigation, assessment and evaluation of the impact that their activities, the process or a situation have on the environment;
- (b) informing and educating employees about the environmental risks of their work and the manner in which their tasks must be performed in order to avoid causing damage to the environment;
- (c) ceasing, modifying or controlling any act, process, situation or activity which causes damage to the environment;
- (d) containing or preventing the movement of pollutants or other causes of damage to the environment;
- (e) eliminating or mitigating any source of damage to the environment; or
- (f) rehabilitating the effects of the damage to the environment.

## 6. Waste management plan

- (1) A waste management plan must be submitted by the waste generators listed in subsection (10) in writing to the waste management officer for approval prior to the generation of the waste to be dealt with in terms of the said plan.
  - (2) A waste management plan must include –
    - (a) description of the type of waste that will be generated;
    - (b) an assessment of the quantity that will be generated;
    - (c) a description of the services required to store, collect, transport and dispose of such waste;
    - (d) a description of how they intend separating recyclable and non-recyclable material at the point of source;
    - (e) the waste minimization and pollution prevention plans of such waste generator;
    - (f) the impact or potential impact on the environment of the waste created by them;
    - (g) the type or characteristics of waste produced of an environmentally sensitive nature or the amount of natural resources that are consumed in the manufacturing or production process that result in waste;
    - (h) targets for waste production through waste minimization, re-use, recycling and recovery measures or programmes that can minimize the consumption of natural resources and the method of disposal of waste; and
    - (i) the premises at which waste will be generated.
  - (3) Industrial entities must include in a waste management plan measures or actions to be taken to manage waste, the phasing out of the use of certain substances, opportunities for reduction of waste generation through changes to product design, product production or packaging to reduce resource consumption.
  - (4) Industrial and business entities must provide for the education, marketing and sales information to influence perception and behaviour of customers to ensure recycling of products.
  - (5) When requested to submit an waste management plan or a further waste management plan in terms of this By-law, a waste generator shall do so within the time stipulated and comply with the terms and conditions set out by the waste management officer for the generation, minimization, storage, collection and disposal of such waste.
  - (6) The waste management officer must consider the plan and –
    - (a) approve it with conditions and give directions for the implementation thereof;
    - (b) request that additional information be furnished or a revised plan be submitted for approval;
    - (c) require amendments to be made within a time frame so specified by them;
    - (d) reject the plan and provide reasons therefore; or
    - (e) approve such a plan and specify conditions pertaining to such approval.
  - 7) If an waste management plan is rejected or not submitted at all, the waste management officer shall give directives as to what waste management measures must be taken by the waste generator and should the waste generator fail to take such measures within the time frame specified by the waste management officer, the Municipality may implement such measures and the waste generator will be liable for the cost thereof.
  - (8) The waste management officer may by written notice require any person to provide such information as he or she requires when preparing the Municipality's waste management plan.
  - (9) Should a person fail to provide the information referred to in subsection (8), the waste management officer may appoint an auditor to obtain such information at the cost of waste generator.
-

- (10) The waste generators of the following classes of waste must submit a waste management plan:
- (a) business waste;
  - (b) industrial waste;
  - (c) building waste;
  - (d) event waste;
  - (e) those who sort waste or undertake a recycling, re-use or waste recovery activity including but not limited to scrap dealers, recycling groups and buy back centres;
  - (f) any other person who is given notice to do so by the waste management officer; or
  - (g) those persons carrying out the activities listed in paragraph (e).

#### 7. Exemptions from submitting a waste management plan

- (1) If one of the waste generators for the categories of waste referred to in sub-section 10(10)(e) wishes to be exempt from submitting a waste management plan, an application must be made in writing to the waste management officer, stipulating reasons for the application.
- (2) A waste management officer may also declare –
- (a) certain types of waste or waste generators;
  - (b) a particular mass or volume of waste; or
  - (c) persons who have submitted such a plan to the other spheres of government in terms of their applicable legislation, to be exempt from the submission of a waste management plan.

### CHAPTER 2: SERVICE PROVIDERS

#### 8. Service providers/Contractors

- (1) The Municipality may discharge any of its obligations by entering into a service delivery agreement with a service provider or service providers in terms of the Municipal Systems Act, 2000.
- (2) Subject to the provisions of the Municipal Systems Act or any other legislation, the Municipality may assign to a service provider any power enjoyed by the Municipality under these by-laws: provided that the assignment is required for the service provider to discharge an obligation under its service delivery agreement, but the accountability shall remain with the Municipality.
- (3) Any reference in these by-laws to “Municipality or service provider” should be read as the “Municipality” if the Municipality has not entered into a service delivery agreement and should be read as “service provider” if the Municipality has entered into a service delivery agreement.
- (4) Service providers must provide services in accordance with the **Batho Pele Principles** and must also
- (a) be in accordance with the provisions of these by-laws;
  - (b) be accessible to the public;
  - (c) establish the conditions of the service including collection times; and
  - (d) provide for the circumstances in which municipal services may be limited.

### CHAPTER 3: PROVISION OF WASTE SERVICES

#### 9. Storage and receptacles for general waste

- (1) Any person or owner of premises where general waste is generated must ensure that such waste is stored in a receptacle provided or approved by the Municipality.
- (2) Any person or owner of premises contemplated in subsection (1) must ensure that-
- (a) the receptacle is stored inside the yard where applicable, away from the public area when still waiting for collection;
  - (b) on agreed collection date, it should be placed outside the premises in an area accessible to the municipal officials or service providers;
-

- (c) pollution and harm to the environment is prevented;
- (d) waste cannot be blown away and that the receptacle is covered or closed;
- (e) measures are in place to prevent tampering by animals;
- (f) nuisance such as odour, visual impacts and breeding of vectors do not arise;
- (g) suitable measures are in place to prevent accidental spillage or leakage;
- (h) the receptacle is intact and not corroded or in any other way rendered unfit for the safe storage or transportation of the waste;
- (i) that a receptacle(s) provided by the Municipality is not used for any other purpose other than storage of waste;
- (j) in cases where a receptacle (s) is damaged or corroded, the owner or occupier must notify the Municipality and arrange for replacement as soon as it comes to their attention;
- (k) waste is only collected by the Municipality or authorized service provider; and
- (l) in cases where an owner or occupier is not available on the day of collection, make necessary arrangements to ensure that waste is accessible for removal or collection.
- (m) Grass, grass cuttings, weeds, flowers and other plant material are placed in refuse bags which together with domestic waste do not exceed a maximum of five (5) refuse bags put out on collection day.
- (n) Refuse is not put out anywhere except in front of their premises on an agreed collection day, placing them anywhere else or taking them out on any day other than a dedicated collection day constitutes an offence in terms of these by-laws.

(3) Prohibited use of receptacles

The following items must not be placed in any waste receptacle

- (a) Hot ash;
- (b) Unwrapped glass or any sharps;
- (c) Waste or waste material including liquid which on account of their size, weight or other character is likely to render the waste receptacle unreasonably difficult to handle.

**10. Collection and transportation**

(1) The Municipality or service provider may -

- (a) only collect waste stored in approved receptacles;
- (b) set collection schedules for both commercial and residential properties for reasons of health, safety or environmental protection.
- (c) collect waste outside the set schedule on request by any person and at a fixed tariff agreed to by both parties prior to collection.
- (d) identify waste streams which may not be collected by the Municipality or which are unsuitable for collection; and where such a case exist, advise the owner of alternatives

(2) Any person transporting waste within the jurisdiction of the Municipality must –

- (a) ensure that the receptacle or vehicle or conveyance is adequate in size and design for the type of waste transported;
- (b) remove or transport the waste in a manner that would prevent any nuisance or escape of material;
- (c) maintain the receptacle or vehicle or conveyance in a clean, sanitary condition at all times;
- (d) not permit waste transported to become detached, leak or fall from the receptacle or vehicle or conveyance transporting it;
- (e) ensure that waste is transported or deposited at a waste transfer station, recycling facility and/or disposal facility licensed to accept such waste;
- (f) ensure that the vehicle is not used for other purposes whilst transporting waste;

**11. Waste transfer stations**

(1) Any holder of waste must, where applicable –

- (a) utilize appropriate waste transfer stations as directed by the Municipality or service provider; and
- (b) adhere to the operational procedures of a transfer station as set out by the Municipality.

**12. Waste disposal**

- (1) Waste generated in the municipal area must be disposed of at a waste disposal facility as directed by the Municipality.
- (2) In disposing of waste the operator of the site must comply with the provisions of any other legislation regulating the disposal of waste.
- (3) Any person disposing waste at a Municipal owned disposal site must adhere to the site operational procedures approved by the Municipality.
- (4) All private waste disposal sites within the jurisdiction of the Municipality, must comply to all local norms and standards and any other relevant legislation.

**CHAPTER 4: RECYCLING OF WASTE****13. Storage, separation and collection of recyclable domestic waste**

- (1) Any person who is undertaking any activity involving reduction, re-use, recycling or recovery of waste including scrap dealers, buy-back centres and formalized recycling groups must before undertaking that activity, make sure that the activity is less harmful to the environment than the disposal of such waste and must notify the Municipality of an intention to undertake such an activity in writing.
- (2) Any person undertaking the activities contemplated in subsection (1) must adhere to all applicable statutory requirements.
- (3) The Municipality may require any person or owner of premises to separate their waste and use different receptacles provided by the Municipality or service provider.
- (4) In cases where the Municipality, service provider or industry has provided separate receptacles for recyclable material, no person may use other receptacles for recyclable material.

**CHAPTER 5: WASTE INFORMATION****14. Registration and provision of waste information**

- (1) Any person who conducts an activity, which has been identified in terms of provincial and/or national waste information system must, upon request, present to the Municipality proof that such an activity is registered and reporting the required information.
- (2) The Municipality may, at its own discretion and as reasonably possible, require any facility, person or activity to register and report to the Municipality any other information for the purpose of facilitating effective waste management within its jurisdiction.

**CHAPTER 6: PROVISION FOR REGISTRATION OF TRANSPORTERS****15. Requirements for registration**

- (1) Any person who transports waste for gain must adhere to the requirements as set out in section 25 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008).
  - (2) The Municipality may, by notice in the provincial gazette, require any person or category of transporters to register and report to the Municipality information as set out in that notice. The notice may include but not limited to –
    - (a) the application forms;
    - (b) a prescribed fee;
    - (c) renewal intervals;
    - (d) list of transporters, types and thresholds of waste transported;
-



- (e) minimum standards or requirements to be complied with.

## **CHAPTER 7: LISTED WASTE MANAGEMENT ACTIVITIES**

### **16. Commencement, conducting or undertaking of listed waste management activities**

- (1) Any person conducting a listed waste management activity listed in terms of section 19 of the National Environmental Management: Waste Act, 2008 (Act No. 59 of 2008), must upon request by the waste management officer or his/her representative or authorized official of the Municipality, provide proof of compliance with the requirements of a licence issued by the competent authority.

## **CHAPTER 8: GENERAL PROVISIONS**

### **17. Duty to provide facilities for litter**

- (1) The owner of privately owned land, must take reasonable steps to ensure that sufficient and appropriate receptacles are provided for the discarding of litter by the public, in any place to which the public has access.
- (2) The owner of privately owned land, must ensure that all receptacles installed on the premises for the collection of litter are –
- a) maintained in good condition;
  - b) suitably weighted and anchored so that they cannot be inadvertently overturned;
  - c) constructed in such a manner as to ensure that they are weatherproof and animal proof;
  - d) of suitable size to contain all litter likely to be generated on the premises and by the users thereof;
  - e) placed in locations convenient for the use by users or occupants of the premises to discourage littering or the unhealthy accumulation of waste; and
  - f) emptied and cleansed periodically or when full. The emptying and cleansing of receptacles must be done frequently to ensure that no receptacle or its contents may become a nuisance or provide reasonable grounds for complaint.

### **18. Prohibition of littering**

- (1) No person may –
- (a) cause litter;
  - (b) sweep any waste into a gutter, onto a road reserve or onto any other public place;
  - (c) disturb anything in, or remove anything from any receptacle which has been placed for the purposes of collecting litter in such a manner as to cause the contents of the receptacle to spill or fall onto the ground around it; and
  - (d) allow any person under his control to do any of the acts contemplated in paragraphs (a), (b) or (c) above.
- (2) Notwithstanding the provisions of subsection 8 (1), the owner of privately owned land to which the public has access, must within a reasonable time after any litter has been discarded, dumped or left behind, remove such litter or cause it to be removed.

### **19. Prohibition of nuisance**

- (1) Any person handling waste within the Municipality, either through storage, collection, transportation, recycling or disposal must-
- (a) take reasonable measures to prevent nuisance, injury, harm, damage, annoyance or inconvenience to any person and the environment;
  - (b) take measures to remedy any spillages, harm, damage or nuisance referred to in section (a) above;
  - (c) at their own cost, clean any waste causing nuisance to any person or the environment;
  - (d) ensure compliance to the notice contemplated in sub section (1)(c); the Municipality may clean or remedy waste causing nuisance to any person or the environment, at the Municipality's cost and claim such cost from the offender.
-

**20. Burning of waste**

- (1) No person may-
- (a) dispose of waste by burning it, either in a public or private place unless authorized to do so by the Municipality;
  - (b) incinerate waste either in a public or private place except in an incinerator licensed by the relevant national or provincial authorities to do so, or at a place designated by the Municipality for such purpose.

**21. Unauthorized disposal/dumping**

- (1) No person may except with the permission of the occupier, owner or of the person or authority having control thereof, dump, accumulate, place, deposit, leave or cause or allow to be dumped, accumulated, placed, deposited or left any waste whatsoever, whether for gain or otherwise, on or in a public place; any drain, watercourse, flood prone areas, tidal or other water in or in the vicinity of any road, highway, street, lane, public footway or pavement, roadside or other open space to which the public have access; or private or municipal land.
- (2) The Municipality may at the expense of an owner of land, person in control of land or a person who occupies the land rehabilitate any damage caused to the environment as a result of the activity or failure of the person referred to in subsection (1) to take reasonable measures to prevent unauthorized disposal or dumping.

**22. Abandoned articles**

- (1) Any article, other than a motor vehicle deemed to have been abandoned in terms of the Road Traffic Act, which, in the light of such factors as the place where it is found, the period it has been lying at such place and the nature and condition of such article, is reasonably regarded by the Municipality as having been abandoned, may be removed and disposed of by the Municipality as it may deem fit.
- (2) The Municipality may remove and dispose of any article which is chained or fastened to any pole, parking meter or any other property belonging to the municipality, without authorization as it may deem fit.

**23. Liability to pay applicable tariffs**

- (1) The owner of premises where the Municipality is rendering waste services contemplated in this by-law is liable for the payment of prescribed tariffs for such services and is not exempted from or reduction of such tariffs due to non-usage, partial or limited use of such services.
- (2) The Municipality reserves the right to review such tariffs contemplated in subsection (1) on an annual basis.
- (3) The Municipality may exempt any person or category of persons deemed to be falling in the indigent category from paying prescribed tariffs for waste management services as outlined in the Municipal Indigent Policy.

**24. On-site disposal**

- (1) The Municipality may, as it deems fit in an area where a municipal waste management service is not already provided, after consultation with the concerned community, declare an area(s) as demarcated for on-site disposal of general waste.
- (2) A declaration contemplated in subsection (1) must be published in a provincial gazette and may include but not limited to -
- (a) time frames for such a declaration;
  - (b) minimum standards to be adhered to for on-site disposal; and
  - (c) quantity of waste that may be disposed.
- (3) The Municipality has a right to inspect the areas contemplated in subsection (1) on a regular basis.
-

**25. Storage, collection, composting and disposal of garden waste**

- (1) The owner or occupier of the premises on which garden waste is generated, may compost garden waste on the property, provided that such composting does not cause a nuisance or health risk.
- (2) The owner or occupier of the premises on which garden waste is generated and not composted, must ensure that such waste is collected and disposed within a reasonable time after the generation thereof.
- (3) The Municipality may, as far it is reasonably possible, direct any transporter of garden waste or any person providing garden maintenance services, to transport their garden waste to a designated transfer station or facility provided by the Municipality.
- (4) At the written request of the owner or occupier of premises the Municipality or service provider may, in its sole discretion, deliver an appropriate receptacle for the purpose of storing garden waste in addition to any approved receptacle delivered to the premises for the storage of domestic waste; at a prescribed additional tariff.

**26. Collection and disposal bulky waste**

- (1) Any person generating bulky waste must ensure that such waste is collected and recycled or disposed of at a designated facility and may not put such waste as part of the municipal routine collection.
- (2) At a request of the owner or occupier of any premises, the Municipality may remove bulky waste from premises at a prescribed tariff, provided that the Municipality is able to do so with its refuse removal equipment.
- (3) In case a Municipality has been called to remove illegally dumped waste on vacant land, the Municipality may remove that waste subject to subsection (2) and charge the owner of that vacant land.

**27. Generation, storage, collection, reuse and disposal of building waste**

- (1) The owner or occupier of premises on which building waste is generated and person conducting an activity which causes such waste to be generated, must ensure that -
    - (a) until disposal, all building waste, together with the containers used for the storage, collection or disposal thereof, is kept on the premises on which the waste was generated;
    - (b) the premises on which the building waste is generated does not become unsightly or cause a nuisance as a result of accumulated building waste;
    - (c) any building waste which is blown off the premises is promptly retrieved; and
    - (d) pursuant to any instructions from the Municipality, any structure necessary to contain the building waste is constructed.
  - (2) Any person may operate a building waste removal service subject to adherence to relevant legislation.
  - (3) Should the Municipality provide such a service, it shall be done at a prescribed tariff.
  - (4) The owner or occupier of premises may apply to the Municipality for written consent to place an appropriate receptacle for the storage and collection of building waste in the road reserve for the period of such consent.
  - (5) Every receptacle, authorized in terms of subsection (4) and used for the removal of building waste, must –
    - (a) have a clearly marked name, address and telephone number of the person in control of such approved receptacle;
    - (b) be fitted with reflecting chevrons or reflectors which must completely outline the front and the back thereof; and
    - (c) be covered at all times other than when actually receiving or being emptied of such waste so that no displacement of its contents can occur.
  - (6) The owner or occupier of premises on which building waste is generated must ensure that the waste is disposed of at a facility designated for that purpose by the Municipality.
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(7) For the purpose of reclamation of land, reuse or recycling, building waste may with written consent of the Municipality, be deposited at a place other than the Municipality's waste disposal sites.

(8) A consent given in terms of subsection (7) shall be subject to the conditions, as the Municipality may deem necessary.

#### **28. Special industrial or health care risk waste**

(1) Any waste generator who generates special industrial or health care risk waste or an owner of premises where such waste is generated must contract with an accredited service provider to collect and dispose of such waste at a licensed waste disposal facility.

(2) Subsection (1) does not apply to generators of waste who have the capacity to conduct the service.

(3) Any person transporting industrial or health care risk waste must ensure that the facility or place to which such waste is transported is authorized to accept such waste prior to offloading the waste from the vehicle.

#### **29. Event waste**

(1) Any person who is directly or indirectly involved with the organization or management of a sporting, entertainment, cultural or religious event which is to take place on private or public property or owns or controls premises at which a sporting, entertainment, cultural or religious event is to take place, including sports stadia and conference centres, must submit a waste management plan consistent with this By-law to the waste management officer in respect of the storage, collection, recycling and disposal of waste at and after such event at least ten working days prior to the proposed event and comply with the terms and conditions set out by the Municipality.

(2) The waste management plan must also include costing information, and the organizer, management or owner will be required to pay a refundable deposit as determined by the Municipality.

(3) Any person who intends to generate event waste may contract with an accredited service provider, for the collection and disposal of such waste to a licensed waste disposal facility and provide proof of this to the Municipality as part of its waste management plan.

(4) If the event is to be held in a public area, the use, sale or distribution of glass or similar containers is prohibited, unless the prior consent has been obtained from the waste management officer on such conditions as will be determined by him or her that will reduce the likelihood of injury from broken glass.

(5) Should a person fail or neglect to obtain services of an accredited service provider in terms of subsection (3) prior to the event in question, or fail to provide the Municipality with the waste management plan or should there be waste left at the area where the event has been held or the surrounding area as a result of the event, twenty-four hours after such event, the waste management officer may subject to subsection (6), arrange for the collection, clean-up, recycling and disposal of the waste.

(6) The cost for the collection, clean-up, recycling and disposal of the waste shall be payable by the event organizer and may be recovered from the deposit paid or in terms of the Municipality's Credit Control and Debt Collection By-laws.

#### **30. Licensing**

(1) Any person who, or entity which, requires a license in terms of national or provincial Act will have to prove on request, to the waste management officer that such person or entity has obtained the appropriate license within 30 days or such lesser period as specified by such officer.

#### **31. Premises inaccessible for refuse collection**

(1) Should the Municipality be impeded from handling or collecting refuse due to the layout of a person's premises, and if this impediment imposes a danger to employees of the Municipality, the waste management officer may require the owner to do such alterations or additions to the premises as are necessary to remove such impediment at that person's cost.

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**32. Compliance notices**

- (1) The waste management officer may issue notices to any person contravening the provisions of this By-Law –
- (a) setting out the provisions or conditions contravened;
  - (b) directing such person to comply with such provisions or conditions; and
  - (c) setting out the measures which must be taken to rectify the contravention, and the period in which he or she must do so.
- (2) If a person fails to comply with directions given in a notice issued by the waste management officer, the waste management officer may –
- (a) take whatever steps he/she considers necessary to clean up or remove waste, to rehabilitate the premises, place or the affected environment at which the waste has been illegally dumped or stored and to ensure that the waste, and any contaminated material which cannot be removed, cleaned or rehabilitated, is disposed of lawfully;
  - (b) recover the costs of cleaning, removing, rehabilitating or disposing waste, premises or environment, or contaminated material, respectively, from the persons obliged to take such steps in terms of this By-Law, who shall be jointly and severally liable therefore.
- (3) The following persons may be served with such notice:
- (a) any person who committed, or who directly or indirectly permitted, the contravention;
  - (b) the generator of the waste;
  - (c) the owner of the land or premises where the contravention took place;
  - (d) the person in control of, or any person who has or had, at that stage of the contravention, a right to use the land or premises where contravention took place.

**33. Service of documents and process**

- (1) Whenever any notice, order, demand or other document is authorized or required to be served on a person in terms of this By-law, it shall be deemed to have been effectively and sufficiently served on such a person-
- (a) when it has been delivered to him or her personally;
  - (b) when it has been left at his or her place of residence or business with a person apparently over the age of 16 years;
  - (c) when it has been posted by registered or certified mail to his or her last known residential or business address and an acknowledgement of posting thereof is produced;
  - (d) if his or her address is unknown, when it has been served on his or her agent or representative in a manner provided for in paragraph (a), (b) or (c); or
  - (e) if his or her address and agent are unknown, when it has been posted in a conspicuous place on the immovable property, if any, to which it relates.

**34. Failure to comply with notice and enforcement of notice**

- (1) If the waste management officer has issued a compliance notice in terms of section 32 to anyone for contravening any provision of this By-law and such person fails to comply with such notice he or she shall be guilty of an offence.
- (2) The waste management officer may in writing require any person to submit a report to him or her in respect of the impact of waste in a specified form as stipulated in the Municipality's guidelines as published from time to time.
- (3) If the person fails to submit such a report within the period specified, the waste management officer may appoint an independent person to compile the report and recover the costs of compiling the report from the person required to submit it.
- (4) If the waste management officer suspects that the person has on one or more occasion contravened or failed to comply with the By-law or a license issued in terms of provincial or national legislation and this has had a detrimental effect on
-

the environment, including health, social conditions, economic conditions, ecological conditions or cultural heritage or has contributed to the degradation of the environment, the waste management officer may direct that such a report be compiled by an independent person.

- (5) The waste management officer may then direct the person who failed to comply with the notice to take the action recommended in such report, failing which the Municipality may do so, and the person who contravened the notice shall be liable for the cost thereof.

## **CHAPTER 9: ADMINISTRATIVE MATTERS, COMPLIANCE AND ENFORCEMENT**

### **35. Exemptions**

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

### **36. Appeals**

- (1) A person whose rights are affected by a decision taken by the Municipality in terms of these by-laws, 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 or delegated official within 21 days of the date of the notification of the decision.

### **37. Offences**

- (1) Any person who –
- (a) obstructs or hinders the Municipality in exercising the powers or performance of functions or duties as outlined in these by-laws;
  - (b) contravenes or fails to comply with any provision of these by-laws; or
  - (c) fails to comply with the terms of a notice served upon him or her in terms of these by-laws, shall be guilty of an offence.

### **38. Penalties**

- (1) Any person who contravenes or fails to comply with provisions of these by-laws is guilty of an offence and may be liable on conviction to imprisonment for a period not exceeding three months or to a fine not exceeding R10 000, 00 or to both such fine and imprisonment.

### **39. Repeal and Amendment**

- (1) Any by-laws relating to waste management or refuse removal or disposal adopted by the Council or any municipality now comprising part of the Municipality are repealed from the date of promulgation of this By-law.
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- (2) The Waste Management By-laws of the Mangaung Metropolitan Municipality as promulgated in the Local Government Notice No. 60 of October 2013 are hereby amended

**40. Short title and commencement**

- (1) These by-laws are called **Mangaung, Waste Management By-laws** and the amendments herein made take effect on the date of promulgation thereof in the provincial gazette.

**[PROVINCIAL NOTICE NO. 82 OF 2021]**

**MANGAUNG METROPOLITAN MUNICIPALITY**

**PROMULGATION NOTICE**

**Lease of Municipal Halls By-law**

Passed by Council on Thursday, 30 September 2021  
Under Item 179.3 – 30/09/2021

- 1) Notice is hereby given in terms of the provisions of section 13 of the Local Government: Municipal Systems, 2000 (Act No 32 of 2000), as amended, that the Council of Mangaung Metropolitan Municipality passed the revised set of Lease of Municipal Halls By-law, at the sitting dated 30 September 2021.
- 2) The reviewed Lease of Municipal Halls By-law is, as a result of the rationalization process, now applicable and enforceable throughout the jurisdiction of the Mangaung Metropolitan Municipality (MAN).
- 3) The By-law is published for the purpose of general public notification.

**Mr. Sello More**  
**Acting City Manager**

**BY-LAWS RELATING TO LEASE OF MUNICIPAL HALLS**

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### CHAPTER 1 DEFINITIONS

#### 1. Definitions and Interpretation

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

**"Caretaker"** means the official appointed by the Municipality from time to time to supervise and control the use of halls and his authorised nominee;

**"Council"** means the Council of the Mangaung Metropolitan Municipality or any political structure, political office bearer, councillor or any staff member acting under council's delegated or sub-delegated powers;

**"hall"** means a hall as contemplated in section 2 of which the Council is the owner;

**"Lessee"** means the person who has signed a lease agreement with the Municipality similar to the agreement set out in Annexure A hereto for the lease of a hall, and if signed on behalf of a legal body, also such legal body;

**"Municipality/City"** means Mangaung Metropolitan Municipality established by the Provincial Notice №.155 of 2016 as published in the Provincial Gazette, Free State Province of 22 July 2016, issued in terms of section 12 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

**"Operational Officer"** means the supervisor appointed by the Municipality to supervise the physical operations of all municipal facilities;

**"Preparation fee"** means a fee as determined by the Council from time to time which by resolution is levied for the preparation of a hall for a function or a rehearsal of a function.

- (2) In these by-laws, unless the context indicates otherwise, words and expressions denoting the singular shall include the plural and vice versa, words and expressions denoting the male sex shall include the female sex and vice versa and reference to a natural person shall include a legal person and vice versa.

### CHAPTER 2 USE OF MUNICIPAL HALLS

#### 2. Use of halls

- (1) The Municipality may in its discretion make a hall situated in the Municipality of which it is the owner, available for use by any resident or by any person or legal person and any such use shall be subject to the provisions of these by-laws.
- (2) The following halls, which do not constitute the list of all municipal halls, are available for such use:
  - (a) Bloemfontein City Hall situated at President Brand Street, Bloemfontein;



- (b) Claredon Hall situated in the Bloemfontein City Hall complex at President Brand Street, Bloemfontein;
  - (c) Floreat Hall situated in the Civic Centre, De Villiers Street, Bloemfontein;
  - (d) Rose Hall A situated in the Civic Centre, De Villiers Street, Bloemfontein;
  - (e) Rose Hall B situated in the Civic Centre, De Villiers Street, Bloemfontein;
  - (f) Indaba Auditorium situated in the Civic Centre, De Villiers Street, Bloemfontein;
  - (g) Bunga A Auditorium situated in the Civic Centre, De Villiers Street, Bloemfontein;
  - (h) Bunga B Auditorium situated in the Civic Centre, De Villiers Street, Bloemfontein;
  - (i) Norman Doubell Hall situated at Rembrandt Crescent, Heidedal;
  - (j) Henry Brooks Hall situated at De Vries Street, Heidedal;
  - (k) Batho Hall situated on the corner of Hamilton Street and Forthare Street, Batho, Mangaung;
  - (l) Paradise Hall situated at Mkhuhlane Street, Mangaung;
  - (m) Kagisanong Hall situated at Moshoeshoe Street, Rocklands, Mangaung;
  - (n) Jacaranda Hall situated at 2519 B- section, Botshabelo;
  - (o) H- Hall situated at 2615 H-section, Botshabelo;
  - (p) Thaba Nchu Civic Centre situated at Station Road, Thaba Nchu;
  - (q) Simpson Sefuthi Hall situated at N Section, Botshabelo;
  - (r) Thapelong Hall situated at Vanstadensrus;
  - (s) Qibing Community Hall situated at Wepener;
  - (t) Morojaneng Community Hall situated at Dewetsdorp.
- (3) A hall may not be used by or made available for use to any person or legal body unless a lease agreement as contemplated in section 3 has been concluded between the Municipality and such person or legal body and the rental and deposit has been paid in accordance with the provisions of section 4.
- (4) A person or legal body may lease a hall on 1 (one) occasion during a month for a religious service with a maximum of 6 (six) occasions per calendar year. Only 1 (one) such occasion may be for a maximum of 3 (three) consecutive days which may include a Sunday.
- (5) No caterer shall be allowed to book a hall in his or his business's name. The booking must be made in the name of the caterer's client for the specific occasion on that day and the lease agreement must be concluded between the Municipality and that client of the caterer.
- (6) The Municipality reserves the right, subject to the provisions of section 11, to refuse the use of the hall or to cancel any agreement for the use thereof if the proposed entertainment, performance, exhibition, film show or other entertainment is for sufficient and valid reasons warrants the Municipality to disapprove.
- (7) The equipment in the Indaba, Bunga A and Bunga B Auditoriums shall be operated only by the Operational Officer or any authorised officer of the Municipality. The lessee shall pay an amount as determined by Council for the officer to operate such equipment.
-

- (8) If a hall is needed for the purpose of rehearsal/preparation prior to the booked day, the hall must be leased for the rehearsal period and the full preparation fee is payable.
- (9) The Municipality reserves the right to refuse the use of a hall or to cancel any lease agreement for the use thereof if the hall is required for urgent public purposes which, in the opinion of the Municipality, should take precedence. In the event of the cancellation of a lease agreement under the above-mentioned circumstances, the rental paid by the lessee shall be repayable to him.

### **3. Application to lease a hall**

- (1) Application for the use of a hall shall be made to the Municipality in writing by completing and submitting a lease agreement which shall be substantially in accordance with the agreement contained in Annexure A.
- (2) Applications for the lease of a hall will as far as possible be considered in the order in which they are received.
- (3) A verbal booking of a hall for a specific date is provisional until a written application for the use, as contemplated in sub-section (1), has been made. The verbal booking does not amount to the application to have been made or approved.
- (4) No public announcement of the function to be held in the provisionally booked hall shall be made by the applicant until he or she complies with the provisions of sub-section (1), and he or she has received a copy of the lease agreement duly signed on behalf of the Municipality as proof that the application has been approved.
- (5) The approval of an application for the lease of a hall is in the sole and absolute discretion of the Municipality and the Municipality reserves the right to refuse to reserve or to lease a hall. A signature on behalf of the Municipality on the lease agreement by an authorised person will be indicative of the approval of the application.

### **4. Rental and Cleansing and Damage Deposit**

- (1) The rental and a cleansing and damage deposit payable by a lessee for the lease of a hall, are the amounts as from time to time determined by the Council by resolution, which amounts shall include the cost of normal cleaning and lighting.
  - (2) The full rental or a deposit of at least 50% (fifty percent) of the rental, as well as the cleansing and damage deposit is payable within 5 (five) working days after the date of approval of the application as contemplated in sub-section 3(4), in the absence whereafter the provisional booking and the approval will be cancelled and the hall will once again be made available for use by other persons.
  - (3) In the event of the paying of a deposit as contemplated in sub-section (2), the balance of the rental must be paid at least 14 (fourteen) days before the date of the commencement of the lease.
  - (4) All payments for the use of a hall shall be made at the offices of the Municipality or as arranged with the responsible person. Access to the hall on the reserved date shall be refused until such time that an official receipt for such payments is produced.
  - (5) The Municipality may consider to grant the use of the hall free of charge to any person or legal person desiring to arrange a function or display for the purpose of raising funds for charitable, educational, recreational or religious purposes.
  - (6) The cleansing and damage deposit will be refunded to the lessee within 14 (fourteen) days after the date of the function, provided that the use of the hall by the lessee caused no excessive cleansing operations or damages to the hall or any property of the Municipality in or around the hall.
  - (7) All damages which was the fault of the lessee or any other person attending the function for which the lessee leased the hall, will be deducted from the damage deposit and the Municipality reserves the right to institute claims for all other damages which could not be covered by the damage deposit.
-

**5. Cancellation of a lease**

- (1) The cancellation of a lease must be made in writing at least 30 (thirty) days before the date of the commencement of the lease of the hall, in which case the full rental paid minus 10% (ten percent) or the deposit paid minus 20% (twenty percent) whichever is applicable, will be refunded to the lessee.
- (2) In the event of the cancellation of a lease with less than 30 (thirty) but more than 14 (fourteen) days written notice, the full rental paid minus 50% (fifty percent) will be refunded to the lessee. No refund of any deposit paid will be made to the lessee under these circumstances.
- (3) In the event of the cancellation of a lease with 14 (fourteen) days or less written notice, no refund of any rental or deposit paid will be made to the lessee.

**6. Change of date or transfer of lease**

The Municipality may, for good and sufficient reasons provided by the lessee and if the Municipality or any other person or legal person will not be prejudiced, allow a change of date of the use of a hall or a transfer of a lease between various halls at the fee applicable to such halls, without any penalty: Provided that the lessee shall submit his request to this effect at least 14 (fourteen) days before the date on which the lease commences, in writing.

**7. Rights and obligations of the lessee**

- (1) The lessee shall be responsible to examine the hall and its contents prior to the commencement of the lease, and to direct the attention of the Caretaker to and any defects. If no defect is reported by the lessee, the hall and its contents shall be deemed to be in good order and condition at the commencement of the lease.
  - (2) The lessee shall at all times keep the hall and its contents in a clean and tidy condition.
  - (3) The lessee shall be responsible for all arrangements in connection with the admission of all persons to the leased hall and shall provide such ushers, cashiers, police and other staff as may be necessary to control the admission and conduct of all persons in the hall and on the premises to ensure compliance with the provisions of these sections.
  - (4) The right to use a hall for a specified purpose on a specific day is granted to the lessee in his or her personal capacity and he or she may not make the hall or any part thereof, either for the same or another purpose, available for use by any third party either by means of a sub-lease or by ceding, assigning, pledging or in any other way transferring all or part of his or her rights without the prior written consent of the Municipality.
  - (5) Electric lighting and other electric appliances shall, except with the express permission of the Municipality, be handled only by a duly appointed official of the Municipality.
  - (6) Candles and naked lights may be used in the hall subject thereto that the Fire Brigade is notified beforehand by the lessee. Smoking in a hall is prohibited.
  - (7) No bar for the sale of alcohol may be conducted during any function in a hall, except in terms of a valid liquor licence and then only with the prior consent of the Municipality and subject to the conditions determined by the Municipality. Under no circumstances shall a person under the age of 18 (eighteen) years be supplied with alcohol.
  - (8) The cloakrooms are for the duration of the lease under the supervision of the lessee who accepts full responsibility for all damages or losses caused to the cloakrooms.
  - (9) The lessee shall give the Caretaker at least 2 (two) working days' notice of the way in which the hall should be arranged.
  - (10) No person who is under the influence of alcohol or drugs shall be admitted to a hall or having gained admission, be permitted to remain therein.
  - (11) No person shall be permitted to dance in any hall unless appropriate shoes are worn so as not to damage the floor surface.
-

- (12) The number of persons allowed in a hall shall be limited to the number of available seating accommodation. No persons shall be allowed to congregate in the passages or doorways leading to such hall. When the available seating accommodation has been occupied, the lessee shall make the necessary arrangements to prevent the admittance of more persons to the hall.
- (13) The lessee shall ascertain and comply with all legal requirements pertaining to the holding of a gathering and without limiting the meaning or scope of the aforesaid, the lessee shall in particular ensure that he and all other users of the hall, comply with all requirements relating to the carrying of fire-arms.
- (14) No flags, banners, posters, paper ribbons, notices, signs and advertisements may be displayed in or at any entrance of a hall without the prior written approval of the Municipality.
- (15) All persons shall vacate the hall before or upon expiration of the lease period and if for any reason whatsoever the lease period is exceeded, the lessee will pay for the exceeding period in accordance with the applicable tariff with a minimum period of 3 (three) hours.
- (16) All property not belonging to the Municipality must be removed from the hall prior to the expiration of the lease period. Should this not be done the lessee will pay for the exceeding period in accordance with the applicable tariff with a minimum period of 3 (three) hours.
- (17) No furniture or articles, which are the property of the Municipality, shall be removed from the hall except with the prior permission of the Municipality and then only under the direct supervision of the Caretaker.
- (18) The lessee shall be responsible for all catering arrangements and shall ensure that the caterer keep and leave such premises in a clean and tidy condition. Food shall be prepared only in the kitchen of a hall on electric stoves or other electric cooking equipment provided by the Municipality. The kitchen or scullery as well as the crockery and cutlery of the Municipality, if used, must be cleaned before the expiration of the lease of the hall.
- (19) The safekeeping of the hall, furniture, fittings and other property appertaining thereto is the responsibility of the Caretaker. The Caretaker therefore has the right to enforce the provisions of these by-laws and may terminate any lease agreement at any stage if damages is begin done or if the Caretaker has reason to believe that the hall, furniture, fittings or other property appertaining thereto, is under the risk of being damaged.

#### **8. Liability for damages**

- (1) The lessee shall be liable for and shall bear the costs in excess of the damage deposit (if any), of any damages to the hall, furniture, fittings or to any other property of the Municipality which may occur during the period of lease of the hall.
- (2) The Municipality will not be responsible or liable for damages to nor for the loss of any property, article or thing placed in or left in the hall by the lessee or by any other person nor for damages to the property of or for injuries to any person entering the hall or using the equipment or facilities therein.
- (3) The Municipality shall not be liable for any damages or loss sustained by the lessee in consequence of the failure of or any defect in any machinery, appliances or lighting arrangements of the hall.

#### **9. Indemnity**

The lessee and any other person using the hall of the Municipality on the day concerned for the specified purpose, do it at own risk and the lessee therefore indemnifies the Municipality, its members, employees or agents, whether in personal or official capacity, against liability for all claims from whichever nature by him or his or her dependants or any third party in respect of any patrimonial loss, consequential damages, injuries, or personal prejudice that he, she or any other person using the hall may suffer or sustain in connection with or resulting from the aforementioned used of the hall.

#### **10. Inspection of the hall and its contents**

- (1) After each period of lease, the Caretaker and the lessee shall inspect the hall to ascertain whether any damages have been caused to the hall or its contents.
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- (2) After each period of lease, the crockery and cutlery leased from the Municipality (if any) shall be checked and counted by the Caretaker in the presence of the lessee or his nominee.
- (3) Any duly authorised officer of the Municipality or any member of the SA Police Services or Municipal Law Enforcement Unit may enter the hall which is leased at any time for purposes of inspection to ensure that the lessee is adhering to the provisions of these by-laws.

#### **11. Preview of proposed exhibition, performance, entertainment or film show**

- (1) In order to determine whether the proposed exhibition, performance, entertainment, film show or other exhibition to be conducted in a hall is desirable for public exhibition, the Municipality reserves the right to demand a preview for councillors and officials concerned before the commencement thereof.
- (2) If such demanded preview is not granted by the lessee, or if the Municipality decides after the preview for sufficient and valid reasons to cancel the proposed exhibition, performance, entertainment, film show or other exhibition, the Municipality shall have the right to cancel the lease agreement and no compensation other than the repayment of the rental, if any, shall be payable by the Municipality to the lessee in respect of any loss which he may suffer as a result of such cancellation.
- (3) The Municipality reserves the right in the case of any exhibition, performance, entertainment, film show or other exhibition which has already been shown or performed and which is considered by the Municipality to be undesirable for public showing or performance, to prohibit any repeat show or performance thereof in a hall of the Municipality. The Municipality furthermore reserves the right to cancel any lease agreement for the lease of a hall in all cases where the lease was for the purpose of showing and performing an exhibition, performance, entertainment, film show or other exhibition prohibited by the Municipality. No compensation other than the repayment of the rental shall be payable by the Municipality to the lessee in respect of any loss which he may suffer as a result of such cancellation.
- 4) Should the lessee use a hall for a film or slide show he shall appoint qualified and skilled operators for this purpose at his own cost.

#### **12. Breach of lease agreement**

In the event of a breach of or non-compliance with any of the provisions of the lease agreement, the Municipality may cancel the lease agreement forthwith and no compensation shall be payable to the lessee for any loss which may be sustained as a result of such cancellation.

#### **13. Obstruction of employees**

- (1) No person shall :
  - (a) hinder, obstruct or interfere with any employee of the Municipality in the performance of any of the duties relating to these sections; or
  - (b) refuse to give such information as the Municipal employee may reasonably require; or
  - (c) give to the Municipal employee an information, which, to his or her knowledge, is false or misleading; or
  - (d) prevent or obstruct an employee of the Municipality in any manner whatsoever to obtain free and unobstructed entrance to a hall during the period of lease to enable him or her to perform any of the duties relating to these by-laws.

#### **14. Offences and penalties**

- (1) Any person contravening or failing to comply with any of the provisions of these by-laws shall be guilty of an offence and shall upon conviction by a court be liable to a fine not exceeding R 60 000, or imprisonment for a period not exceeding three years or both a fine as well as period of imprisonment, or such other fine or period of imprisonment which the Minister of Justice may from time to time determine in terms of the provisions of section 92 of the Magistrate's Courts Act, 1944 (Act No 32 of 1944).
-

- (2) Any expense incurred by the Municipality as a result of a contravention of these by-laws or in the doing of anything which a person was directed to do under these by-laws and which he or she failed to do, may be recovered by the Municipality from the person who committed the contravention or who failed to do such thing.

#### 15. Repeal and Amendment

- (1) Any by-laws relating to discharge of industrial effluent adopted by the Council or any municipality now comprising part of the City are repealed from the date of promulgation of these by-laws
- (2) The by-laws relating to the Lease of Municipal Halls, as promulgated in the Local Government Notice No. 114 of 28 October 2005 and the Local Government Notice No. 34 of June 2016 are hereby further amended.

#### 16. Short title and commencement

This by-law is called **Mangaung, Lease of Municipal Halls By-law** and the amendments effected come into operation on the date of publication thereof in the *Provincial Gazette*

### ANNEXURE "A"

#### LEASE AGREEMENT ON MUNICIPAL HALLS

##### 1. Particulars of lessor

Mangaung Metropolitan Municipality (hereinafter "the Municipality/City")  
 PO Box 3704  
 Bloemfontein  
 9300 Telephone: (051) 405 8458 Fax: (51) 405 8367

##### 2. Particulars of lessee

Initials and Surname: .....

If legal person, name thereof: .....

Postal address: .....

Telephone: ..... Cell: ..... Fax: .....

##### 3. Particulars of lease

Name of Hall	Purpose of use	Dates required	Hours required	Rental	Cleansing and Breakage deposit

##### 4. Conclusion of lease

A signature on behalf of the Municipality/City on this lease agreement by an authorised person will be indicative of the conclusion of the agreement between the parties.

##### 5. Conditions of lease

The lease is subject to the provisions of the Municipality by-laws on the Lease of Municipal Halls, as amended, copy of which is attached hereto for ease of reference the provisions thereof must be complied with.

**6. Liability**

The lessee accepts full liability for any damages to the hall, furniture, fittings, cloakrooms or to any other property of the Municipality and for any injury sustained by an employee of the Municipality which may occur during the lease period or which may be suffered or sustained as a result of or in connection with the lease agreement concluded in terms of the provisions of the Lease of Municipal Halls By-law, as amended.

**7. Indemnity**

The lessee and any other person using the hall of the Municipality on the day concerned for the specified purpose, do it at own risk and the lessee therefore indemnifies the Municipality, its members, employees or agents, whether in personal or official capacity, against liability for all claims from whichever nature by him or his dependants or any third party in respect of any patrimonial loss, consequential damages, injuries, or personal prejudice that he or any other person using the hall may suffer or sustain in connection with or resulting from the aforementioned use of the hall.

**8. Breach**

Should the lessee fail to pay any amount owed in terms of this agreement on due date thereof; or fail to comply with any of the other provisions of the lease agreement, the lessor shall be entitled to cancel this agreement forthwith by notice to the lessee without prejudice to any other rights that the lessor may have against the lessee as a result of such breach of contract.

**9. Entire agreement**

This lease agreement contains all the terms and conditions of the agreement between the parties concerning the leasing of the hall and no terms, conditions, warranties or representations whatsoever apart from those contained in this agreement have been made or agreed upon.

**10. No variation**

No variation of this lease agreement or mutually agreed upon cancellation thereof shall be of any force or effect unless in writing and signed by or on behalf of both parties.

**11. Jurisdiction**

The parties consent to the jurisdiction of the Magistrate's Court with regard to any claim arising out or resulting from this lease agreement.

**12. Domicilium**

The parties choose as domicilia citandi et executandi for all purposes, the addresses referred to in clauses 1 and 2.

**13. No indulgence**

No indulgence which the lessor may grant to the lessee with regard to the compliance of any of the lessee's obligations in terms of this agreement, shall prejudice or constitute a waiver of any of the lessor's rights in terms of this agreement.

Signed at..... on this ..... day of ..... 20.....

As witnesses

1.....

.....

Signature: Lessee

2.....

.....

Full particulars of signatory who warrants that

he or she is authorised thereto

**Take note:** If the lessee is under the age of 21 years, a legal guardian as provided hereunder must assist him or her.

-----

Signed at..... on this ..... day of ..... 20.....

As witnesses

1.....  
Signature: Parent/Guardian

2.....

Signed at..... on this ..... day of ..... 20.....

As witnesses

1.....  
Signature: For & on behalf of the Municipality

2.....  
Full particulars of signatory who warrants that he or she is authorised thereto

[PROVINCIAL NOTICE NO. 83 OF 2021]

## MANGAUNG METROPOLITAN MUNICIPALITY

### PROMULGATION NOTICE

#### Firefighting Services By-laws

Passed by Council on Thursday, 30 September 2021  
Under Item 179.3 – 30/09/2021

- 1) Notice is hereby given in terms of the provisions of section 13 of the Local Government: Municipal Systems, 2000 (Act № 32 of 2000), as amended, that the Council of Mangaung Metropolitan Municipality passed the revised set of Firefighting Services By-laws, at the sitting dated 30 September 2021.
- 2) The Firefighting Services By-laws are, as a result of the rationalization process, now applicable and enforceable throughout the jurisdiction of the Mangaung Metropolitan Municipality (MAN).
- 3) The By-laws are published for the purpose of general public notification.

**Mr. Sello More**  
**Acting City Manager**

#### **BY-LAW RELATING TO FIREFIGHTING SERVICES**

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DEFINITIONS**

**1. Definitions**

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

**"access door"** means any door that provides access to an emergency route;

**"activity"** means any work that needs to be performed to test, to service, to renew and/or to replace an extinguisher, hose reel, fire installation and/or service installation;

**"animal"** means any animal that is kept for domestic or agricultural purposes within the area of the municipality;

**"building"** includes -

- (a) any structure, whether temporary or permanent, irrespective of the materials used in its erection, erected or used for or in connection with -
- (i) the accommodation or convenience of human beings and animals;
  - (ii) the manufacture, processing, storage, display or sale of any goods;
  - (iii) the provision of any service;
  - (iv) the destruction or treatment of refuse or other waste materials; and
  - (v) the cultivation of any plant or crop;
- (b) any wall, swimming-bath, swimming-pool, reservoir or bridge, or any other structure connected with it;
- (c) any fuel pump or any tank used in connection with it;
- (d) any part of a building, including a building as defined in paragraph (a), (b) or (c); and
- (e) any facility or system, or part or portion of it, within or outside but incidental to a building, used for the provision of a water supply, drainage, sewerage, storm-water discharge, electricity supply or other similar service in respect of the building;
-

**"Building Control Officer"** means the person appointed or deemed to be appointed as a building control officer by a local authority in terms of section 5 of the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977);

**"certificate of appointment"** means an identification document issued by the Chief Fire Officer to a member;

**"certificate of fitness"** means a certificate contemplated in section 20 of these by-laws, which certificate has been issued by the Chief Fire Officer in terms of fire related requirements to authorise a person to occupy designated premises (which are a public building) accordingly;

**"certificate of registration"** means a certificate issued by the Chief Fire Officer in terms of section 24 of these by-laws which authorises a person to occupy registered premises, or to use the premises for spray-painting activities or for the storage or handling of dangerous goods, by having complied to all fire related requirements.

**"Chief Fire Officer"** means the person appointed by the Council in terms of section 5(1) of the Fire Brigade Services Act, No. 99 of 1987), and includes any member who exercises any power or performs any duty delegated by the Chief Fire Officer to the member under section 19 of the Act, and also includes an Acting Chief Fire Officer appointed in terms of section 5(3) of the Act, and any person acting in the position of the Chief Fire Officer and "Fire: Chief" has a corresponding meaning;

**"code of practice"** means the code of practice as defined in section 1 of the Standards Act, 1993 (Act 29 of 1993);

**"control room"** means a room on any premises which is specifically designed, built and equipped to coordinate and control an emergency situation in or on the premises in question;

**"Council"** means the Municipal Council of the Mangaung Metropolitan Municipality in which the executive and legislative authority of the municipality is vested, and which is the decision-making body of the municipality, and its delegates;

**"dangerous good"** means any substance, mixture of substances, product or material that has been declared to be a Group I, II, III, IV, V, VI, VII, VIII or IX dangerous good in terms of section 2(1) of the Hazardous Substances Act, 1973;

**"designated premises"** means any premises designated by the Chief Fire Officer with a view to an emergency evacuation plan as contemplated in section 16 of these by-laws;

**"device"** means any vehicle, mechanical or electrical implement, electrical motor, machine, instrument, apparatus or other implement of which the whole or any part is used or is capable of being used for, in or in connection with the manufacture, treatment, provision, delivery, supply, packaging, labelling, storage, conveyance, loading and unloading, handling, preparation, serving or administering of any grouped dangerous good, and includes any delivery pump, filling device, spray-painting device and mechanical hoist;

**"discharge"** means the ignition or activation of any fireworks whatsoever;

**"distance to be covered"** means the distance that a person would in normal circumstances have to cover to exit a room, measured from the furthest point in the room;

**"dump"**, in relation to a grouped dangerous good, means to deposit, discharge, spill or release that substance (whether or not the substance in question is enclosed in a container), or to have it or permit it to be deposited, discharged, spilled or released, or to deposit, discharge, spill or release it in such a way or place, or under such circumstances or for such a period, or to have it or permit it to be so deposited, discharged, spilled or released in a manner that reasonably indicates the intention to abandon or discard the substance, and "dumping", "spilling" and "spill into" have a corresponding meaning;

**"emergency"** means an incident or eventuality that poses or may pose a serious threat to any person, environment or property, and "emergency situation" has a corresponding meaning;

**"emergency evacuation plan"** means a written procedure and a set of detailed plans as contemplated in Annexure B to these by-laws;

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**"emergency route"** means that part of an escape route which provides the occupiers of any building with protection from fire and which leads to an escape door;

**"escape door"** means the door in an escape route which, at ground level, leads directly to a street or public place or to any approved open space which leads to a street or public place;

**"escape route"** means the entire path of travel from the furthest point in any room in a building to the nearest escape door;

**"explosive(s)"** means explosive as defined in the Explosives Act, No. 15 of 2003 (the Explosives Act) and any Regulations promulgated under the Act

**"facility"** means any storage tank, whether above ground or below ground, or any transportable or refillable container that can be used for the keeping of dangerous goods, and includes the fuel tank of a motor vehicle, aircraft, vessel, ship or boat;

**"fire area"** means the area of jurisdiction of the Council in which provision is made for fire protection as defined in SANS 10090;

**"fire-fighting equipment"** means any portable fire extinguisher, mobile fire extinguisher, hose reel or fire hydrant;

**"fire installation"** means any water installation, which conveys water solely for fire fighting;

**"fire risk category"** means a fire area being divided into sub-areas, which fall into one of the following fire-risk categories:

- Category A:** Central business districts and extensive commercial and industrial areas normally found in cities and large towns (areas where the risk to life and property are likely to be high due to fire occurrence and spread).
- Category B:** Limited central business districts, smaller commercial or industrial areas normally associated with small towns and decentralized areas of cities and large towns (areas where the risk to life and property is likely to be moderate due to fire occurrence and spread).
- Category C:** Residential areas of conventional construction.
- Category D:** Rural risks of limited buildings and remote from urban areas.
- Category E:** Special risks. Individual risks requiring a pre-determined attendance over and above the predominant risk category in an area. Includes large shopping/entertainment centres, informal settlements, harbours, hospitals, prisons, large airport buildings, high-rise buildings and petrochemical plants.

**NOTE:** High-rise buildings, as defined in SANS 10400, are an integral part of central business districts and would therefore be included in Category A. Buildings with major fire safety deficiencies may, however, be classed as special risks.

**"fireworks"** means explosives under Class 7, Division 2, shop goods only, as contemplated in Regulation 9.1 under the Explosives Act, 1956 (Act 26 of 1956);

**"hazardous substance"** means any hazardous substance contemplated in the Hazardous Substances Act, No. 15 of 1973, any regulations made under that Act.;

**"liquefied petroleum gas"** means a mixture of light hydrocarbons (predominantly propane, propene, butane, butene) that is gaseous under conditions of ambient temperature and pressure and that is maintained in a liquid state by an increase of pressure or lowering of temperature"

**"member"** means a member of the Service as contemplated in section 6 and 6A(5) of the Fire Brigade Services Act, 1987;

**"municipality"** means the Mangaung Metropolitan Municipality, and when referred to as -

- (a) an entity, means Mangaung Metropolitan Municipality as described in section 2 of the Systems Act; and
- (b) a geographic area, means the municipal area of Mangaung Metropolitan Municipality as determined in terms of the Local Government: Municipal Demarcation Act, 1998 (Act No 27 of 1998)

**"National Building Regulations"** means the National Building Regulations made in terms of section 17 of the Act and to be read in conjunction with the Building Standard Act 103 of 1977 as amended;

**"occupancy"**, in relation to any public building, means the assembly of people in or on any such premises **"occupier"** means any person who occupies or has control over any premises;

**"owner"**, in relation to land or premises, means the registered owner of the land or premises, and includes any person who receives the rental or profit from the land or premises, whether for his/her own account or as an agent and, in relation to a sectional title scheme in terms of the Sectional Titles Act, 1986 (Act 95 of 1986), for the purposes of section 18 of the Fire Brigade Services Act, 1987, the body corporate as contemplated in the Sectional Titles Act, 1986, and, in the case of a deceased or insolvent estate, the executor or the curator respectively;

**"premises"** means land, a building or other construction or structure, or any part of it, and includes -

- (a) a train, boat, ship, aircraft or other vehicle, excluding, where applicable, the fuel tank of any such vehicle; and
- (b) any building or room in which explosives are stored, kept or handled;

**"public building"** means any building where people gather to view theatrical and operatic performances, orchestral and choral recitals, and cinematographic screenings, or to attend or participate in indoor sports activities, including any place where people dance or practise or perform any physical activity;

**"public place"** means any path, street, walk-way, side-walk, park, place of rest or other place in which the public has authorised or unimpeded access;

**"rational design"** as defined in SANS 10400;

**"Guidelines"** means Guidelines for the provision of Engineering Services and Amenities

**"registered premises"** means any premises in respect of which a certificate of registration has been issued,

**"room"** means any room or other partitioning in a building;

**"SANS"** means the South African National Standards determined and approved by the South African Bureau for Standards;

**"Service"** means the Fire Brigade Service established by the Council as contemplated in section 1 of the Fire Brigade Services Act, 1987;

**"spray"** means to spray, coat, plate or epoxy-coat with any hazardous substance and spraying has a similar meaning;

**"service installation"** means any automatic extinguishing installation, fire pump connector, fire pump, emergency power and/or standby generator, fire detection system, fire locating system, fire alarm system, emergency lighting system, emergency evacuation communication system, mechanical ventilation system, pressure regulating system, smoke ventilation system, hoists and symbolic safety signs, and includes smoke and fire door assemblies;

**"spraying permit"** means a permit issued by the Chief Fire Officer in terms of section 45(1)(a) of these by-laws;

**"spraying room"** means any room, building or structure that is designed, built, equipped or erected solely for spraying or coating vehicles, parts of vehicles, or any other objects with Group III dangerous goods and/or combinations of Group III dangerous goods, or with any other substance, to form a decorative and/or corrosion resistant layer, or for any purpose incidental thereto, and "spraying booth" and "submersion tank", as well as any related process involving electrolysis, have a corresponding meaning;

**"storeroom"** means a room, which is constructed, equipped and maintained as contemplated in section 43 of these by-laws;

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**"storey"** means that part of a building, which is situated between the top of any floor and the top of the floor above it or, if there is no floor above it, that portion between such floor and the ceiling above it (any mezzanine floor, open work floor, catwalk or gallery is regarded as part of the storey in which it is situated): Provided that, in relation to a building -

- (a) the ground storey will be regarded as the storey in which there is an entrance to the building from the level of the adjoining ground or, if there is more than one such storey, the lower or lowest of these storeys;
- (b) a basement will be regarded as any part of the building, which is below the level of the ground storey;
- (c) an upper storey will be regarded as any storey of the building which is above the level of the ground storey; and
- (d) the height, expressed in storeys, will be regarded as that number of storeys which includes all storeys other than a basement;

**"temporary structure"** means any structure that is apparently temporary in nature;

**"vehicle"** includes a semi-trailer or trailer which has at least four wheels with independent axles and suspension systems and can be hitched to a truck-tractor, or any other motor vehicle as contemplated in the National Road Traffic Act, 1996 (Act 93 of 1996);

## **PART II ADMINISTRATIVE PROVISIONS**

### **ORGANISATION OF THE SERVICE**

- 2. (1) The Council has established a Fire Brigade Service as contemplated in Section 3 of the Act, as amended,
- (2) The Council maintains the Service within its area, which includes
  - (a) the appointment of a Chief Fire Officer and the necessary members of the Service
  - (b) ensuring that the members and other personnel are properly trained;
  - (c) acquisition of vehicles, machinery, equipment, devices and accessories to ensure that the Service is effective and able to attain its objectives being:
    - (i) preventing the outbreak or spread of a fire;
    - (ii) fighting or extinguishing a fire;
    - (iii) the protection of life or property against a fire or other threatening danger;
    - (iv) the rescue of life or property from a fire or other threatening danger;
    - (v) the performance of any other function connected with any of the matters referred to in subsection 2(c)(i) to (iv).
- (3) The Chief Fire Officer is in charge of the day to day affairs and operation of the Service.
- (4) The Council may, in terms of an agreement as contemplated in section 12 of the Act, employ its Service within or outside the municipality, or within or outside the Free State Province, against payment of the tariffs as determined by the Council from time to time, or against payment in terms of or on the conditions contained in the agreement concerned.

### **DRIVING SERVICE VEHICLES**

- 3. (1) Any member may, with the authority of the Chief Fire Officer, drive a Service vehicle if he or she has the applicable driver's licence for the vehicle in question as required by the National Road Traffic Act, 1996.

### **PRETENDING TO BE A MEMBER**

- 4. (1) No person, except a member, may wear any official clothing, uniform, badge or insignia of the Service except with the permission of the Chief Fire Officer, which permission may be granted for a certain period or purpose;
- (2) No person may pretend to be a member of the Service;
- (3) Any person who represents himself or herself as a member must identify himself or herself, if requested to do so by a member, by producing the relevant certificate of appointment.

**POWERS OF MEMBERS AND DESIGNATED OFFICERS**

5. (1) Every member, of the Service, has all the powers provided for in the Act.
- (2) A designated officer as contemplated in subsection (4)(a) may -
- (a) seize any certificate of fitness, certificate of registration or spraying permit provided for in these by-laws if the conditions of or endorsements in the document are not being complied with, or if the member has reasonable grounds to suspect that unauthorised changes have been made to the document;
  - (b) institute the relevant prosecution in connection with any contravention of this or any other section of these by-laws or have the prosecution instituted, as the case may be; and
  - (c) seize anything (hereinafter called "an object") on any premises connected with a spraying permit, certificate of registration or certificate of fitness and must remove an object or have an object removed to a place of safe custody: Provided that the seizure does not exempt any person from any other provisions of these by-laws: Provided further that the seizure is made in accordance with the following conditions:
    - (i) Official proof of seizure must be issued to the person from whom the object has been seized, together with a description of an object.
    - (iii) After a compliance notice issued in terms of the Actor these by-laws has been complied with in full or after a prosecution has been instituted and finalised, as the case may be, an object seized must be released to the person from whose possession it was taken subject to any order of court.
- (3) A designated officer seizing an object in terms of subsection (2) shall not be liable for any damages or loss as stipulated in section 20 of the Act.
- (4) Any member may temporarily close or seal off any building, premises, road, passage or place which he or she deems necessary in the interest of public safety or for effectively fighting a fire or dealing with any other emergency that may give rise to a fire, explosion or other threat to life or limb, and the member may remove, using no more force than is reasonably necessary, any person who refuses to leave the building, premises, road, passage or place after having been requested by the member to do so.
- (5) (a) Designated officers must be appointed as peace officers and designated as such.
- (b) All designated officers have the power -
- (i) in terms of the provisions of section 56, read with section 57, of the Criminal Procedure Act, 1977 (Act 51 of 1977), to issue summons;
  - (ii) in terms of the provisions of section 341 of the Criminal Procedure Act, 1977, to issue notices;
  - (iii) in terms of the provisions of section 44 of the Criminal Procedure Act, 1977, to issue a warrant of arrest;
  - (iv) in terms of the provisions of section 41 of the Criminal Procedure Act, 1977, to request certain persons for their names and addresses and to arrest persons without a warrant of arrest if duly authorised to do so; and
  - (v) in terms of the provisions of section 54 of the Criminal Procedure Act, 1977, to serve summons in order to secure the attendance of the accused in a magistrate's court.
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**MAKING SERVICE EQUIPMENT AND STAFF AVAILABLE**

6. (1) At the discretion of the Chief Fire Officer, the Service may, at the request of any body or person and at the tariffs determined by the Council from time to time, use any equipment or staff at its disposal to provide any service in connection with the objectives of the Service.
- (2) The said equipment or staff may be withdrawn summarily if the equipment or staff is required elsewhere for or in connection with an emergency situation.

**PART III****FIRE PROTECTION AND FIRE-FIGHTING****COMBUSTIBLE MATERIALS AND REFUSE**

7. (1) No person may store any combustible materials of whatever nature, or have them stored or permit them to be stored in such a manner, position and quantity as to likely pose a fire hazard.
- (2) No person may allow grass, weeds, reeds, shrubs, trees or any like vegetation to become overgrown on premises to such an extent that it may pose a fire hazard or a probable fire hazard on such premises or to any adjacent premises or any other person's property.
- (3) A designated officer may, arising from a condition referred to in this section, serve on the occupier of the premises a compliance notice to rectify the condition.
- (4) Failure to comply with a compliance notice issued in terms of subsection (3) shall constitute a contravention of these by-laws.

**MAKING FIRES**

8. (1) No person may, subject to the provisions of the Veld and Forest Fire Act, 1998 (Act 101 of 1998) within the Municipality, make an open, uncontrollable or unattended fire or permit a fire to be made in such a place or in such a manner as to pose a real or potentially real threat to any human being, animal, building, premises or other property: Provided that this prohibition is not applicable to -
- (a) a fire in a purpose-built stove, fireplace or hearth, which is an integral part of a structure;
- (b) a fire for preparing food on private premises or premises set aside for that purpose; and
- (c) a device for preparing food which device is heated by means of electricity or liquefied petroleum gas and is positioned in such a way that the device poses no threat to life or property on any premises.
- (2) No person may burn any refuse, wood, straw or other combustible materials or have them burnt or permit them to be burnt within the municipality, subject to the provisions of subsection (1).

**INSPECTION OF PROPERTIES AND INSTRUCTIONS TO OCCUPIERS**

9. (1) Any designated officer contemplated in section 5 of these by-laws may, in executing all powers delegated in terms of relevant and applicable legislation, enter any premises at any reasonable time to conduct inspections to determine whether there is any fire, emergency, dangerous goods or other hazard on the premises.
- (2) A designated officer may, arising from a condition referred to in subsection (1), serve on the occupier of the premises or any other premises a compliance notice to rectify the condition on the premises.
- (3) The Chief Fire Officer may after receipt of a written application to do so, amend the stipulations of a compliance notice issued in terms of this section.
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**ACCESSIBILITY OF FIRE-FIGHTING EQUIPMENT AND FIRE FIGHTING INSTALLATIONS**

10. (1) Fire-fighting equipment and fire fighting installations must be installed in such a manner so that it is readily accessible at all times.
- (2) Any person who, in whatever way, causes or permits fire-fighting equipment or firefighting installations not to be readily accessible is guilty of an offence.
- (3) No person may use any fire-fighting equipment installed in any building or provided on any premise for any other purpose than the fighting or extinguishing of a fire

**FIRE PROTECTION REQUIREMENTS FOR PREMISES**

11. (1) If any superfluous water unavoidably spills into or is collected in a basement for whatever reason during fire extinguishing activities, adequate means must be provided to convey the water so spilled or collected to a storm-water drain
- (2) No high- or low-voltage transformer room(s) in any building may be situated on any level other than the ground level: Provided that -
- (a) the access to the transformer room(s) is situated on the outside of the building; and
- (b) provision is made for adequate access to the transformer room(s) for fire-fighting activities or maintenance.
- (3) Whenever an approved sprinkler system is required the sprinkler system must be planned, designed and installed in accordance with SANS 10287 for automatic sprinkler installations and to the satisfaction of the Chief Fire Officer.
- (4) Any person who fails to comply with any of the provisions of subsections (1) (2) or (3) where the provisions relate to fire protection matters, is guilty of a contravention of these by-laws.

**ACCESS FOR FIRE-FIGHTING AND RESCUE PURPOSES**

12. All premises in the Municipality must be planned, designed and constructed so as to ensure that -
- (1) if a building does not front onto a street, an access road is provided, the dimensions and carrying capacity of which must be suitable for the fire engines used by the Service with specific reference to the length, width and tonnage of the fire engines: Provided that the dimensions must be equal to the largest fire engine that is likely to be used on the premises in question; and
- (2) whenever any entrance arch spans a driveway to a premises, the dimensions of the opening of the arch must be at least 3,5m wide and 4,2m high and there must be nothing causing an obstruction of the opening: Provided that if the dimensions of the entrance arch are less, another access or service gate to the premises must be provided, which access or gate is capable of being opened to 3, 5 m.

**UPKEEP AND MAINTENANCE OF FIRE-FIGHTING EQUIPMENT AND FIRE FIGHTING INSTALLATIONS**

13. (1) The owner of any premises must ensure that -
- (a) all fire-fighting equipment and fire fighting installations that have been provided or installed on or in connection with the premises are maintained in a good working condition by a competent person or firm approved by the SABS as contemplated in SANS 1475 and registered in terms of SANS 1475;
- (b) portable and mobile fire extinguishers and hose reels are serviced and maintained in accordance with the provisions of SANS 10105 and SANS 1475;
- (c) firefighting installations are inspected and serviced by a registered person in accordance with the specifications of the manufacturers of the installations.
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- (2) Any person who inspects, services, renews, replaces or repairs any firefighting installation must -
- (a) on completing the work, certify that the firefighting installation is fully functional; and
  - (b) notify the Chief Fire Officer immediately in writing if he finds that the firefighting installation cannot, for whatever reason, be readily repaired to its functional state.
- (3) The owner of any premises must keep a comprehensive service record of all fire-fighting equipment and fire fighting installations on his premises and submit the record to the Chief Fire Officer upon request by a designated officer.

#### EXTRACTOR FAN SYSTEMS

14. (1) Extractor fan systems and related ducts or similar chimney systems must be designed and installed in such a manner as to grant adequate access (that is clearly marked) for trouble-free inspection and maintenance of and repairs to the relevant mechanisms.
- (2) Every filter, damper, screen or conduit that forms an integral part of a system referred to in subsection (1) must be regularly cleaned, maintained and checked to ensure that fatty residues or any other combustible residues do not accumulate.
- (3) The conduit and outlet of any system referred to in subsection (1) must be installed so as not to pose a fire hazard or probable fire hazard to any premises or property.

#### RATIONAL DESIGNS

15. (1) The construction, design and/or erection of -
- (a) hangars;
  - (b) helipads;
  - (c) grain silos;
  - (d) atriums;
  - (e) air traffic control towers; and
  - (f) any other structure or building identified at the discretion of the Chief Fire Officer,
- in the municipality, must comply with an acceptable rational design, submitted to and approved by the Chief Fire Officer, which meets all the applicable requirements of Regulation T1(1) of the National Building Regulations.
- (2) Subject to the provisions of subsection (1), provision must also be made, in the case of hangars or helipads, for -
- (a) the drainage of any liquid from the floor of the hangar or helipad and/or approach to the hangar;
  - (b) the channelling of any liquid to a drainage area, which is effectively connected to a separator well;
  - (c) the prevention of any liquid from spreading from the floor of the hangar or helipad to any rooms, adjacent buildings or to the outside of the hangar; and
  - (d) earthing devices for discharging static electricity.

#### EMERGENCY EVACUATION PLANS

16. (1) The owner or occupier of designated premises must -
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- (a) within 30 days after the premises have been designated by the Chief Fire Officer, prepare a comprehensive emergency evacuation plan for the premises, in triplicate, and must have it ready for inspection and approval by the Chief Fire Officer, which plan must be in accordance with the guidelines prescribed in Annexure B to these by-laws;
  - (b) constitute an internal emergency committee from among the internal staff and occupiers to assist with the planning and organisation of a fire protection programme, which programme includes regular, scheduled fire evacuation drills on the premises;
  - (c) ensure that -
    - (i) the emergency evacuation plan is revised and updated whenever the floor layout changes or whenever the Chief Fire Officer requires revision or updating, but in any case at least every twelve months;
    - (ii) updated records of revised emergency evacuation plans, fire protection programmes, evacuation drills and related documents are kept and maintained at all times; and
    - (iii) the emergency evacuation plan and relevant documents are at all times available in a control room for inspection by the Chief Fire Officer; and
  - (d) identify a predetermined place of safety outside, but in the vicinity of, the designated premises, where occupiers may gather during an emergency situation for the purpose of compiling a list of survivors.
  - (e) An EEP (Emergency Evacuation Plan) box, as described in Annexure C shall be installed in a prominent position at the main entrance of the premises.
- (2) The Chief Fire Officer may from time to time -
- (a) provide directives for updating or amending an emergency evacuation plan;
  - (b) instruct the owner or occupier of designated premises in writing to implement such fire protection programmes that, in the opinion of the Chief Fire Officer, are necessary to ensure the safety of the occupiers of the designated premises; and
  - (c) require the owner or occupier of designated premises to furnish the Chief Fire Officer with a certified copy of any emergency evacuation plan and relevant documents on such day and at such time and place as the Chief Fire Officer may determine.
- (3) The Chief Fire Officer may by written notice issued to the owner or occupier designate any premises as premises requiring an emergency evacuation plan.
- (4) Any person who fails to comply with the provisions of this section is guilty of an offence.
- (5) No person may cause or permit any escape route or any emergency route to be rendered less effective or to be obstructed in any way which may hinder or prevent the escape of any person in the case of fire or any other emergency.

#### **CERTIFICATES OF FITNESS FOR ALL PUBLIC BUILDINGS**

17. (1) The owner of any public building, or of any temporary structure which is erected or intended for holding public gatherings, must apply in writing to the Chief Fire Officer for the issuing of a certificate of fitness for every type of gathering or for the proceedings envisaged in the premises or structure, and must pay the fees, as determined by the Council from time to time, when submitting the application form as indicated in Annexure A to these by-laws.
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- (2) No certificate of fitness will be issued for a public building unless all the relevant provisions of these by-laws have been complied with.
- (3) A certificate of fitness issued to the owner of a public building will be endorsed with the following information, where applicable:
- (a) The trade name and street address of each occupier
  - (b) The type of activity of each occupier
  - (c) The name of the persons on the executive
  - (d) The permissible number of people in proportion to the usable floor area
  - (e) The number of escape doors and their widths
  - (f) A cancellation clause in the event of any applicable provision of these by-laws being disregarded
  - (g) An obligation on the part of the holder of the certificate to -
    - (i) display the certificate prominently on the premises at all times; and
    - (ii) maintain the certificate in a legible condition at all times
  - (h) A date, year and serial number
  - (i) The date of expiry of the certificate.
- (4) A certificate of fitness is not required for a public building, which has been legally erected on commencement of these by-laws.
- (5) If the trade name of a public building changes, the holder of the certificate of fitness must ensure that the change is brought to the attention of the Chief Fire Officer immediately and in writing.
- (6) No certificate of fitness will be issued or renewed, as the case may be, unless and until the Council
- (a) is in possession of a set of plans referred to in section 11 of these by-laws and approved by the Chief Fire Officer; and
  - (b) has received the prescribed application form identified in Annexure A to these by-laws, which form has been completed in full and correctly.
- (7) The holder of a certificate of fitness must ensure that he or she is at all times in possession of a valid certificate of fitness.
- (8)
- (a) Any expansion or removal of or change in anything relating to or in connection with premises for which a certificate of fitness has been issued will result *ipso facto* in the cancellation of the certificate of fitness, including any other authorisation granted in terms of these by-laws.
  - (b) The provisions of this subsection are not applicable to any action which results in the temporary removal of something for the purpose of effecting repairs or replacements in respect of the premises.
- (9) The owner must submit, on or before the first working day of the month in which the permit expires of each year, together with the prescribed fees as determined by the Council from time to time, an application for the renewal of the certificate of fitness to the Chief Fire Officer on the prescribed form: Provided that if the Chief Fire Officer for some reason requires plans of the premises in question for the purposes of the renewal application, the plans must accompany the application.
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- (10) Any person who fails to comply with the provisions of this section or who alters or attempts to alter a certificate of fitness, or knowingly allows the certificate to be altered, is guilty of an offence.

### **WATER SUPPLY FOR FIRE-FIGHTING**

18. (1) Every person who develops or redevelops a township must:
- (a) design and develop that township with a sufficient water supply for purposes of fire fighting by members of the Service as specified in:
    - (i) SANS 10090 (Community Protection against Fire); and
    - (ii) the Guidelines
  - (b) plot the position of all fire hydrants on a plan for operational use by the Service;
  - (c) space all fire hydrants in accordance with SANS 10090 (Community Protection Against Fire), SANS 11200 and the Guidelines' specifications
  - (d) in the event that any risk area is developed or redeveloped in such a manner that the risk area falls into a higher risk category, adapt the water reticulation in accordance with the stipulations of subparagraphs (a) to (c) without delay,
- (2) No person may obtain a water connection to the water reticulation system of the Council unless fire protection plans for the premises, as contemplated in Regulation A9 of the National Building Regulations, have been approved by the Chief Fire Officer.
- (3) Every person or owner of premises who requires a water connection to the water reticulation system of the Council must-
- (a) if the premises are protected by a sprinkler installation, ensure that-
    - i. the connection is calculated and designed for each sprinkler installation in accordance with a rational design as contemplated in the National Building Regulations and Building Standards Act, and
    - ii. the size, delivery pressure and flow of the water connection is calculated in advance by the responsible engineer;
  - (b) if the Chief Fire Officer requires a larger water connection for the premises to ensure that fire-fighting equipment functions in accordance with the appropriate design requirements as set out in Part W of SANS 10400, the owner of the premises must provide the larger water connection ; and
  - (c) ensure the size, work pressure and delivery flow of any water supply, excluding a water supply as contemplated in subsection (5)(a), must be calculated and designed according to the provisions of Part W of SANS 10400 and SANS 10252, Part 1.

### **REGISTRATION APPLICATIONS FOR EXISTING PREMISES**

19. If an owner rebuilds, alters, extends or changes the floor layout of an existing building that has been legally erected and used, or if ownership or control of the premises changes, no existing certificate of fitness, certificate of registration or spraying permit, as prescribed in Annexure A to these by-laws, will be renewed, unless and until all the appropriate provisions of these by-laws regarding an original application have been complied with.

### **PART IV DANGEROUS GOODS**

#### **APPLICATION FOR APPROVAL OF PLANS**

20. (1) Subject to the provisions of the National Building Regulations and Building Standards Act, 1977 and the provisions of the Major Hazard Installation Regulations, every owner of premises on which there is a building in respect of which a floor layout change, addition, alteration, upgrading and, or renovation is envisaged, or the owner of premises on which bulk, above-ground and underground installations and any other structures are to be erected for the use, storage or handling of dangerous goods or erected in connection with such use, storage or handling, must submit plans in triplicate to the Council on the prescribed form obtainable from the office of the Building Control Officer.

- (2) No construction work may be started on any premises unless the building contractor is in possession of the relevant plans that have been officially certified as recommended for approval by the Chief Fire Officer and approved by the Council. For the duration of construction work on the premises the plans in question must be available for inspection by the Chief Fire Officer.
- (3) An MSDS (Material Safety Data Sheet) box, as described in Annexure C shall be installed in a prominent place at the main entrance of the premises.
- (4) Any owner of premises who fails to comply with the provisions of this section or any person who on behalf of the owner is involved in any activity contemplated in this section and fails to comply with the provisions of this section is guilty of an offence.

### ISSUING OF CERTIFICATES OF REGISTRATION

21. (1) No person may on any premises use, handle or store quantities of dangerous goods in excess of the quantities referred to below or permit them to be used, handled or stored, unless and until the person is in possession of a certificate of registration as provided for in Annexure A to these by-laws and issued in respect of the specific quantities and appropriate devices on approved premises: Provided that if only one of the groupings referred to below is present on the premises and the applicable maximum permissible quantity is not exceeded, the provisions of this section are not applicable:

#### Group I: Explosives

Fireworks	As determined in the Explosives Regulations promulgated in terms of the Explosives Act
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#### Group II: Gases

2.1	Flammable gases	Total cylinder capacity may not exceed 100kg
2.2	Non-flammable gases	Total cylinder capacity may not exceed 333 kg
2.3	Toxic gases	No exemption

#### Group III: Flammable liquids

3.1	With flash points $\geq 18$ °C	Total quantity may not exceed 100 ℓ
3.2	With flash points $> 18$ °C but $\leq 23$ °C	Total quantity may not exceed 420 ℓ
3.3	With flash points $> 23$ °C but $< 61$ °C	Total quantity may not exceed 1 100 ℓ
3.4	With flash points $> 61$ °C but $\leq 100$ °C	Total quantity may not exceed 1 100 ℓ

#### Group IV: Flammable solids

4.1	Flammable solids	Total quantity may not exceed 250 kg
4.2	Pyrophoric substances	No exemption
4.3	Water-reactive substances	No exemption

#### Group V: Oxidising agents and organic peroxides

5.1	Oxidising agents	Total quantity may not exceed 200 kg
5.2	Group I organic	No exemption peroxides in packets
5.3	Group II organic	Total quantity may not peroxides in packets exceed 200 kg

**Group VI: Toxic/infective substances**

6.1	Group I toxic substances in packets	Total quantity may not exceed 5 kg
6.2	Group II toxic substances in packets	Total quantity may not exceed 50 kg
6.3	Group III toxic substances in packets	Total quantity may not exceed 500 kg
6.4	Infective substances	No exemption

**Group VII: Radioactive materials** No exemption

**Group VIII: Corrosive/caustic substances**

8.1	Group I acids in packets	Total quantity may not exceed 50 kg
8.2	Group II acids in packets	Total quantity may not exceed 200 kg
8.3	Group III acids in packets	Total quantity may not exceed 1 000 kg
8.4	Group I alkaline substances in packets	Total quantity may not exceed 50 kg
8.5	Group II alkaline substances in packets	Total quantity may not exceed 200 kg
8.6	Group III alkaline substances in packets	Total quantity may not exceed 1 000 kg

**Group IX: Miscellaneous substances**

9.1	Liquids	Total quantity may not exceed 210 ℓ
9.2	Solids	Total quantity may not exceed 210 kg

- (2) No person may, on any unregistered premises, store, use or handle any of the dangerous goods referred to in subsection (1), or have them stored, used or handled, or permit them to be stored, used or handled, unless the dangerous goods are stored, used or handled in such place or in such manner as to ensure that -
- no dangerous good or fumes of the substance come into contact or are likely to come into contact with any fire, flame, naked light or other source of ignition that may cause the dangerous good or fumes to catch fire; and
  - the escape of human beings or animals is not hindered or obstructed in the event of a fire or an emergency situation.
- (3) No person may, on any unregistered premises, use or handle dangerous goods, or have them used or handled or permit them to be used or handled on the premises, except in a suitable place out of doors to

ensure that any fumes can escape freely, or in a properly and naturally ventilated room to ensure that any fumes or gas does not collect in the room but is effectively disposed of.

- (4) Dangerous goods may be stored on unregistered premises only if the dangerous goods are, when not in use, stored in strong, labelled containers that seal tightly.
- (5) No certificate of registration will be issued in respect of premises for the use, handling or storage of dangerous goods, unless all the applicable provisions of these by-laws have been complied with and a written application for registration, on the prescribed form, as described in Annexure A to these by-laws, has been submitted to the Chief Fire Officer, together with the fees determined by the Council from time to time by way of resolution.
- (6) When a certificate of registration is issued, the certificate must be endorsed with the following conditions, namely that the certificate -
- (a) must at all times be displayed in a weatherproof container in a conspicuous place on the premises designated by a member of the Service;
  - (b) must be maintained in a legible condition at all times;
  - (c) must reflect the groups and the quantities of dangerous goods for which the premises has been registered;
  - (d) must reflect the number of aboveground and underground storage tanks or storage facilities, and the capacity of each such storage tank or storage facility;
  - (e) must reflect the number of storerooms and the total capacity of each storeroom;
  - (f) must reflect the number of gas installations, the type of gas installation and the total volume and delivery capacity of each installation;
  - (g) must specify the number of storage facilities for other dangerous goods and reflect the volumes intended for each facility;
  - (h) must reflect a serial number;
  - (i) must indicate whether the issue of such certificate is permanent or temporary;
  - (j) must reflect the period of validity and the expiry date of the certificate: Provided that the period of validity will be only twelve calendar months, calculated from the date of issue, and written application for renewal of the certificate reaches the Chief Fire Officer at least one calendar month prior to the expiry date;
  - (k) is not transferable from premises to premises;
  - (l) must, subject to section 19 of these by-laws, be transferable from owner to owner and/or from control to control on the same premises: Provided that -
    - (i) application for such transfer is made to the Chief Fire Officer on the prescribed form; or
    - (ii) if the trade name of the premises changes, the holder of the spraying permit or certificate of registration must ensure that the change is immediately brought to the attention of the Chief Fire Officer;
  - (m) will not be issued unless the Chief Fire Officer is in possession of a set of approved plans as required by section 20 of these by-laws; and
  - (n) will not be issued or renewed unless the prescribed application form has been completed in full and has been submitted.
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- (7) (a) Any person who has a legal certificate of registration in his or her possession may apply in writing on the prescribed form to have the total quantity of dangerous goods, flammable liquids and number of underground tanks, storerooms, gas installations and other storage areas amended, according to need, and the form must be accompanied by the prescribed fee.
- (b) The Chief Fire Officer will approve an application only if the proposed amendments comply with the provisions of these by-laws.
- (c) If the application is approved, the applicant must submit his or her certificate of registration to the Chief Fire Officer for amendment.
- (8) The holder of a certificate of registration must ensure that he or she is at all times in possession of a valid certificate of registration.
- (9) No person may alter or attempt to alter any certificate of registration.

### SUPPLY OF DANGEROUS GOODS

22. (1) No person may -
- (a) supply more dangerous goods than the quantities referred to in section 21(1) of these by-laws to any unregistered premises, or have them supplied or permit them to be supplied;
- (b) deliver or supply more dangerous goods than the quantity specified in the applicable certificate of registration or dangerous goods of a group other than that specified in such certificate of registration to any premises or person, or have them delivered or supplied or permit them to be delivered or supplied.
- (2) No person may handle any container containing a dangerous good in a manner that will or may damage that container, or permit the container to be damaged.

### EXEMPTIONS

23. (1) Notwithstanding anything to the contrary in these by-laws -
- (a) flammable liquids are not deemed to be stored, handled or transported whenever the liquids are, for normal use, in the fuel tank of a motor vehicle;
- (b) flammable liquids are not deemed to be stored, handled or transported if the liquids are in the fuel tank of a stationary engine: Provided that the volume of the fuel tank does not exceed 1 100 L and the fuel tank is surrounded by a liquid-proof retaining wall filled with -
- (i) granite ballast with a nominal diameter of at least 40 mm; or
- (ii) quartzite ballast with a nominal diameter of at least 50 mm:
- Provided further that the bund area must be capable of containing the maximum capacity of the fuel tank, plus 10% of the volume of the tank.

### RENEWAL OF SPRAYING PERMITS AND CERTIFICATES OF REGISTRATION

24. (1) Any holder of a certificate of registration or spraying permit must, at least thirty days prior to the expiry date of the permit, submit an application for renewal of the certificate or permit to the Chief Fire Officer on the prescribed form, which form must be accompanied by the fees determined by the Council from time to time: Provided that the Chief Fire Officer may require additional or amended plans of the premises in question for the purposes of renewal.
- (2) The period of validity will be only twelve calendar months, calculated from the date of issue of the original certificate.

**TEMPORARY STORAGE OF DANGEROUS GOODS**

25. (1) The Chief Fire Officer may grant a temporary certificate of registration for a period of not more than six months to any person who, for bona fide reasons, requires more dangerous goods on the premises than the quantities contemplated in section 21(1) of these by-laws: Provided that –
- (a) if the dangerous goods are required for, or in connection with, excavations, construction work and road construction, the quantity must be limited to 14 000 l;
  - (b) an application is submitted on the prescribed form, accompanied by the fees determined by the Council from time to time, together with the plans required by section 20 of these by-laws; and
  - (c) the duration of the temporary storage is at the discretion of the Chief Fire Officer.
- (2) Any person whose application for a temporary storage tank is approved must ensure that –
- (a) the storage tank is surrounded by a liquid-proof retaining wall filled with -
    - (i) granite ballast with a nominal diameter of at least 40 mm; or
    - (ii) quartzite ballast with a nominal diameter of at least 50 mm:

Provided further that the bund area must be capable of containing the maximum capacity of the fuel tank, plus 10% of the volume of the tank.
  - (b) provision is made for the run-off of any possible rainwater from the retaining walls or retaining embankments;
  - (c) the storage tank is not erected within 5 m of any erf boundary, building, excavation, road or driveway;
  - (d) no source of ignition or potential ignition is brought within 5 m of the storage tank;
  - (e) symbolic signs prohibiting smoking and open flames, at least 300 mm x 300 mm in size, are affixed to all sides of the temporary installation; and
  - (f) a minimum of two 9kg dry chemical fire extinguishers are installed within 10 m of the temporary installation.
- (3) Any person who fails to comply with the provisions of this section is guilty of an offence.

**DELIVERY OF DANGEROUS GOODS**

26. (1) Any person delivering dangerous goods to any supplier or user –
- (a) may not, while delivering, park any delivery vehicle on or across a pavement or on or across a public road;
  - (b) may not, while delivering, let any delivery hose lie on or across a pavement, public road or other premises, or go through or over a building or have it lying there;
  - (c) must ensure that, while delivering, a 9kg dry chemical fire extinguisher is ready at all times;
  - (d) must ensure that, during the transferral of dangerous goods, the delivery vehicle is physically earthed with the storage facility to which the dangerous goods are being transferred;
  - (e) must ensure that, while delivering, the delivery vehicle is in such a position that it can be removed quickly and easily in the event of an emergency situation without exacerbating the situation;
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- (f) must ensure that no dangerous good is transferred from a delivery vehicle to a facility that is leaking or broken; and
- (g) where delivery is done with a road tanker, as defined by the Road Traffic Act provision shall be made as to ensure that the delivery vehicle does not require to reverse out of any emergency situation.
- (2) The owner of any device connected with or used for the delivery of a dangerous good must ensure that the device is designed for the specific purpose and is in a safe and good working condition.
- (3) The person in charge of any delivery process of a dangerous good must take reasonable precautionary measures to ensure that no dangerous good is spilled during delivery on any surface when the substance is transferred from a delivery vehicle to a storage facility.
- (4) No person may transfer any dangerous good to a motor vehicle, aircraft, vessel or boat while the power source thereof is in operation or permit the substance to be transferred.
- (5) No person may transfer a dangerous good to an aircraft unless and until the aircraft has been earthed with the transferral device by means of an earth cable.

### PROHIBITION OF CERTAIN ACTIONS

27. (1) Any person who stores, uses or handles dangerous goods on premises or has them stored, used or handled or permits them to be stored, used or handled on the premises may not -
- (a) do anything or allow anything to be done that may reasonably result in or cause a fire or an explosion; and
  - (b) do anything or allow anything to be done that may obstruct the escape to safety of any human being or animal during an emergency.
- (2) No person may
- (a) dump or spill any dangerous good into any borehole, pit, sewer, drain system or surface water or permit it to be done,
  - (b) discard or allow the discarding of dangerous goods in any manner other than by an organisation that is fully equipped to do so.
  - (c) light, bring or use, any fire or anything else that produces or is capable of producing an open flame or permit any other person to do so, within 5 metres of any place where dangerous goods are stored.
  - (d) use or allow to be used any device in connection with dangerous goods in any basement level in a building, excluding a gas welding device or gas cutting device for the sole purpose of maintenance of that building, .
  - (e) while any other person, except the driver or any other person responsible for the bus contemplated in the National Road Traffic Act, is in or on the bus –
    - i. fill the fuel tank or permit it to be filled, or
    - ii. transport or allow the transport of any dangerous good in or on such bus, except in its fuel tank,
  - (f) deliver or supply or allow to be delivered or supplied, any dangerous goods to any premises unless the owner or person in charge of the premises is in possession of a valid certificate of registration.

### "NO SMOKING" SIGNS

28. The owner of a building, where flammable or explosive dangerous goods are used, stored and handled, must, in the affected areas display symbolic signs-
- (a) prohibiting smoking and open flames, which conform with SANS 1186 and are of the appropriate size as specified by the Chief Fire Officer and
  - (b) prominently in appropriate places where the sign can be clearly observed.

#### **FIRE-FIGHTING EQUIPMENT AND FIRE FIGHTING INSTALLATIONS**

29. (1) Notwithstanding anything to the contrary in these by-laws, the person to whom the certificate of registration in terms of section 21 of these by-laws or a spraying permit in terms of section 42(1) of these by-laws has been issued must ensure that all premises to which such certificate of registration or spraying permit applies are equipped with -
- (a) portable fire extinguishers to the satisfaction of the Chief Fire Officer,
  - (b) hose reels to the satisfaction of the Chief Fire Officer,
  - (c) fire hydrants to the satisfaction of the Chief Fire Officer, and
  - (d) approved sprinkler systems to the Chief Fire Officer.
- (2) Fire-fighting equipment and fire fighting installations must be inspected and serviced by a registered person in accordance with the specifications of the manufacturers of the equipment to the satisfaction of the Chief Fire Officer.
- (3) If fire-fighting equipment is not positioned prominently, the position of the equipment must be indicated by symbolic safety signs to the satisfaction of the Chief Fire Officer.

#### **REPORTING OF FIRES, ACCIDENTS AND DUMPING**

30. (1) The occupier of any premises must immediately report any fire, accident or dumping involving dangerous good on the premises that has caused damage to property, the ecology or the environment or injury to human beings or animals to the Chief Fire Officer, who in turn must report incidents involving the ecology or the environment to the Council's official responsible for Environmental Management.
- (2) The Chief Fire Officer may recover any costs incurred by the Municipality from any person causing damage, pollution,

#### **SAMPLING**

31. (1) Whenever a designated officer inspects any premises and suspects that a substance on the premises is hazardous, the Chief Fire Officer may compel the owner or occupier of such premises to have a sample taken and analysed for the cost of the owner or occupier of such premises.
- (2) Any sample:
- (a) so taken must be taken in the presence of the owner or occupier or any other third party;
  - (b) must be divided into two equal parts and be sealed in similar suitable containers, one of which must be provided to the Chief Fire Officer, with the following information on the containers:
    - (i) The address and the location of the premises
    - (ii) The trade name of the premises or concern
    - (iii) The name and signature of the persons who are present, as contemplated in subsection (1)
    - (iii) the date on which and time at which the sample was taken

- (v) A description of the exact location on the premises where the sample was taken;
- (c) must be taken immediately to an accredited institution as determined by the Chief Fire Officer for an analysis and a report: Provided further that the results of the analysis may, subject to the rules of the law of evidence, be used as evidence in any potential legal steps that the Chief Fire Officer may consider and/or deem necessary, as the case may be.

#### STORAGE TANKS AND DEVICES THAT HAVE BECOME OBSOLETE

- 32. (1) The owner or user of any storage tank or related device that has become obsolete must, in accordance with the provisions of section 33 of these by-laws, remove the tank, installation or device or have the tank or device removed, or fill up the tank with matter approved by the Department of Environmental Affairs and Tourism in order to render the tank safe.
- (2) The owner or user of any storage tank or related device, removed in accordance with subsection (1), must dispose of such a storage tank or related device in the manner approved by the Chief Fire Officer.

#### INSTALLATION, ERECTION, REMOVAL AND DEMOLITION

- 33. (1) In addition to any other applicable legislation, any person who intends to erect, install, remove, demolish, extend or alter any delivery pump, storage tank, storeroom, spraying room, gas installation, storage facility, fire protection arrangement and floor layout in respect of premises or anything connected with the premises, or has any of the above erected, installed, removed, demolished, extended or altered, must notify the Chief Fire Officer of his or her intentions at least three working days prior to the commencement date and estimated completion date, and this notification must be made on the form described in Annexure A to these by-laws
- (2) Failure to comply with subsection (1) will *ipso facto* cancel the certificate of registration and spraying permit, as the case may be, in so far as such failure is connected with the matter, as well as any other authorisation, including an exemption granted in terms of these By-laws: Provided that the provisions of this section are not applicable whenever -
  - (a) anything is removed temporarily for carrying out repairs thereto or in connection therewith;
  - (b) any aboveground or underground equipment and/or parts of the equipment are replaced; and
  - (c) any aboveground or underground storage tanks are replaced with tanks of the same capacity.
- (3) (a) Subject to the provisions of section 20, no structure, installation or building may, after completion of the action referred to in subsection (1), be re – erected, re – used or re – installed on the same premises.
- (b) After re – erection, re – use or re – installation as contemplated in subsection (3) (a) application must be made for a certificate of fitness, spraying permit or certificate of registration in accordance with the provisions of PART IV, DANGEROUS GOODS, of these by-laws.

#### GROUP I DANGEROUS GOODS

- 34. All Group I dangerous goods (explosives) must be handled, used, stored and transported in accordance with the provisions of SANS 10228, 10229, 10232 and 10263, the Explosives Act, 2003, and the Hazardous Substances Act, 1973, and any regulations made under these Acts.

#### GROUP II DANGEROUS GOODS

- 35. (1) All portable metal containers and related devices for Group II dangerous goods must be manufactured, marked, maintained, filled and stored in accordance with the provisions of SANS 10019, SANS 10228, SANS 10229 and SANS 10238, as the case may be.

- (2) All portable metal containers for liquefied petroleum gas must be stored, filled and installed in accordance with the provisions of SANS 10228, SANS 10229, SANS 10238, SANS 10019 and SANS 10087, Parts I to VIII, as the case may be.
  - (3) All portable containers for Group II liquefied, flammable, toxic, corrosive and dissolved gases as defined in SANS 10019 must at all times be transported, stored and installed in a vertical position.
  - (4) All bulk containers for Group II dangerous goods must be designed, manufactured, maintained and installed in terms of the provisions of the Occupational Health and Safety Act, 1993 (Act 85 of 1993), and any regulations made under the Act; SANS 10087, Part III; and the provisions of the National Building Regulations and Building Standards Act, 1977, and any regulations made under the Act, as the case may be.
  - (5)
    - (a) No Group II flammable, toxic, and corrosive gas may, for any reason whatsoever, be used, stored, handled or installed indoors in any manifold installation or otherwise on any premises.
    - (b) The provisions of this section are not applicable to the storage, use, handling or installation of a portable liquefied petroleum gas container of a maximum water capacity of 45 ℓ inside a detached private dwelling-house (H4 occupancy classification in terms of Regulation A 20 of the National Building Regulations), on condition that the container is used solely for bona fide residential purposes: Provided that liquefied petroleum gas will only be permitted indoors on condition that the prospective user ensures that there is sufficient natural ventilation from the room to the outdoors to ensure that any gas concentration in the room that may be caused by a leakage or potential leakage of the gas or by a negligent action in respect of the use of the gas will be so neutralised as not to be within the recognised explosive limits for the gas.
  - (6) The design and construction of any liquefied petroleum gas manifold shall comply with the provisions of SANS 10087-1.
  - (7) No person may, without the permission of the Chief Fire Officer, use, handle, display or apply any hydrogen-filled portable containers, hydrogen devices or hydrogen balloons indoors, for whatever purpose.
  - (8) Whenever any person uses acetylene welding or cutting devices indoors, these devices must be used strictly in accordance with the requirements of SANS 10238: Provided that the Chief Fire Officer may prescribe additional fire protection requirements concerning the installation, storage and use of the devices.
  - (9) The installation within the municipality of pipelines for any Group II dangerous good, and branches or manifolds of pipelines, as the case may be, is *mutatis mutandis* subject to the provisions of sections 19, 20, 21, 22, 24, 26 and 28 of these by-laws.
  - (10) Any pipeline for a Group II dangerous good must comply with the following requirements except where the owner or the person in charge of the pipeline is exempted in terms of Section 15 of the Gas Act, No. 48 of 2001 from obtaining a license from the Gas Regulator:
    - (a) The owner of the pipeline must provide fire hydrants, of which the required delivery of each individual fire hydrant must be at least 1 600 ℓ per minute at a work pressure of 300 kPa, and these fire hydrants must be parallel to the pipeline at every pump station within the area: Provided that where the installation of fire hydrants is not possible, the Chief Fire Officer may prescribe such alternative means of water provision deemed necessary to effect adequate fire protection of the installation. The owner must maintain the fire hydrants in a working condition at all times.
    - (b) The owner of the pipeline must provide sufficient cathodic protection if required for the pipeline and maintain the cathodic protection in a working condition at all times.
    - (c) The pipeline must be marked with markers approved by the Chief Fire Officer and must be maintained in a functional condition at all times by the owner of the pipeline.
    - (d) The installation and extension of the pipeline and branches to consumers' premises, and the maintenance of the pipeline within the area, must *in toto* be done according to a recognised standard approved by the Chief Fire Officer.
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- (e) No construction work above or below the ground may be done within 16 m of the pipeline reserve, unless the construction company is in possession of written authorisation to do so, which authorisation has been issued by the Council and the owner of the pipeline.
- (f) The owner or operator of any Group II dangerous good pipeline must submit, for the approval of the Chief Fire Officer, in writing the result of a risk assessment conducted in accordance with the regulations pertaining to Major Hazard Installations promulgated under the Occupational Health and Safety Act, No 85 of 1993.
- (g) No persons may commence with the installation of a Group II Dangerous Goods pipeline prior to receiving a written approval of the Chief Fire Officer in terms of sub-paragraph (f) above.

### GROUP III DANGEROUS GOODS

36. (1) No person may install, use or utilise or attempt to install, use or utilise any storage tank for the underground storage of Group III dangerous goods, unless the tank has been manufactured in accordance with the provisions of SANS 1535:
- (2) Any person who installs, uses or attempts to install, or use any underground storage tank, which does not comply with the requirements of SANS 1535, is guilty of an offence.
  - (3) Any pipeline for a Group III dangerous good must comply with the following requirements except where the owner or the person in charge of the pipeline is exempted in terms of Section 15 of the Gas Act, No. 48 of 2001 from obtaining a license from the Gas Regulator:
    - (a) The owner of the pipeline must provide fire hydrants, of which the required delivery of each individual fire hydrant must be at least 1 600 ℓ per minute at a work pressure of 300 kPa, and these fire hydrants must be parallel to the pipeline at every pump station within the area: Provided that where the installation of fire hydrants is not possible, the Chief Fire Officer may prescribe such alternative means of water provision deemed necessary to effect adequate fire protection of the installation. The owner must maintain the fire hydrants in a working condition at all times.
    - (b) The owner of the pipeline must provide sufficient cathodic protection for the pipeline and maintain the cathodic protection in a working condition at all times.
    - (c) The pipeline must be marked with markers approved by the Chief Fire Officer and must be maintained in a functional condition at all times by the owner of the pipeline.
    - (d) The installation and extension of the pipeline and branches to consumers' premises, and the maintenance of the pipeline within the area, must *in toto* be done according to a recognised standard approved by the Chief Fire Officer.
    - (e) No construction work above or below the ground may be done within 16 m of the pipeline reserve, unless the construction company is in possession of written authorisation to do so, which authorisation has been issued by the Council and the owner of the pipeline.
    - (f) The owner or operator of any Group III dangerous good pipeline must submit for the approval of the Chief Fire Officer, in writing, the result of a risk assessment conducted in accordance with the regulations pertaining to Major Hazard Installations promulgated under the Occupational Health and Safety Act, No 85 of 1993.

### INSTALLATION OF STORAGE TANKS

37. (1) Any storage tank for Group III dangerous goods must be installed in accordance with the provisions of SANS 10400; SANS 10089, Parts I, II and III; SANS 10131, Parts I, II and III; SANS 10108 and SANS 10086, as the case may be: Provided that -
- (a) all storage tanks installed indoors must be installed in accordance with the provisions of SANS 10131, Parts I, II and III, as the case may be;

- (b) all pumps and filling devices installed indoors must be in a purpose-built, registered premises;
- (c) all installations, as contemplated in subsection (1)(a) and (b), as the case may be, are subject *mutatis mutandis* to the provisions of section 20 and section 21 of these by-laws.

## **PART V**

### **TRANSPORTATION OF DANGEROUS GOODS**

#### **SERVICE TRANSPORT PERMIT**

38. (1) The owner of any vehicle intended to be used for transporting flammable substances or dangerous goods in the municipality must apply from the Chief Fire Officer for a transport permit on the prescribed forms indicated in Annexure A and upon expiry, renew a transport permit, in respect of such vehicle: Provided that -
- (a) each vehicle for which such a permit has been issued must comply with the provisions of this section;
  - (b) the application form must be completed correctly and in full;
  - (c) the application form must be accompanied by the fees prescribed by Council from time to time; and
  - (d) the application must be submitted for processing to the registration office of the Service at least five days (excluding Saturdays, Sundays and public holidays) prior to the proposed test date.
- (2) The transport permit is valid for a period of twelve months from the date of issue.;
- (3) The Chief Fire Officer may send a reminder for renewal of the transport permit to the owner of the vehicle(s). A transport permit holder who has not received a reminder is not indemnified from possible prosecution.
- (4) No person may alter or allow a transport permit to be altered.

## **PART VI**

### **STOREROOMS FOR DANGEROUS GOODS**

#### **REQUIREMENTS FOR STOREROOMS**

39. (1) The certificate of registration issued for any storeroom for dangerous goods as contemplated in section 21 of these by-laws must indicate the group and the largest quantity of dangerous goods which may be kept in the storeroom.
- (2) No person may use any storeroom or permit any storeroom to be used for Group III dangerous goods, unless symbolic safety signs prohibiting open flames and smoking, at least 290 mm x 290 mm in extent, manufactured in accordance with the provisions of SANS 1186, are conspicuously affixed to the storeroom.
- (3) The certificate of registration for a storeroom, with the contents of the certificate clearly visible, must be kept and maintained in a legible condition on the same premises and be readily available for inspection.
- (4) The construction of any storeroom must be in accordance with the requirements of the General Safety Regulations of the Occupational Health and Safety Act and the following requirements:
- (a) The storeroom floor must consist of concrete;
  - (b) the storeroom walls must consist of material that has a fire resistance of at least 120 minutes; and
  - (c) the storeroom roof must consist of reinforced concrete with a fire resistance of at least 120 minutes; or any other non-combustible material, if the storeroom is not situated within 5 metres of any adjacent
-



building or boundary of the premises; or adjoins a higher wall with no opening within 10 metres above and 5 metres on either side of the storeroom.

- (5) Any storeroom must be equipped with Class B-type fire doors manufactured and installed in accordance with SABS 1253: Provided that -
- (a) the said doors must open to the outside and have a lock or locks approved by the Chief Fire Officer;
  - (b) in any storeroom, the travel distance to the nearest escape door shall not exceed 4 m;
  - (c) any escape door from a storeroom must at all times be capable of being opened easily from the inside without the use of a key; and
  - (d) any such escape door shall be provided with SANS approved safety signs, conspicuously placed, indicating the door to be an escape door.
- (6) Only non – opening steel window frames may be installed subject to:
- (a) the frames being fitted with wire glass with a minimum thickness of 8 mm; and
  - (b) such a window panel having a maximum size of 450 mm x 450 mm.
- (7) Any storeroom must be designed and constructed so that the floor of the storeroom is recessed below the level of the doorsill to form a catch pit conforming to the following:
- (a) the catch pit formed by such recessed floor or sill must have a capacity capable of accommodating the total volume of dangerous goods that can be stored in the storeroom, plus 10% of such maximum possible volume, with a maximum height of 450mm;
  - (b) if required by the Chief Fire Officer the catch pit must be covered at door sill level with a strong, stable, non-combustible and oxidation-free grill, which grill must serve as a floor on which corrosion-free shelves and the contents of the storeroom must be placed and an access hatch for cleaning purposes must be placed in a suitable position on the grill floor; and
  - (c) the catch pit must, at its lowest level, have a non-corrosive drainage valve for cleaning purposes and for product recovery.
- (8) Any storeroom must be so designed and constructed to ensure that the collection of fumes of flammable liquids is effectively ventilated, whether naturally or mechanically, in all parts of the storeroom. The fumes must be released into the open air at a place or places where the fumes are not likely to come into contact with any source of ignition, which may ignite such fumes.
- (9) The owner or person in charge of any storeroom must effectively ventilate the storeroom at a minimum cycle of 30 total air changes per hour by installing non-combustible airbricks, at least 140 mm x 215 mm in extent, with non-corrosive gauze wire of which the nominal opening diameter must be at least 0,5 mm: subject to the following -
- (a) airbricks are to be provided in at least three external walls; and
  - (b) airbricks are to be positioned 100 mm above the level of the door sill and 100 mm below the roof and not more than 450 mm apart.
- (10) Whenever natural ventilation as contemplated in subsection (9) cannot be effected or the depth of the catch pit level exceeds 300 mm, the owner or the person in charge of a storeroom must equip the storeroom with a mechanical inlet and outlet ventilation system designed and installed for this purpose and complying to the following:
- (a) the capacity of the system must be able to change the cubic air content in the storeroom at least 30 times an hour;
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- (b) the vanes of the system must be manufactured from a static-free material;
  - (c) the fumes must be released into the open air and the outlets must not be within 5 m of any opening of a building or erf boundary;
  - (d) all ventilators must be attached firmly to the inside of the walls;
  - (e) the bottom ventilators must be affixed as close as possible to the level of the sill; and
  - (f) all ventilation and air duct inlet openings must be installed in the wall opposite to the mechanical ventilator outlet openings, 100 mm above the level of the sill so as to ensure efficient cross-ventilation.
- (11) The owner or person in charge of a storeroom must ensure that -
- (a) all electrical apparatus, fittings and switchgear used or installed in any storeroom are protected and installed in accordance with the appropriate classification for equipment, for the particular area in terms of the provisions of SANS 10108;
  - (b) all switchgear, distribution boxes, fuses and any other electrical equipment not in compliance with the provisions contained in SANS 10108 must be situated outside the storeroom and positioned so as not to pose a risk of ignition of fumes ventilated from the storeroom;
  - (c) all metal parts and electrical fittings and any device in or in connection with a storeroom are earthed effectively;
  - (d) switches actuating any mechanical ventilation system are situated outside the storeroom;
  - (e) any mechanical ventilation system is on at all times, except whenever the system is switched off for repairs; and
  - (f) whenever any storeroom is not occupied, all electrical apparatus and fittings, excluding the mechanical ventilation system, are switched off.
- (12) All electrical installations must be installed and certified by a suitably qualified electrician which certificate must be readily available on the same premises for inspection by the Chief Fire Officer.
- (13) No person may enter, have any other person enter or permit any other person to enter any storeroom without the express permission of the occupier or any other responsible person who is in charge of such storeroom.
- (14) No person may -
- (a) use any storeroom, or have the storeroom used or permit the storeroom to be used for any purpose other than for the storage, use or handling of dangerous goods of the type and quantity as indicated on the registration certificate, in the storeroom;
  - (b) work or permit any person to work in any storeroom unless all the doors of the storeroom are in the full open position and the mechanical ventilation system is on; and
  - (c) place any obstruction or hindrance, or have any hindrance or obstruction placed or permit any hindrance or obstruction to be placed in the passages or in front of any door(s) of any storeroom.

#### STORAGE OF DANGEROUS GOODS

40. (1) Any storeroom referred to in section 39 of these by-laws may be used for keeping any grouped dangerous good, with the exception of Group I dangerous goods (explosives), as defined in section 2(1) of the Dangerous Goods Act, 1973: Provided that all chemically reactive dangerous goods must be separated from each other by means of compartmental liquid-proof fire partition walls to the satisfaction of the Chief Fire
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Officer, which fire partition walls must extend from the bottom of the catch pit to 1 m above the highest stack of each group inside the storeroom.

- (2) Notwithstanding the provisions of section 42 of these by-laws, any grouped dangerous good contemplated in this section, with the exception of Group I dangerous goods (explosives), may also be warehoused in terms of SANS 10263.

## PART VII

### SPRAY-PAINTING ACTIVITIES

#### REGISTRATION OF SPRAY-PAINTING ROOMS

41. (1) (a) No person may spray, coat, plate or epoxy-coat any vehicle, or parts of a vehicle, or any other articles, objects or buildings, or parts thereof, or permit them to be sprayed, coated, plated or epoxy-coated, whether indoors or outdoors, with a Group III dangerous good or with liquid compounds of a Group III dangerous good, or with any other dangerous good, unless such person is in possession of a spraying permit in accordance with the requirements of this section. Application for a spraying permit can be lodged with the Chief Fire Officer on the forms indicated in Annexure A.
- (b) If circumstances require it, any motor vehicle, article or object, or any parts thereof, may be sprayed in any place other than in an approved spraying room and/or spraying booth by any person who possesses a spraying permit for the premises in question, provided that there is little likelihood of the proposed activities' posing a real danger or causing an emergency situation for any human being, animal or property.

#### Prohibition of certain actions

- (2) No person may use or handle dangerous goods, or permit dangerous goods to be used or handled, on unregistered premises, unless a member is satisfied that the dangerous goods will be used or handled in a place and in a manner that will ensure that -
- (a) no dangerous good or fumes come or are able to come into contact with any fire, flame or naked light, or any other source of ignition which is likely to set the dangerous good or fumes alight; and
- (b) the escape of human beings or animals is not hampered or hindered in the event of a fire or an emergency situation.

#### Display and conditions of spraying permit

- (3) A spraying permit is issued on the following conditions:
- (a) The spraying permit must at all times be displayed prominently in a weatherproof container on the premises in a place designated by a member.
- (b) The spraying permit must be legible at all times.
- (c) The number of spraying rooms and/or spraying booths must be indicated on the spraying permit.
- (d) A serial number must be indicated on the spraying permit.
- (e) The spraying permit must reflect the period of validity and the date of expiry: Provided that the period of validity will be from the date of issue for a period of twelve months.
- (f) The spraying permit is not transferable from premises to premises.

- (g) In the case of reconstructing, the spraying permit is, subject to the provisions of section 22 of these by-laws, transferable from control to control or from owner to owner on the same premises: Provided that -
- (i) application must be made for transfer to the Chief Fire Officer on the prescribed form; and
  - (ii) if the trade name of the premises changes, the holder of the spraying permit must ensure that the change is immediately brought to the attention of the Chief Fire Officer.
- (h) The Chief Fire Officer must be in possession of a set of approved plans as referred to in section 23 of these by-laws.
- (i) The spraying permit will not be issued or renewed unless the prescribed application form has been completed in full and has been submitted to the Chief Fire Officer.
- (i) Any person who is legally in possession of a spraying permit must apply to the Chief Fire Officer in writing on the prescribed form if that person wishes to amend the number of spraying rooms and/or spraying booths, according to need.
  - (ii) The prescribed fees, determined by Council from time to time must accompany an application. The Chief Fire Officer will grant the spraying permit only if the proposed amendments comply with the relevant provisions of these by-laws.
  - (iii) Whenever the Chief Fire Officer approves such an application, the person concerned must hand the spraying permit to the Chief Fire Officer to be amended.
- (4) The Chief Fire Officer may send a reminder for the renewal of registration to the owner or occupier of registered premises. An owner or occupier who has not received a reminder is not indemnified from complying with the stipulations of these by-laws or from possible prosecution.
- (5) The holder of a spraying permit or certificate of registration must ensure that he or she is always in possession of a valid spraying permit or certificate of registration.
- (6) Any person who fails to comply with the provisions of this section, or who alters a spraying permit or attempts to alter a spraying permit or permits a spraying permit to be altered is guilty of an offence.

#### **CONSTRUCTION AND DESIGN OF SPRAY-PAINTING ROOMS**

42. (1) The construction of a spraying room or spraying booth must be in accordance with the following requirements:
- (a) The floor must be of concrete.
  - (b) The walls must be of brick or concrete.
  - (c) The roof must be of reinforced concrete.
  - (d) The doors must be Class B-type fire doors as contemplated in SABS 1253.
  - (e) The window frames must be of steel and have window panels that cannot be opened, which panels must be a maximum size of 450 mm x 450 mm and fitted with wire glass with a minimum thickness of 8 mm.
- (2) The provisions of subsection (1) are not applicable to the erection of a spraying room and/or spraying booth if, in terms of the design thereof, the room or booth complies with the following requirements:
- (a) The framework of the entire structure, including the door assemblies, must have a sturdy steel profile with a minimum wall thickness of 2,5 mm.
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- (b) The framework, including any doors, must be clad on both sides with sheet metal with a minimum thickness of 1,3 mm.
  - (c) If the sheet metal is joined, the joins or joints of the sheet metal so joined, including any door assembly forming an integral part of the whole, must be fume-, flame- and liquid-proof.
  - (d) The floor must be of concrete or metal.
  - (e) The window frames must be of steel with window panels that cannot be opened, which panels must be a maximum size of 450 mm x 450 mm and fitted with wire glass with a minimum thickness of 8 mm.
  - (f) All materials used must have a fire integrity grading of at least 60 minutes.
- (3) The unit formed through the combination of components referred to in subsections (1) and (2), including any services constituting an integral part of the unit or required in the unit, must be constructed, installed and finished so that all surfaces are smooth to prevent any furring which may hamper the ventilation, washing and cleaning processes.
- (4) A prefabricated unit is suitable only if such a unit is evaluated by the SABS, CSIR or other authorised certification Body and is found to be suitable for the particular intended purpose.

#### **Location of and access to a spraying room**

- (5) (a) Notwithstanding the door(s) granting access for motor vehicles or other objects to be sprayed in any spraying room, a spraying room must have at least two hinged doors for the purposes of escaping, which doors must -
- (i) open to the outside;
  - (ii) be at least 800 mm x 2 000 mm in extent;
  - (iii) be positioned in opposite sides, provided that, whenever there is any object in the spraying room for processing, the distance to be covered to any of the doors may not exceed 4 m; and
  - (iv) be fitted with locking mechanisms that can be opened easily from the inside without the use of a key.
- (b) Any spraying room must be located so that it is at all times separated from other activities or areas by means of an escape opening of at least 1 200 mm wide, which escape opening must at all times be kept free of any obstruction, refuse or combustible materials.
- (c) If any activity or process which is operated adjacent to a spraying room may pose a probable fire danger to the spraying room, the said escape opening of 1 200 mm must be identified by fire partition walls with a fire resistance of at least 60 minutes, and the height of these walls must be at least 300 mm higher than the roof of the spraying room.
- (d) Any spraying room contemplated in subsection (2) may be erected indoors and outdoors against firewalls: Provided that not more than two sides of the spraying room may border the firewalls.

#### **Water floors**

- (6) (a) A spraying room may have a sunken water-filled floor covered at the level of the sill by a sturdy, stable, non-combustible and corrosion-free grill that is capable of bearing the weight of the heaviest object in the spraying room.
- (b) The water in the sunken floor must be circulated through an effective non-combustible and cleanable filtering system by means of a closed-circuit pump circulation system of non-corrosive metal pipes with a suitable diameter and wall thickness.

**Electrical equipment**

- (7) All electrical apparatus, lights, fittings and switchgear used or installed in any spraying room must be protected and installed in accordance with the provisions for equipment of the appropriate type for the particular area in terms of SANS 10108.
- (8) All switchgear, distribution boxes, fuses and any other electrical equipment not in compliance with the provisions contained in SANS 10108 must be situated outside the spraying room and positioned so as not to come into contact or possibly come into contact with fumes escaping from the spraying room.
- (9) Switches actuating any mechanical ventilation system must be situated outside the spraying room.
- (10) All metal parts and electrical fittings and any device in or in connection with a spraying room must be earthed effectively with each other and the ground.
- (11) An accredited person must install and certify all electrical installations: Provided that a copy of the certificate must be submitted to the Chief Fire Officer for record purposes immediately after installation.

**Mechanical ventilation**

- (12) (a) Any spraying room must be equipped with a mechanical inlet and outlet ventilation system designed and installed for this purpose: Provided that -
  - (i) the capacity of the system must be able to change the cubic air content in the spraying room at least 30 times an hour or at a flow rate of 0,5m/s;
  - (ii) the vanes of the system must be manufactured from static-free materials;
  - (iii) the fumes must be released into the open air and the outlets must not be within 5 m of any opening of a building or erf boundary;
  - (iv) all ventilators must be attached firmly to the inside of the walls;
  - (v) the bottom ventilators must be affixed as close as possible to the level of the floor;
  - (vi) all ventilation openings or air duct openings must be installed in the opposite wall, door(s) or roof to ensure cross-ventilation in conjunction with the said mechanical ventilation system; and
  - (vii) every spray room shall have at least one of its doors fitted with an un-openable strengthened, shatterproof glass inspection window no larger than 450mm x 450mm.

**Fire dampers, fire detectors and fire alarms**

- (b) A fire damper must be affixed in front of any air purification filter, or any part of a filter forming an integral part of the ventilation system, on the inside of the spraying room, which fire damper must be manufactured and installed in accordance with the provisions of SANS 193: Provided that the fire damper must -
    - (i) close automatically by means of a sensor that is suitably located and actuated by a rise of more than 10 °C in the predetermined working temperature;
    - (ii) be so installed that the damper will remain in position even if the air duct distorts during a fire; and
    - (iii) be provided with an overriding fusible link.
  - (c) The sensor contemplated in subsection (12)(b)(i) must also -
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- (i) be capable of turning off the ventilation system and any heating device used in connection with the spraying room in the event of a fire or whenever there is a rise of more than 10 °C in the predetermined working temperature inside the spraying room; and
- (ii) activate a visual and audible alarm inside and outside the spraying room.

#### **Positioning of ventilation outlets**

- (13) All outlet openings must be designed and positioned so as to release all fumes into the open air at a place at least 1 m above a roof or 4 m above the ground level and at least 5 m from any opening of a building.
- (14) The ventilation system must commence operating automatically whenever any activities related to spray-painting take place in the spraying room.

#### **Display of signs prohibiting open flames and smoking**

- (15) No person may use any spraying room or permit any spraying room to be used, unless and until symbolic signs prohibiting open flames and smoking, at least 290 mm x 290 mm in extent, manufactured and installed in accordance with the provisions of SANS 1186, are affixed to the inside and outside of all doors of the spraying room.

#### **Maintenance of spraying rooms**

- (16) All spraying rooms must be maintained at all times in accordance with the provisions of this section and the manufacturers' specifications. Proof of such maintenance must be provided upon request from a member.

#### **Unauthorised access**

- (17) No person may enter a spraying room or permit any other person to enter a spraying room without the express permission of the owner or occupier or any other responsible person in charge of the spraying room.

#### **Abuse of spraying room**

- (18) No person may -
  - (a) use any spraying room or permit any spraying room to be used for any purpose other than for practising or exercising activities related to spray-painting in the spraying room;
  - (b) employ any other person in a spraying room or permit any other person to work in the spraying room unless the mechanical ventilation system is on; and
  - (c) place any obstruction or hindrance, or have any hindrance or obstruction placed or permit any hindrance or obstruction to be placed in the escape openings or in front of any doors of the spraying room.

#### **Provision of fire-fighting equipment**

- (19) (a) Any spraying room must have one 9kg dry chemical fire extinguisher per every 100m<sup>2</sup> of floor space or part thereof, on the outside, which extinguisher must be installed in positions determined by the Chief Fire Officer.
- (b) All spraying rooms must be protected by a fire hose reel, referred to in section 29(1)(b) of these by-laws.

#### **Drying kiln/heating devices**

- (20) Whenever any manifold installation of a Group II dangerous good forms an integral part of the heating of a spraying room, the manifold installation must be in accordance with the provisions of SANS 10087, Part I, and the relevant provisions of these by-laws will apply *mutatis mutandis* in the application of this section.

## **PART VIII**

### **SELLING AND DISCHARGING FIREWORKS**

- 43. The following conditions must be complied with in terms of sale, handling and discharging of fire-woks:

#### **License for selling fire-works**

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- (1) No person may deal in fireworks unless he/she holds a valid fireworks license in terms of the Explosives Act issued by the Chief Inspector of Explosives and such permit is not transferable.  
No fireworks may be sold by a street hawker or vendor at a flea market, from the boot of a vehicle or trailer, or from a spaza shop.  
Fireworks may only be sold to/purchased by persons older than 16 years of age.

**Display of fire-works**

- (2) Fireworks may not be displayed in a window or any other place where fireworks can be interfered with by the public. They may also not be displayed or placed where a shopper can pick them up or handle them in any way, including being able to put them into a shopping basket or trolley

**Packaging of fireworks**

- (3) Fireworks must be in the original packaging complete with instructions when sold and the packaging of fireworks may not be interfered with.

**Minor child handling fireworks**

- (4) No person may allow any minor (child) under his or her control to handle or discharge any fireworks.

**Fireworks on new-year's eve**

- (5) The discharging of fireworks on new-year's eve will only be allowed between 10pm and 02am, unless prescribed otherwise by Municipal Council by resolution.

**Reporting of illegal selling or usage**

- (6) Any member of the public with information relating to the illegal sale or use of fireworks must report it to the Municipality's Law Enforcement or to the South African Police Services.

**Fireworks not to cause harm, death, destruction or pollution**

- (7) No person shall discharge or cause to be discharged any fireworks in any residential area that may result in animal or human harm or death, damage or destruction of property, noise or air pollution or any form of public nuisance.

**Fireworks causing fire**

- (8) The use of fireworks in any area may not result in any fires or other heat damage to any person, animal, vegetation, properties or structures. Any person(s) responsible will be liable for the costs to renew, replace or to make good the damage caused by the use of such fireworks.

**Debris caused by fireworks**

- (9) Debris created from the use of fireworks in any area should be cleaned up by the person responsible. Such person(s) responsible will be liable for costs for cleaning if the Municipality or any other person have cleaned up the area.

**Public display of fireworks**

- (10) "No person shall operate a public display of fireworks on any premises without the written permission of the Chief Inspector of Explosives."

**Permission to discharge of fireworks**

- (11) The Municipal Council may approve, upon application, the discharge of fireworks in exceptional circumstances.

**Designated areas for discharge of fireworks**

- (12) The Municipal Council may, by resolution, declare some days and areas as days and places where the discharging of fireworks may be done.

**Contravention of this part viii**

- (13) Any person contravening the provisions of this part may be arrested and prosecuted, and illegal fireworks found in his/her possession may also be confiscated.

**PART IX****ANIMALS**  

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**HANDLING ANIMALS DURING EMERGENCIES**

44. Provision must be made for the professional handling of animals during an emergency on any premises, but particularly at zoological gardens, feedlots, stables, research institutions, veterinary practices and places of veterinary science study: Provided that the Chief Fire Officer may -
- (a) authorise a suitably qualified person to handle or put down the animals during an emergency situation, as the case may be; and
  - (b) recover all costs involved in the matter from the owner or the institution responsible for the care of the animals.

**PART X****PENALTIES****PENALTIES FOR CONTRAVENTIONS**

45. Any person who –
- (a) contravenes or fails to comply with any provision of these by-laws or SANS ;
  - (b) fails to comply with any notice issued or displayed in terms of these By-laws;
  - (c) fails to comply with any lawful instruction given in terms of these By-laws; or
  - (d) obstructs or hinders, or improperly influences or attempts to do so, any authorised representative or employee of the Council in the execution of his or her duties or performance of his or her powers or functions under these By-laws;

is guilty of an offence and liable on conviction to a fine to a maximum of R100 000 or in default of payment to imprisonment for a period not exceeding twelve months, and in the case of a continuing offence, to a further fine not exceeding R5000 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 Council, and served on the person concerned, requesting the discontinuance of such offence.

**PART XI****GENERAL****PAYMENT FOR SERVICES**

46. (1) Subject to the provisions of section 50, the owners or occupiers of land or premises, or both such owners and occupiers jointly and severally, or the owner of a vehicle, as the case may be, for or in connection with:
- (a) the attendance of the Service as requested or for any services rendered; and/or
  - (b) the use of manpower, equipment and materials; and/or
  - (c) the consumption of materials

shall pay to the Controlling Authority the fixed charges for the attendance of the Service in terms of the prescribed tariffs determined by the Municipality from time to time.

- (2) Notwithstanding the provisions of subsection (1), the Chief Fire Officer may assess the aggregate of charges as contemplated in subsection (1) or any portion thereof, provided that such portion shall not be less than ninety percent of the aggregate of the charges that would have been payable; provided further that in assessing such charges or portion thereof, due regard, in addition to other factors, be given to:
- (a) the fact that the amount so assessed shall be commensurate with the service rendered;
  - (b) the manner, place and origin of fire or other emergency situation;
  - (c) the loss that might have been caused by the fire or other emergency situation to the person liable to pay the charges, if the services had not been rendered.

**EXEMPTION FROM PAYMENT OF CHARGES:**

47. (1) Notwithstanding the provisions of Part X, the Chief Fire Officer may exempt a person from charges payable:
- (a) where a false alarm was given in good faith;
  - (b) where the service was rendered as a result of a civil commotion, riot or natural disaster;

- (c) where the service was rendered in the interest of public safety;
- (d) where the Chief Fire Officer is of the opinion that the service was of a purely humane nature and or was rendered solely for the saving of a life;
- (e) by the owner of a vehicle if he or she furnishes proof to the satisfaction of the Chief Fire Officer that such a vehicle was stolen and that it had not been recovered at the time when the service was rendered in respect thereof;
- (f) by any person, including the State, with whom the Municipality has entered into agreement in terms of Section 12 of the Act, whereby the services of the Service is made available to such person against payment as determined in such agreement.

## **PART XII**

### **GENERAL**

#### **OPERATION OF THESE BY-LAWS IN RELATION TO OTHER LAWS**

48. The provisions of these by-laws are in addition to and not a substitution for any other law which is not in conflict or inconsistent with these by-laws.

#### **REPEAL AND AMENDMENT**

49. Any by-laws relating to firefighting services adopted by the Council or any Municipality now comprising part of the City are repealed from the date of promulgation of this By-law.

The Firefighting Services By-laws of the Mangaung Metropolitan Municipality as promulgated in the Local Government Notice No. 60 of October 2013 are hereby amended

#### **SHORT TITLE AND COMMENCEMENT**

50. These by-laws are called the **Mangaung, Firefighting Services By-laws**, and the amendments effected come into operation on the date of promulgation thereof in the Provincial Gazette.

## **PART XIII**

### **ANNEXURES**

#### **ANNEXURE A: OFFICIAL DOCUMENTS**

##### **A. GENERAL**

The Chief Fire Officer must design and draw up all official documents in connection with these by-laws in accordance with the prevailing policy, and the documents must comply with the specific needs and requirements of the Service and the Council, but must not detract from the directives and provisions of these by-laws.

##### **B. APPLICATION FORMS**

On receipt of an application made in terms of these by-laws and proof of payment of the prescribed fees, determined by Council from time to time, the Chief Fire Officer shall avail to the applicant, the relevant application forms. The following application forms are obtainable from the Municipality's Fire Fighting Services:

	<b>APPLICATION FORM</b>	<b>SECTION</b>
1	Application for Certificate of Fitness: Public Gathering in Public Building / Temporary structure	17(1)
2	Application: Certificate of Registration: Dangerous Goods	21(1)
3	Application for approval of plans- alterations to premises	33(1)
4	Application: Transport Permit	38(1)

5	Application: Spraying Permit	41(1)
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### C. APPROVALS AND CERTIFICATES

- 1.) After evaluation of complete application forms submitted in terms of these by-laws, the Chief Fire Officer, if satisfied that the application in question complies with the requirements of these by-laws, shall grant his or her approval or recommendation for approval in respect thereof. The following certificates and permits may be given :

	CERTIFICATE / APPROVAL	SECTION
1	Certificate of Fitness: Public Gathering in Public Building / Temporary structure	17(3)
2	Certificate of Registration	21(1)
3	Approval or recommendation for approval of plans	33
4	Transport Permit	38(1)
5	Spraying Permit	41(3)

- 2.) If the Chief Fire Officer, is not satisfied that the application received complies with these by-laws, or is satisfied that the approval of such an application will probably or in fact be dangerous to life or property, he shall refuse to grant his approval or recommendation for approval in respect thereof and give written reasons for such refusal, if requested thereto by the applicant.
- 3.) Any approval granted by the Chief Fire Officer in accordance with these by-laws in respect of any application referred to in Paragraph B shall lapse after the expiry of a period of 12 months as from the date on which it was granted unless the Chief Fire Officer extended the said period after receiving a written request for such an extension from the applicant concerned.
- (4) An applicant is granted only 14 working days (weekends and public holidays excluded) to make any corrections that may be indicated to him by the Chief Fire Officer or a member, without any additional cost, but that if the said period of 14 days is exceeded, the prescribed fee must be paid again before any permit or certificate will be issued.

### ANNEXURE B: EMERGENCY EVACUATION PLANS

#### A. GENERAL

- Any emergency evacuation plan must contain at least the following information under the headings listed below. All emergency evacuation plans must be updated at least once a year or, alternatively, whenever the key staff member referred to in the plan leaves the employ of the employer.
- All emergency evacuation plans must be drilled at least annually, and all the staff members must participate. The employer must also ensure that all the disciplines involved are notified in writing of an emergency evacuation plan drill at least 21 calendar days prior to the proposed date of the drill.
- All staff members of an employer must be aware of the emergency evacuation plan of the employer. Whenever an emergency evacuation plan is updated, the designated person responsible must collect and destroy all old plans that the emergency management members have in their possession to eliminate confusion as to the validity and accuracy of the emergency evacuation plan.

#### B. IMPLEMENTATION OF EMERGENCY EVACUATION PLANS

- The emergency evacuation plan must be drawn up so that any sensitive information that may appear in the document can easily be removed to make it available to specific persons in the emergency management team.

#### 2. DEALING WITH AND FURNISHING INFORMATION CONTAINED IN THE EMERGENCY EVACUATION PLAN

- (1) THE EMERGENCY EVACUATION PLAN IN ITS ENTIRETY
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- (a) The entire emergency evacuation plan must be made available to every member of the emergency management team.
- (b) A number of copies must be kept in a safe in the control room.
- (2) **EMERGENCY TELEPHONE NUMBERS AND BOMB THREAT QUESTIONNAIRE**  
Emergency telephone numbers must be on hand at all telephones on the premises and the bomb threat questionnaire must be on hand at all designated telephones on the premises.
- (3) **DUTIES AND RESPONSIBILITIES OF EMERGENCY PERSONNEL**  
All staff members involved must be informed in writing of their particular duties and responsibilities in this regard.
- (4) **ACTION PLANS AND EMERGENCY ACTIONS**  
Action plans must be available to all staff members to ensure that every staff member knows exactly what to do in an emergency.
- (5) **PLANS OF THE LAYOUT OF PREMISES AND ESCAPE ROUTES**  
Plans of the layout of the premises and escape routes must be put up permanently at all exits and strategic points on the premises.

### 3. TRAINING OF STAFF MEMBERS

Designated staff members must be trained in the following:

- (1) First aid and/or fire fighting
- (2) Emergency aid
- (3) Emergency evacuation procedures
- (4) Emergency management techniques

(Drills of the emergency evacuation plan are an excellent training programme and offer the opportunity for the improvement of the plan.)

### C. THE CONTENT OF AN EMERGENCY EVACUATION PLAN

Any emergency evacuation plan must contain the following:

- (1) Emergency telephone numbers;
  - (2) The following general information:
    - (a) The address of the premises in question
    - (b) The nature of the activities on the premises
    - (c) The number of staff members present on the premises at any time
    - (d) An indication of whether or not there is a control room on the premises
    - (e) An indication of whether or not there is an alarm system on the premises
    - (f) Particulars of contact persons
  - (3) An area study with the following information:
    - (a) History of incidents on the premises in question
    - (b) Important features/landmarks with regard to the location of the premises
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- (c) Key information of adjacent premises
- (4) Particulars regarding socio-economic or other threats and the potential impact of these threats on premises
- (5) Particulars of the following equipment available on the premises:
  - (a) Equipment in the control room
  - (b) Fire-fighting and first-aid equipment throughout the premises
  - (c) Any other equipment
- (6) The following information on manpower:
  - (a) Emergency management
  - (b) Continuity officers
  - (c) Fire teams
  - (d) First-aid teams
- (7) The duties and responsibilities of members of the emergency team
- (8) Action plans and emergency procedures
- (9) Plans of the buildings and topographical maps of the premises
- (10) An emergency plan register with the following information:
  - (a) Updated register of emergency evacuation plan
  - (b) Drill register of emergency evacuation plan
- (11) A bomb threat questionnaire

#### **ANNEXURE C: Material Safety Data Sheet Box**

##### **1. Material Safety Data Sheet Box**

- i. A container no smaller than 300 x 400 mm shall be provided to contain all MSDS's
- ii. Material safety data must be provided for every individual chemical substance when such substance is to be found on the said premises and falls outside exempt quantities as described in SABS 0228,
- iii. Such MSDS shall contain no less information than shown on NOSA Form 2.17.05.01 "Hazardous Substances Record"
- iv. Such container shall be affixed to the outside of the building next to or near the main entrance and shall be placed 1,5 m above ground level,
- v. Such container shall have a locking device which will be to the satisfaction of the Chief Fire Officer.

#### **ANNEXURE D: Emergency Evacuation Plan Box**

##### **1. Emergency Evacuation Plan Box**

- i. a container no smaller than 300 x 400 mm shall be provided to contain al EEP's
  - ii. Such container shall have a locking device which will be to the satisfaction of the Chief Fire Officer
  - iii. Such container shall be painted day-glow orange and be marked in black capital letters no smaller than 150 x 15 mm and shall read 'EEP'
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[PROVINCIAL NOTICE NO. 84 OF 2021]

**MANGAUNG METROPOLITAN MUNICIPALITY**

**PROMULGATION NOTICE**

**Municipal Land Use Planning By-law**

Passed by Council on Thursday, 30 September 2021  
Under Item 179.4 – 30/09/2021

- 1) Notice is hereby given in terms of the provisions of section 13 of the Local Government: Municipal Systems, 2000 (Act № 32 of 2000), as amended, that the Council of Mangaung Metropolitan Municipality passed the new set of Municipal Land Use By-law, at the sitting dated 30 September 2021.
- 2) The new Municipal Land Use Planning By-law is, as a result of the rationalization process, now applicable and enforceable throughout the jurisdiction of the Mangaung Metropolitan Municipality (MAN).
- 3) The By-law IS published for the purpose of general public notification.

**Mr. Sello More**  
**Acting City Manager**

**BY-LAW RELATING TO MUNICIPAL LAND USE PLANNING**

To provide for the regulation and control of activities, processes and procedures in respect of spatial planning and land use management; to provide for the categorisation of land development applications; to provide for processes and procedures for land development applications; to provide for the processes and procedures of a Municipal Planning and Appeals Tribunal; and to provide for matters incidental thereto.

**PREAMBLE**

WHEREAS municipalities have the executive authority and the right to administer the local government matters listed in Part B of Schedule 4 and Part B of Schedule 5 to the Constitution in accordance with section 156(1)(a) and (b) of the Constitution, 1996 (Act 108 of 1996) and any other matter assigned to municipalities by National or Provincial legislation; and

WHEREAS the Municipalities have the obligation in terms of Part B of Schedule 4 of the Constitution to administer matters pertaining to municipal planning; and

WHEREAS municipalities have the right to make and administer by-laws for the effective administration of the matters which it has the right to administer in accordance with section 156(2) of the Constitution; and

WHEREAS Parliament has enacted the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013), which inter alia sets out development principles which apply to all organs of state and other authorities responsible for the implementation of legislation regulating the use and development of land.

NOW THEREFORE the Council of Mangaung Metropolitan Municipality enacts the revised Municipal Land Use Planning By-law as follows:

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#### SCHEDULE 5

##### CODE OF CONDUCT FOR MEMBERS OF THE MUNICIPAL PLANNING TRIBUNAL

### CHAPTER 1 – DEFINITIONS, INTERPRETATION AND APPLICATION

#### 1. Definitions and Interpretations

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

“**Act**” means the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013), as published on 5 August 2013 and as may be amended from time to time;

“**additional information**” means any information that may be requested by the Municipality which in its opinion is necessary to consider and decide on a land development application;

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**“adopt”**, in relation to a spatial development framework, land use management scheme, policy or strategy, means the approval thereof by the Municipality, Municipal Council or Municipal Planning Tribunal;

**“adjoining owner(s)”** means the owner of any property sharing a common boundary with a property(ies) which forms the subject of a land development application or touches any corner of the aforesaid property(ies) and will include a property that may be separated from the aforesaid property by a road or a roadway or a right of way servitude or a railway reserve or similar properties;

**“agent”** means a person authorized by the owner of land to make an application;

**“appeal authority”** means the Executive Authority, a committee established in terms of provincial legislation, or a body or institution of the Municipality authorized to deal with appeals in terms of section 86(1). Also referred to as the “Municipal Appeals Tribunal”;

**“applicant”** means:

- (a) an owner(s); or
- (b) duly authorized person on behalf of the owner;  
of property(ies) or land within the jurisdiction of the Municipality who submits a land development application or combination of land development applications contemplated in section 21 of this By-law;
- (c) a municipality; or
- (d) an organ of state;  
under whose control and management, the property(ies) or land falls;

**“application”** means an application submitted to the Municipality referred to in section 16 of this By-law and a land development application shall have a corresponding meaning;

**“approval”** means a decision to approve a land development application in terms of this By-law or relevant law by a decision-making person or body and includes any conditions under which the approval was granted;

**“authorized employee”** means a municipal employee who is authorized by the Municipality to exercise a power or perform a duty in terms of this By-law or to inspect land and buildings in order to enforce compliance with this By-law, the land use management scheme and Deed of Title or the Act and Regulations or such further duties that may by delegation in terms of section 59 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), be assigned to him/her;

**“bulk service”** means the municipal infrastructure associated with engineering services which are intended to ensure provision of municipal infrastructure services for the benefits of multiple users or the community as a whole;

**“building”** means a building as contemplated in the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977) as amended;

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“**capacity**” means the extent of availability of a municipal infrastructure service;

“**community**” means residents, as may be determined by the Municipality, that are living in a particular area;

“**conditions of approval**” means condition(s) imposed by the Municipality in the approval of a land development application, including any conditions contained in the annexure(s) and/or plans and/or attachment(s) that form part of the approval and/or are referred to in the approval of the land development application; “conditions of establishment” and “conditions of approval” has a corresponding meaning in the context of an application for township establishment as contemplated in section 23 of this By-law;

“**conflict of interest**” is a situation wherein a councillor, any municipal official or professional planner, a member of the Municipal Planning Tribunal or any other professional, holding a fiduciary duty to the Municipality has or develops a competing interest, be it professional or personal, which interest will make it difficult to fulfil his or her duties officially even where no unethical or improper act results;

“**consent use**” means a consent for land use rights as contemplated in the land use management scheme of the Municipality. A consent use can be revoked at any time if it causes any nuisance to the surrounding area or neighbours, in the opinion of the Municipality, or if the circumstances leading to the approval, changed or if the consent use is not exercised for a period of twelve (12) months;

“**consolidation**”, in relation to land, means the merging of two (2) or more adjacent land parcels into a single land parcel that is capable of being registered in the deeds registry as one (1) property, in terms of a consolidation application as contemplated in this By-law;

“**Constitution**” means the Constitution of the Republic of South Africa, Act, 1996 (Act 108 of 1996), as may be amended from time to time;

“**contact details**” means sufficient details including but not limited to a name, surname, telephone number (business or private), e-mail address, postal and residential addresses that will enable a Municipality or organ of state to contact a person for purposes of executing their functions in terms of the Act or this By-law and in so far as it relates to an organ of state, the details of the relevant contact person within the employ of the organ of state;

“**conveyancer**” means a conveyancer as defined in section 102 of the Deeds Registries Act, 1937 (Act 47 of 1937);

“**Council**” means the Municipal Council of the Mangaung Metropolitan Municipality;

“**date of notification**” means the date on which a notice is served or delivered on a person or body as contemplated in section 51 of this By-law or published in the newspapers or Provincial Gazette as the case may be and no notification shall be served, delivered, published or may appear in any newspaper or on the property between 10 December to 10

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January of any year or any other date as may be determined by the Municipality. The abovementioned dates also include the objection period;

**“day”** means a calendar day, provided that when any number of days is prescribed for the doing of any act in terms of this By-law, it must be calculated by excluding the first day and including the last day; provided further that, if the last day falls on a Sunday or public holiday, the number of days must be calculated by excluding the first day and also the Sunday or public holiday; and further if the day on which a notice in terms of this By-law must appear in any newspaper or Provincial Gazette such notice may not appear on a Sunday or public holiday and which shall for purposes of the calculation of days be excluded and as more fully defined in the Interpretation Act, 1957 (Act 33 of 1957);

**“department”** means a department of the administration of the Municipality in the context of this By-law;

**“departure”** means a permanent or temporary departure from a permitted land use, process or the provisions of a land use management scheme or spatial development framework;

**“development charge”** means a financial charge or contribution that is levied by the Municipality, as contemplated in section 92 of this By-law, for the provision, installation, enhancing, upgrading of engineering services, including payment of which will contribute towards the Municipality’s expenditure on capital investment in municipal infrastructure or bulk services and provision of public transport read with sections 40(7)(b) and 49 of the Act and engineering-, engineering services-, development- contributions shall have a corresponding meaning;

**“development-, land use- or land development- application”** shall have a corresponding meaning as contemplated in section 35(2) of the Act and Regulation 15 of the Regulations to the Act;

**“deviation”** in relation to a spatial development framework, means:

- (a) an approval which departs from the provisions of the municipal spatial development framework contemplated in section 22(2) of the Act;
- (b) a deviation from the provisions of the municipal spatial development framework authorised by this By-Law; or
- (c) a deviation from the provisions of a district spatial development framework or local spatial development framework authorised by this By-Law;

and ‘deviate’ has a corresponding meaning;

**“deliver and delivery”** means to submit or serve documents or copies on any organ of state, or person or body as contemplated in this By-law, of which proof of delivery must be obtained as may be prescribed by the Municipality, and delivering and serve shall have the same meaning;

**“diagram”** means a diagram as defined in the Land Survey Act, 1997 (Act 8 of 1997), but for purposes of this By-law shall be an approved diagram in terms of the Land Survey Act, 1997 (Act 8 of 1997);

**“emergency”** includes a situation that arises from a flood, strong wind, severe rainstorm, fire, earthquake or industrial accident and that requires the relocation of human settlements;

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**“engineering services”** means a system (internal and external) for the provision of water, electricity, gas, roads, storm water drainage, collection and removal of solid waste or sewerage, required for the purpose of land development whether provided by the Municipality, any other organ of state or a service provider, or any other person;

**“erf”** means land in an approved township registered in a deeds registry as an erf, lot, plot or stand or as a portion or the remainder of any erf, lot, plot or stand or land indicated as such on the general plan of an approved township and includes any particular portion of land laid out as a township which is not intended for a public place, whether or not such township has been recognized, approved, established and proclaimed as such in terms of this By-law or any repealed law;

**“external engineering service”** means with reference to the Act, an engineering service(s) situated outside the boundaries of a land development area and which is necessary to serve the use and development of the land development area and may include engineering services, which in the opinion of the Municipality, accumulatively impacts and serve the wider area within which the development falls, including, municipal infrastructure services, bulk services, link services; or engineering services which has been classified by agreement as such in terms of this By-law;

**“general plan”** means a general plan approved by the Surveyor-General in terms of the Land Survey Act, 1997 (Act 8 of 1997);

**“heritage resource”** means any place or object of cultural significance. Cultural significance means aesthetic, architectural, historical, scientific, social, spiritual, linguistic or technological value or significance in terms of the National Heritage Resources Act, 1999 (Act 25 of 1999);

**“homeowners’ association”, “property owners association” and/or “homeowners association” and/or a “voluntary association”** means an homeowners’ association established in terms of the relevant legislation, rules and regulations related to the establishment thereof, for purposes of co-ordinated management of an area or community and includes, a body corporate created in terms of the Sectional Titles Act (Act 95 of 1986);

**“infrastructure”** means services that include:

- (i) potable water and the provision of fire flow;
  - (ii) sewerage and wastewater treatment;
  - (iii) electricity distribution including alternative means of energy supply;
  - (iv) roads;
  - (v) street lighting;
  - (vi) storm water management;
  - (vii) solid waste disposal;
  - (viii) public transport infrastructure;
  - (ix) non-motorised transport infrastructure;
  - (x) systems, capital assets and other engineering services assets and processes related to engineering services;
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**“incomplete”** in terms of land development applications means a land development application submitted without the prescribed accompanying documents as may be required by the Municipality or required in terms of the provisions of this By-law;

**“interested and affected person/party”** means any person or group of persons, legal entity or body that can demonstrate their interest in the land development application in terms of section 45(3) of the Act and with specific reference to town planning principles or development principles;

**“internal engineering services”** means an engineering service with reference to the Act, within the boundaries of a land development area, which is necessary for the use and development of the land development area and which is to be owned and operated by the Municipality, service provider or other body or which has been classified as such;

**“land”** means any erf, agricultural holding, sectional title scheme-land or farm portion and includes any approved improvement or building on land and any real right in land;

**“land development”** means the erection of buildings or structures on land, or the change of use of land, including township establishment, the subdivision or consolidation of land or any relaxation from the land use or uses permitted in terms of an applicable land use management scheme and/or National Building Regulations;

**“land development application”** means one (1) of or a combination of the following applications submitted to the Municipality in terms of this By-law:

- Rezoning or amendment of the land use scheme;
  - consent use, departure, temporary use and relaxation in terms of the land use management scheme;
  - the subdivision and/or consolidation of land;
  - the amendment, suspension or removal of restrictive conditions as defined in the Act;
  - consent of the Municipality in terms of Title Deed conditions;
  - the establishment of a township;
  - the extension of the boundaries of a township;
  - the amendment or cancellation of a general plan;
  - the registration or cancellation of a long term lease;
  - the amendment, cancellation or creation of a servitude on any land; and/or
  - any other land development application in terms of the land use management scheme or national or provincial planning and development legislation within the jurisdiction of the Municipality as may be determined by the Municipality from time to time;
- but excludes any request, allowance or administrative decision in terms of this By-law, national or provincial planning and development legislation e.g excision;
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**“land use”** means the purpose for which land and/or buildings are/or may be used lawfully in terms of a land use management scheme, existing scheme, or in terms of any other authorization, permit or consent issued by an erstwhile authority or the Municipality as its successor in title and includes any conditions related to such land use purposes;

**“land use plan”** means a plan that indicates existing land uses (legal and illegal);

**“layout plan”** means a plan indicating information relevant to a land development application and the land intended for development and includes the relative locations of erven, public places, or roads, subdivision or consolidation, and the purposes for which the erven are intended to be used read with any notation or conditions contained thereon as contemplated in this By-law, as may be amended from time to time;

**“Land Survey Act”** means the Land Survey Act, 1997 (Act 8 of 1997);

**“land use rights”** means an adopted land use applicable to land in terms of this By-law or relevant law;

**“land use management scheme”** means the documents referred to in Chapter 5 of the Act including any amendments to the land use management scheme;

**“local authority”** and **“Municipality”** have corresponding meanings;

**“local spatial development framework”** means a local spatial development framework contemplated in section 10;

**“Mining”** means mining as contemplated in the definitions of the land use management scheme and read with the Mineral and Petroleum Resources Development Act, 2002 (Act 28 of 2002);

**“municipal spatial development framework”** means a municipal spatial development framework adopted by the Municipality in terms of Chapter 5 of the Municipal Systems Act, 2000 (Act 32 of 2000) and Chapter 4 of the Act;

**“Municipal Council”** means the Council of the Municipality as contemplated in Section 157 of the Constitution;

**“Municipal Manager”** means the municipal manager of Mangaung Metropolitan Municipality as appointed in terms of section 82 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), and includes any person acting in that position or to whom authority has been delegated;

**“Municipality”** means Mangaung Metropolitan Municipality established by the Provincial Notice No. 261 of 28 March 2011. Provincial Notice No.155 of 2016 as published in the Provincial Gazette, Free State Province of 22 July 2016, issued in terms of section 12 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998) and any employee of the Municipality acting in terms of delegated or sub-delegated authority of the Municipality;

**“Municipal Planning Tribunal”** means a Municipal Planning Tribunal established in terms of section 35 of the Act and section 79 of this By-law and, unless the context otherwise provides;

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“**notice**” means a written notice and “**notify**” means to give notice in writing which notice may include it being delivered by hand, sent by electronic means or where the context requires a notice served or published in terms of this By-law in the Provincial Gazette or other media;

“**non-conforming use**” means an existing land use that was lawful in terms of a previous land use management scheme but that does not comply with the land use management scheme in force;

“**nuisance**” means any form of interference or encroachment that impacts negatively on a person’s right to the use and enjoyment of their property that may cause a material inconvenience to that person;

“**occasional use**” means a departure in respect of a right to use land for a purpose granted on a temporary basis for a specific occasion or event;

“**open space**” means an area of land set aside and required to be legally protected, in the opinion and to the satisfaction of the Municipality, from development over and above the assignment of land use rights, which shall be for the use and benefit of a community, and may include, in the opinion of the Municipality, recreational areas, natural areas, parks, public and private open space for purposes of compliance with this By-law;

“**overlay zone**” means an area in a land use management scheme that is demarcated for the purpose of conserving natural resources or promoting certain types of development and that is subject to conditions, requirements or restrictions in addition to those of the land use management scheme;

“**owner**” as is defined in the Local Government: Municipal Property Rates Act, 2004 (Act 6 of 2004) and includes the following:-

- (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 whose name the right is registered;
- (c) in relation to a land tenure right referred to in paragraph (c) of the definition of “**property**”, means a person in whose name the right is registered or to whom it was granted in terms of legislation; or
- (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,

provided that a person mentioned below may for the purposes of this By-law be regarded by a municipality as the owner of a property in the following cases:

- (i) A trustee, in the case of a property in a trust excluding state trust land;
- (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 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 name 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 a municipality and is leased by it; or
- (viii) a buyer, in the case of a property that was sold by a municipality and of which possession was given to the buyer pending registration of ownership in the name of the buyer;

**“pre-application consultation”** means a consultation between an owner or an agent and the Municipality contemplated in section 40;

**“proclamation”** means a public or official announcement of an approved land use application or spatial development framework or land use management scheme required of the applicant or the Municipality in terms of this By-law, which shall be made in an official and formal manner;

**“prescribe”** means requirements or provisions in terms of this By-law, or other relevant legislation;

**“private open space”** means in relation to land area, a portion of land set aside or to be set aside in a scheduled open space of which access is controlled, for the use by a community as a recreational area, primarily intended for outdoor living activities which enjoys a reasonable amount of privacy. The intended use of private open space shall be included in the conditions of establishment and title and approved in terms of the provisions of this By-law. No land development application will be permitted on private open space for least ten (10) years after the creation thereof;

**“property(ies)”** as is defined in the Local Government: Municipal Property Rates Act, 2004 (Act 6 of 2004) and includes:

- (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 the name of a person, excluding a mortgage bond registered against the property;
- (c) a land tenure right registered in the name of a person or granted to a person in terms of legislation; or
- (d) public service infrastructure;

**“public open space”** means in relation to land area, a portion of land set aside or to be set aside in a scheduled open space, for the use and benefit by the general public as a recreational area, primarily intended for outdoor living activities and is owned by or vest in the ownership of a Municipal Council;

**“public place”** means any open or enclosed place, park, street, road or thoroughfare or other similar area of land shown on a general plan or diagram which is for use and benefit by the general public and is owned by or vest in the ownership of a Municipal Council and includes a public open space and a servitude for any similar purpose in favour of the general public as contemplated in the Act;

**“public service infrastructure”** means publicly controlled infrastructure of the following kinds:

- (a) national, provincial or other public roads on which goods, services or labour move across a municipal boundary;
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- (b) water or sewer pipes, ducts or other conduits, dams, water supply reservoirs, water treatment plants or water pumps forming part of a water or sewer scheme serving the public;
- (c) power stations, power substations or power lines forming part of an electricity scheme serving the public;
- (d) gas or liquid fuel plants or refineries or pipelines for gas or liquid fuels, forming part of a scheme for transporting such fuels;
- (e) railway lines forming part of a national railway system;
- (f) communication towers, masts, exchanges or lines forming part of a communications system serving the public;
- (g) runways or aprons at national or provincial airports;
- (h) any other publicly controlled infrastructure as may be prescribed; or
- (i) rights of way, easements or servitudes in connection with infrastructure mentioned in paragraphs (a) to (h);

**“restrictive condition”** means a restrictive condition as contained in the Act read with other relevant legislation;

**“rezoning”** means the change of the zoning or land use of property(ies) or land as contemplated in a land use management scheme;

**“schedule of rights”** means a document annexed to the land use management scheme that set out the land use rights and development control measures and conditions applicable to a land parcel;

**“sectional title scheme”** means a land parcel with a building(s) where individual owners own sections of the building(s) and co-own the common property. A sectional title scheme can be a vertical block of apartments or loose-standing dwelling units which may be attached or detached. A sectional title scheme has a minimum of two (2) sections and can be used for residential or commercial purposes or a mixture of both. No sectional title scheme may be registered without the written consent of the Municipality;

**“service”** means a service provided by the Municipality, any other organ of state or a service provider, including services for the provision of water, sewerage, electricity, refuse removal, roads, storm water, and includes infrastructure, systems and processes related to the service;

**“services agreement”** means a written agreement which is concluded between an owner of property on which a land development application has been brought in terms of this By-law and the Municipality and includes:

- (a) detailed and specific respective rights and obligations regarding the provision and installation of the external and internal engineering services required for an approved land development, further including the design, provision, installation, financing and maintenance of engineering services;
  - (b) the associated development charges;
  - (c) the standard of such engineering services as determined by the Municipality;
  - (d) the classification of engineering services as internal or external services; and
  - (e) any matter related to the provision of engineering services in terms of this By-law;
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“**service certificate**” means a written certification that the provision of engineering services as provided in section 49 of the Act has been complied in accordance with the service level agreement and the applicant must also submit proof to the Municipality;

“**servitude**” means a condition in favour of a property, person or Municipality registered against a title deed of a property(ies) or which has been created through legislation;

“**site development plan**” means a scaled and dimensioned plan that shows full details of the proposed land development, including the site layout, positioning of buildings and structures, property access, access control measures, parking, servitudes and landscaping;

“**site specific circumstances**” means any circumstance that is applicable to a specific land parcel and set out in the development application that has been submitted and any other relevant considerations;

“**social infrastructure**” means community facilities such as libraries, recreation facilities, sports facilities, community halls, clinics, parks and open spaces, educational facilities, services and networks that meet social needs and enhance community well-being and “**social facility**” has corresponding meaning;

“**spatial development framework**” means a spatial development framework referred to in Chapter 4 of the Act and read with sections 23 to 35 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), and this By-law;

“**Spatial Planning and Land Use Management Act**” means the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013);

“**subdivision**” means a subdivision of a property as contemplated in section 21 of this By-law, the provisions whereof shall apply *mutatis mutandis* to a subdivision of a property registered as a farm portion, or a portion of a farm portion, or an agricultural holding, or a portion of an agricultural holding;

“**Surveyor-General**” means the Surveyor-General as defined in the Land Survey Act, 1997 (Act 8 of 1997);

“**this By-law**” means any Section, Schedule, and/or Form to this By-law;

“**title deed**” means any deed registered in a deeds registry recording ownership of land and includes deeds of grant and ninety-nine (99) year leasehold titles;

“**township**” means any property(ies), sites and/or land that:

- (a) is laid out or divided or subdivided into or developed or to be developed, as a single property or multiple properties for residential, business, industrial, institutional, educational, community services and/or similar or other purposes or land uses, as may be contained in a land use management scheme;
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- (b) are arranged in such a manner as to have the character of what constitutes a township, in the opinion of the Municipality, including:
- (i) intended or actual single or multiple ownership of erven, land or units, and or multiple land use rights; and/or
  - (ii) which may or may not be intersected or connected by or abut on any public or private street or roadway, in the case of a proposed sectional title scheme; and
  - (iii) public or private streets or roadways shall for the purposes of this definition include a right of way or any land used for purposes of a street, road, or roadway whether surveyed and/or registered, which is only notional in character;

**“township register”** means an approved subdivision register of a township in terms of the Deeds Registries Act, 1937 (Act 47 of 1937);

**“Tribunal”** means the Municipal Planning Tribunal established in terms of section 79 of this By-law;

**“Undue influence”** is an act by any person whether in authority or not, who takes advantage of a position of power over another person, institution or body, resulting in inequity in power between the parties thus vitiating one (1) party's consent as it is unable to freely exercise his or her independent will;

**“zoning”** means the division of an area into zones as to restrict the number and types of buildings and their uses in order to facilitate the proper use of land for different purposes. Where the context indicates, the zoning categories and conditions relating thereto contained in a land use management scheme;

**“zoning certificate”** means a document issued by the Municipality with the purpose of providing information, subject to the information being available, of a property and may include the following:

- (a) zoning category;
- (b) primary uses;
- (c) uses that can be obtained with consent use and/or permission application;
- (d) density;
- (e) coverage;
- (f) height;
- (g) floor area ratio;
- (h) building lines;
- (i) approved consent use and/or permission; and

the Zoning Certificate shall be available to the public upon request during normal office hours after payment of the prescribed fees.

- (2) Any reference to erf or rural land refers to the Land Survey Act, 1997, (Act No 8 of 1997).
  - (3) Any reference to the male gender includes the female gender and any reference to the plural will include the singular and vice versa, as the context may require.
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**2. Application of By-law**

- (1) This By-Law applies to all land (urban and rural) within the geographical area of the Municipality, including land owned by the state and other organs of state.
- (2) This By-Law binds every owner and every user of land, including the state.
- (3) When considering an apparent conflict between this By-Law and another law, a court must prefer any reasonable interpretation that avoids a conflict over any alternative interpretation that results in a conflict.
- (4) Should there be any conflict in the interpretation of any provision or definition of this By-law and any other national or provincial legislation, this By-law shall prevail, having regard to Section 146, 147, 156(2), and 155(7) read with Schedule 4, Part B of the Constitution.

**CHAPTER 2 – SPATIAL PLANNING****3. Spatial Planning Categories**

All development frameworks developed for areas in, or associated with, the Free State Province, must be represented spatially. In order to create a uniform system across the Province, the attribute data must be represented according to the primary spatial planning categories set out in Schedule 1 to this By-law.

**4. Compilation, Review or Amendment of Municipal Spatial Development Framework**

- (1) The Municipality shall draft a municipal spatial development framework in terms of the relevant provisions of the Act, read with sections 23 to 35 of the Municipal Systems Act, 2000 (Act 32 of 2000).
- (2) When the Municipality drafts, reviews or amends its municipal spatial development framework in accordance with the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) and the Spatial Planning and Land Use Management Act, the Municipality must—
  - (a) establish an intergovernmental steering committee to compile or amend its municipal spatial development framework;
  - (b) refer its draft municipal spatial development framework or draft amendment of its municipal spatial development framework to National and Provincial Departments and adjoining municipalities for comment, in accordance with section 7(e)(ii) of the Act; and
  - (c) National and Provincial Departments must provide any input requested by the Municipality within sixty (60) days of receipt of the request for inputs.
- (3) The Municipality must—
  - (a) publish a notice in two (2) of the official languages of the Province most spoken in the area in two (2) newspapers circulating in the area concerned of—
    - (i) the intention to compile, review or amend the municipal spatial development framework; and
    - (ii) the process it will follow, in accordance with section 30(3) of the Municipal Systems Act, 2000 (Act 32 of 2000);
  - (b) in writing inform the National and Provincial Departments and adjoining municipalities of—
    - (i) the intention to compile, review or amend the municipal spatial development framework;

- (ii) its decision in terms of subsection (1)(a) or (b); and
  - (iii) the process it will follow to compile, review or amend the municipal spatial development framework, including the process for public participation; and
- (c) register relevant interested and affected persons, who must be invited to comment on the draft municipal spatial development framework or draft amendment of the municipal spatial development framework as part of the process to be followed.

#### **5. Establishment of Project Committee**

- (1) The Municipality must establish a project committee to compile, review or amend its municipal spatial development framework.
- (2) The project committee must at least consist of—
- (a) the Municipal Manager; and
  - (b) municipal employees from at least the following municipal departments:
    - (i) the Integrated Development Planning Office;
    - (ii) the Planning Department;
    - (iii) the Environmental Management Department;
    - (iv) the Engineering Services Department;
    - (v) Centlec
    - (vi) the Local Economic Development Department;
    - (vii) the Housing Department; and
    - (viii) Office of the Chief Financial Officer.

#### **6. Establishment of Inter-Governmental Steering Committee**

- (1) If the Municipality establishes an inter-governmental steering committee, it must, in writing, invite written nominations for representatives to serve on the intergovernmental steering committee from—
- (a) the delegated party of the national and provincial government department responsible for land use planning;
  - (b) the delegated party of the provincial government department responsible for environmental affairs;
  - (c) the delegated party of the provincial government department responsible for agriculture;
  - (d) relevant organs of state; and
  - (e) any other department deemed necessary by the Municipality.

#### **7. Procedure with Inter-Governmental Steering Committee**

- (1) If the Municipality establishes an intergovernmental steering committee, the project committee must compile a draft status quo document setting out an assessment of the existing levels of and development challenges in the municipal area and must submit it to the intergovernmental steering committee for comments.
- (2) After consideration of the comments of the intergovernmental steering committee, the project committee must complete the status quo document and submit it to the Council for adoption.
- (3) The project committee must compile a first draft of the municipal spatial development framework or first draft amendment of the framework and submit it to the intergovernmental steering committee for comments.
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- (4) After consideration of the comments of the intergovernmental steering committee, the project committee must complete the first draft of the municipal spatial development framework or first draft amendment of the framework in accordance with section 10(2) and (3) and submit it to the Municipal Council to approve the publication thereof for public comments in accordance with section 10(5).
- (5) After consideration of the comments and representations, as a result of the publication contemplated in subsection (4), the project committee must compile a final municipal spatial development framework or final amendment of the framework and submit it to the intergovernmental steering committee for comment.
- (6) After consideration of the comments of the intergovernmental steering committee contemplated in subsection (5), the project committee must complete the final draft of the municipal spatial development framework or final draft amendment of the framework and submit it to the Municipal Council for adoption.
- (7) If the final municipal spatial development framework or final amendment of the municipal spatial development framework contemplated in subsection (6) is materially different to what was published in terms of subsection (4), the Municipality must follow a further consultation and public participation process in accordance with section 10(5) before the final municipal spatial development framework or final amendment of the framework is adopted by the Council.
- (8) The Council or the project committee may at any time in the process of compiling a municipal spatial development framework or drafting an amendment of the framework request comments from the intergovernmental steering committee.
- (9) The Council must adopt the final municipal spatial development framework or final amendment of the municipal spatial development framework, with or without amendments, and must give notice thereof in accordance with section 11(4).

#### **8. Procedure without Intergovernmental Steering Committee**

- (1) If the Council does not establish an intergovernmental steering committee to compile or amend its municipal spatial development framework, the project committee must—
  - (a) compile a draft status quo document setting out an assessment of the existing levels of development and development challenges in the municipal area and submit it to the Council for adoption;
  - (b) after adoption of the status quo document, compile a draft municipal spatial development framework or draft amendment of the framework in accordance with section 10(2) and (3) and submit it to the Council to approve the publication thereof for public comment in accordance with section 10(5);
  - (c) after approval of the draft municipal spatial development framework or draft amendment of the framework for publication contemplated in sub-section (b), submit the draft municipal spatial development framework or draft amendment of the framework to the MEC for comment; and
  - (d) after consideration of the comments received from the public and the MEC, submit a final municipal spatial development framework or final amendment of the framework, with any further amendments, to the Council for adoption.
- (2) The Council must adopt the final municipal spatial development framework or final amendment of the municipal spatial development framework, with or without amendments, and must give notice thereof in accordance with section 11(4).

#### **9. Functions and Duties of the Project Committee**

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- (1) The members of the project committee must, whilst also considering the requests and proposals of the executive authority/executive mayor/committee of councillors, but based on sound strategic spatial planning principles:
- (a) compile a municipal spatial development framework or draft an amendment of the municipal spatial development framework for adoption by the Council;
  - (b) provide technical knowledge and expertise to the Council;
  - (c) monitor progress and ensure that the compilation of the municipal spatial development framework or drafting of the amendment of the municipal spatial development framework is progressing according to the approved process contemplated in section 4(3)(a)(ii) of this By-law;
  - (d) guide the public participation process and ensure that the registered interested and affected parties remain informed;
  - (e) oversee the incorporation of amendments to the draft municipal spatial development framework or draft amendment of the framework based on the consideration of the comments received during the process of drafting thereof;
  - (f) oversee the drafting of a report setting out the response of the Municipality to the provincial comments received;
  - (g) ensure alignment of the municipal spatial development framework with the development plans and strategies of other affected municipalities and other organs of state as contemplated in section 24(1) of the Municipal Systems Act, 2000 (Act 32 of 2000);
  - (h) facilitate the integration of other sector plans into the municipal spatial development framework;
  - (i) if the Municipality decides to establish an intergovernmental steering committee—
    - (i) assist the Municipality in ensuring that the intergovernmental steering committee is established and that timeframes are adhered to; and
    - (ii) ensure the flow of information between the project committee and the intergovernmental steering committee.
- (2) The members of the intergovernmental steering committee must—
- (a) provide the intergovernmental steering committee with the following:
    - (i) technical knowledge and expertise;
    - (ii) input on outstanding information that is required to draft the municipal spatial development framework or an amendment thereof;
    - (iii) information on the locality of projects and budgetary allocations and written comments in terms of section 7;
    - (iv) communicate to the intergovernmental steering committee any current or planned projects that have an influence on the municipal area; and
    - (v) provide the project committee with written comments in terms of section 7(2) and section 7(6).

## 10. Municipal Spatial Development Frameworks

- (1) The municipal spatial development framework must be prepared as part of a Municipality's integrated development plan in accordance with the provisions of the Municipal Systems Act, 2000 (Act 32 of 2000).
- (2) (a) The content of the municipal spatial development must comply with section 21 of the Act.
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- (b) Over and above the requirement set out in subsection (a), the Municipality may determine the components of the municipal spatial development framework and any further plans, policies and/or instruments by virtue of which the municipal spatial development framework shall be applied, interpreted and implemented.
- (3) The purpose of the municipal spatial development framework is *inter alia* to-
- (a) provide detailed spatial planning guidelines and directives pertaining to land use development within the jurisdiction area of the Municipality;
  - (b) provide specific land use planning needs and priorities;
  - (c) provide detailed policy and development parameters for land use planning;
  - (d) provide detailed priorities in relation to land use planning and, in so far as they are linked to land use planning, biodiversity and environmental issues;
  - (e) provide detail regarding planned new transport and other infrastructure upgrades with spatial implications in the area;
  - (f) guide decision making on land use applications; and
  - (g) identify a funding source and budget for prioritized projects in conjunction with the IDP.
- (4) A municipal spatial development framework does not confer cancel, limit, compromise or infringe on land use rights but guides and informs decisions to be made by the Municipality relating to land development.
- (5) The Municipality shall-
- (a) give notice of the proposed draft spatial development framework in the Provincial Gazette and two (2) local newspapers circulating in the area of jurisdiction of the Municipality in English and one (1) other official language commonly spoken in the area;
  - (b) for purposes of notification use any other method of communication it may deem appropriate;
  - (c) invite the public to submit written representations in respect of the proposed draft municipal spatial development framework to the Municipal Council; and the notices contemplated in subsection (a) shall specifically state that any person wishing to provide comments and/or objections shall-
    - (i) do so within a period of sixty (60) days from the first day of publication of the notice;
    - (ii) provide detailed written comments;
    - (iii) provide their contact details which shall include an address for delivery of registered mail;
    - (iv) detailed grounds of objection; and
    - (v) details of the interest or locus standi of the interested and affected party or objector to the satisfaction of the Municipality.
  - (d) consider all representations received in respect of the proposed draft municipal spatial development frameworks.
- (6) The Municipality may for purposes of public engagement arrange:
- (a) specific consultations with professional bodies, ward communities or other groups; and/or
  - (b) public meetings.

## 11. Process of Amendment or Review of Municipal Spatial Development Frameworks

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- (1) The process to amend the municipal spatial development framework shall comply with section 34 of the Municipal Systems Act, 2000 (Act 32 of 2000).
- (2) The Municipality may prescribe the form and processes governing an application to amend the municipal spatial development framework other than as a result of the annual review process contemplated in section 34(a) of the Municipal Systems Act, 2000 (Act 32 of 2000).
- (3) When the Municipality drafts or amends its municipal spatial development framework it must advertise the draft document in line with subsection 10(5) above.
- (4) The Municipality must, within twenty-one (21) days of adopting a municipal spatial development framework or an amendment thereof, by notice in two (2) newspapers circulating in the municipal area inform the general public of the approval of a municipal spatial development framework and publish a proclamation notice in the Provincial Gazette in line with section 20 of the Act.

## **12 Status of the Municipal Spatial Development Framework**

- (1) The Tribunal or any other authority required or mandated to make a decision on a land development application in terms of this By-law or any other law relating to land development, may not make a decision which is inconsistent with the municipal spatial planning framework.
- (2) Subject to section 42 of the Act, a Tribunal or any other authority required or mandated to make a decision on a land development application, may depart from the provisions of a municipal spatial development framework only if site specific circumstances justify a departure from the provisions of such municipal spatial development framework and such departure does not materially change the municipal spatial development framework.
- (3) If the departure materially changes the municipal spatial development framework, the Municipality shall in terms of section 11 of this By-law amend the municipal spatial development framework in so far as it relates to the departure only, in such form as the Municipality may determine without necessarily amending the full municipal spatial development framework, prior to taking a decision which constitutes a departure from the municipal spatial development framework.
- (4) A person/body who takes a decision to deviate from the provisions of the municipal spatial development framework must at the time of making the decision-
  - (a) record in writing the reasons for the deviation; and
  - (b) keep a record of the decision as well as the reason(s) for the deviation.

## **13. Structure Plans and Local Spatial Development Framework**

- (1) The Municipality may adopt a structure plan, and/or local spatial development frameworks, and/or a precinct plan for a specific geographical area in or a portion of the municipal area.
  - (2) When the Municipality intends to develop a structure plan and/or local spatial development frameworks, and/or a precinct plan it must comply with section 11 and must—
    - (a) review that structure plan and/or local spatial development frameworks, and/or a precinct plan and make it consistent with the purpose of a municipal spatial development framework;
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- (b) incorporate the provisions of the municipal spatial development framework in a structure plan and/or local spatial development frameworks, and/or a precinct plan.
- (3) The Municipality must withdraw the relevant structure plan by notice in the Provincial Gazette when it adopts a local spatial development framework contemplated in subsection (1).

### **CHAPTER 3 – LAND USE MANAGEMENT SCHEME**

#### **14. Land Use Management Scheme**

- (1) The Municipality shall adopt and approve, after public consultation as contemplated in section 15, a single land use management scheme for its entire area of jurisdiction.
- (2) After the public participation, engagements and consultation processes contemplated in section 15, the Municipality shall:
  - (a) review and consider all submissions made in writing or inputs made during any consultations or engagements; and
  - (b) prepare a report, including all information deemed relevant to the Municipal Council, on the submissions made.
- (3) The Council must consider and approve the land use management scheme with or without amendments.
- (4) The Municipality must, within twenty-one (21) days of adopting a land use management scheme or an amendment thereof, by notice in two (2) newspapers circulating in the municipal area inform the general public of the approval of a land use management scheme and publish a proclamation notice in the Provincial Gazette.
- (5) The notice contemplated in subsection (4) may-
  - (a) include a summary of the approved land use management scheme; and
  - (b) indicate a specific date of coming into operation of the approved land use management scheme.

#### **15. Public Participation applicable to the drafting, amendment and review of the Land Use Management Scheme**

- (1) The Municipality shall-
  - (a) give notice in the Provincial Gazette and two (2) local newspapers circulating in the area of jurisdiction of the Municipality in English and one (1) other official language commonly spoken in the area; and
  - (b) For purposes of notification use any other method of communication it may deem appropriate; of a draft land use management scheme; and the notices contemplated in subsection (a) shall specifically state that any person wishing to provide comments and/or objections shall-
    - (i) do so within a period of sixty (60) days from the first day of publication of the notice;
    - (ii) provide detailed written comments;
    - (iii) provide their contact details which shall include an address for delivery of registered mail;
    - (iv) detailed grounds of objection; and
    - (v) details of the interest or locus standi of the interested and affected party or objector to the satisfaction of the Municipality.
- (2) The Municipality may for purposes of public engagement arrange:
  - (a) specific consultations with professional bodies, ward communities or other groups; and/or

- (b) public meetings.

**16. Content of Land Use Management Scheme**

- (1) The land use management scheme adopted and approved in terms of section 14 above must give effect to and be consistent with the municipal spatial development framework and determine the use and development of land within the area of jurisdiction of the Municipality in order to promote:
    - (a) economic growth;
    - (b) social inclusion;
    - (c) efficient land development; and
    - (d) minimal impact on public health, the environment and natural resources.
  - (2) A land use management scheme must-
    - (a) include appropriate categories of zoning and regulations for the entire municipal area, including areas not previously subject to a land use management scheme;
    - (b) include scheme regulations setting out the procedures and conditions relating to the use and development of land in any zone, definitions, specific conditions, limitations and general provisions, provisions for public participation that may be required for purposes of any consent, deviation, temporary uses or relaxation in terms of the land use management scheme;
    - (c) include a map indicating the zoning of the municipal area into land use zones;
    - (d) take cognisance of any environmental management instrument adopted by the relevant environmental management authority, and must comply with environmental legislation;
    - (e) take cognisance of any culturally or historically significant land uses and comply with any heritage resources legislation;
    - (f) include provisions that permit the incremental introduction of land use management and regulation in areas under traditional leadership, rural areas, informal settlements, slums and areas not previously subject to a land use management scheme;
    - (g) include provisions to promote the inclusion of affordable housing in residential land development;
    - (h) include land use and development incentives to promote the effective implementation of the municipal spatial development framework and other development policies;
    - (i) include land use and development provisions specifically to promote the effective implementation of national and provincial policies; and
    - (j) give effect to the municipal spatial development framework and integrated development plan.
  - (3) The land use management scheme may include provisions relating to-
    - (a) the use and development of land with the consent and written consent of the Municipality;
    - (b) specific requirements regarding any special zones identified to address the development priorities of the Municipality; and
    - (c) the variation of conditions of a land use management scheme other than a variation which may materially alter or affect conditions relating to the use, size and scale of buildings and the intensity or density of land use.
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- (4) Over and above that, which in terms of subsection (2) must be contained in a land use management scheme, the Municipality may determine any other component to be included in the land use management scheme for purposes of it being applied, interpreted and implemented.
- (5) A Land Use Management Scheme Register shall be kept and maintained by the Municipality in a hard copy and/or electronic format in accordance with section 25(2) of the Act.

#### **17. Legal effect of Land Use Management Scheme**

- (1) An adopted and approved land use management scheme-
  - (a) has the force of law and all landowners and users of land, including the Municipality, a state-owned enterprise and organs of state within the area of jurisdiction of the Municipality are bound by the provisions of such a land use management scheme;
  - (b) replaces all existing schemes within the area of jurisdiction of the Municipality to which the land use management scheme applies; and
  - (c) provides for land use and development rights.
- (2) Land may be used only for the purposes permitted-
  - (a) by a land use management scheme; or
  - (b) by a town planning scheme or any other applicable town planning legislation, until such scheme or any other applicable town planning legislation is replaced by a land use management scheme as contemplated in section 14 above.
- (3) The Municipality has a duty to enforce the provisions of its land use management scheme and any use of land which is deemed contrary to such land use management scheme shall constitute a criminal offence.
- (4) A land use management scheme developed and approved in terms of section 14 above must address conflict between the land use management scheme adopted and the one it purports to repeal or replace.

#### **18. Amendment or Revision of Land Use Management Scheme**

- (1) The Municipality may amend its land use management scheme if the amendment-
    - (a) is in the public interest;
    - (b) to advance, or is in the interest of, a disadvantaged community; and
    - (c) in order to further the vision and development goals and objectives of the Municipality as set out in its integrated development plan and municipal spatial development framework.
  - (2) The Municipality may review its land use management scheme in order to achieve consistency with the municipal spatial development framework but must do so at least every five (5) years after the commencement of this By-Law.
  - (3) The Municipality must submit a review report to the Municipal Council setting out for the period under review at least –
    - (a) the proposed amendments to the land use management scheme, including proposed overlay zones and the proposals aimed at aligning the land use management scheme with the municipal spatial development framework;
    - (b) the number of deviations from the municipal spatial development framework and the nature and reasons for each deviation;
    - (c) the response to comments received as a result of the public engagement process in section 15(1) and 15(2).
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- (4) If the Municipal Council approves the recommendations in the review report, the Municipality must commence a process to amend the land use management scheme accordingly.
- (5) Where the Municipality intends to amend or review the land use management scheme, sections 14(2) up to and including 14(5) and 15 shall apply *mutatis mutandis* to such amendment and revision.

#### **CHAPTER 4 – LAND DEVELOPMENT MANAGEMENT**

##### **19. Determination of Zoning**

- (1) The owner of land or his agent may apply in terms of section 21(3) to the Municipality for the determination of a zoning as contemplated in the land use management scheme for land within its municipal jurisdiction.
- (2) When the Municipality considers an application in terms of subsection (1) it must have regard to the following:
  - (a) the lawful use of the land, or the purpose for which it could lawfully be used immediately prior to the commencement of this By-law if it can be determined;
  - (b) the zoning, if any, that is most compatible with that use or purpose and any applicable title condition;
  - (c) any temporary use or consent use that may be required in conjunction with that land use management scheme;
  - (d) in the case of land that was vacant immediately before the commencement of this By-law, the use that is permitted in terms of the title deed conditions or, where more than one (1) land use is so permitted, one (1) of such land uses determined by the Municipality; and
  - (e) where the lawful use of the land and the purpose for which it could lawfully be used immediately before the commencement of this By-law cannot be determined, the zoning that is the most desirable and compatible with any applicable title deed condition, together with any departure or consent use that may be required.
- (3) If the lawful zoning of land contemplated in subsection (2) cannot be determined, the Municipality must determine a zoning and serve notice of its intention on the owner of the property in accordance with section 53.
- (4) A land use that commenced or exercised unlawfully, whether before or after the commencement of this By-law, constitute a criminal offence and shall only be rectified by means of a land use application.

##### **20. Non-Conforming Uses with Existing Land Use Rights**

- (1) A non-conforming use with existing land use rights provides that a land parcel that is used lawfully in terms of an enactment that was applicable at the stage when the particular land use was initiated on the particular land parcel, prior to the introduction of a new zoning for the relevant land parcel, may continue to be used for that purpose when a new zoning comes into effect for the relevant land parcel, even if the existing land use does not comply with such new zoning.
  - (2) A non-conforming use with existing land use rights does not constitute an offence in terms of this By-law.
  - (3) A non-conforming use with existing land use rights may continue as long as it remains otherwise lawful, subject to the following:
    - (a) if the non-conforming use ceases for any reason for a period of more than twenty-four (24) consecutive months, any subsequent use of the property must conform to the requirements of this By-law, with or without temporary uses;
    - (b) a land use application must be made for the alteration or extension of buildings or structures in respect of the non-conforming use with existing land use rights;
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- (c) the owner bears the onus of proving that the non-conforming use right exists; and
  - (d) the use right is limited to the area of the building or land on which the proven land use right is in existence.
- (4) If an existing building, which constitutes a non-conforming use with existing land use rights, is destroyed or damaged to the extent that it is necessary to demolish a substantial part of the building, the Municipality may grant permission for the reconstruction of such building subject to conditions

## 21. Land Development Requiring Approval

- (1) No person may commence or continue with or cause the commencement or continuation of land development without the approval of the Municipality in terms of subsection (2).
- (2) The Municipality has categorized land use change and/or land use reservation applications, as contemplated in section 35(3) of the Act, into two (2) categories;
- (a) Category 1 applications consist of the:
    - (i) establishment of a township, division of a township or the amendment of the layout of a township;
    - (ii) amendment of an existing scheme or land use management scheme by the rezoning of land;
    - (iii) removal, amendment or suspension of a restrictive or obsolete condition, servitude or reservation registered against the title of the land;
    - (iv) amendment or cancellation in whole or in part of a general plan as approved by the Surveyor General;
    - (v) subdivision and/or consolidation of any land parcel (other than a subdivision and consolidation which is provided for as a Category 2 application);
    - (vi) permanent closure of any public place;
    - (vii) any consent or approval required for the removal, suspension or amendment of a condition of title, a condition of establishment of a township or condition of an existing scheme or land use management scheme; and
    - (viii) any consent or approval provided for in any law referred to in section 52(4) of the Regulations of the Act.
  - (b) Category 2 applications consist of the:
    - (i) subdivision of any land where such subdivision is expressly provided for in a land use management scheme;
    - (ii) creation of any servitude or long-term lease and the consolidation of any land;
    - (iii) simultaneous subdivision, as contemplated in subsection (b)(i) and consolidation of land;
    - (iv) consent of the Municipality for any land use purpose or temporary use or deviation in terms of a land use management scheme; and
    - (v) Registrar's removal, amendment or suspension of a restrictive title condition relating to the density of residential development on a specific erf where the residential density is regulated by a land use management scheme in operation.
- (3) The owner of land or his agent may apply to the Municipality in terms of this Chapter and Chapter 5 for its approval in relation to the development of the land concerning:
- (a) an establishment of a township, division of a township or the amendment of the layout of a township in accordance with sections 23(2) and 46 of this By-law;
  - (b) a rezoning of land;
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- (c) a departure to use land for a purpose not provided for in the land use management scheme granted on a temporary basis;
  - (d) a subdivision of land, including the registration of a servitude or lease agreement;
  - (e) a consolidation of land;
  - (f) an amendment, suspension or removal of restrictive conditions in respect of a land parcel;
  - (g) a permission required in terms of the land use management scheme including the excision of agricultural land;
  - (h) an amendment, removal or suspension of conditions in respect of an existing approval;
  - (i) an extension of the validity period of an approval;
  - (j) an approval of an overlay zone as provided for in the land use management scheme;
  - (k) a phasing, amendment or cancellation of a general plan or a part thereof;
  - (l) a permission required in terms of a condition of approval;
  - (m) a determination of a land use management scheme;
  - (o) a closure of a public place or part thereof;
  - (p) a consent use provided for in the land use management scheme; and
  - (q) an occasional use of land.
- (4) In terms of section 52 of the Act an applicant shall refer any land development application which affects a National or Provincial interest respectively to the Minister and/or the MEC for comments, which comments are to be provided within 21 (twenty-one) days as prescribed by the Act.
- (5) Where any action and/or decision to be taken by a National or Provincial Government Department affects municipal planning as contemplated in section 33 of the Act and/or has the purpose of vesting any land use rights and/or creates any land use to be exercised by such National or Provincial Departments, a land development application in terms of this By-law shall be lodged for obtaining the land use rights with the Municipality, in which event the Municipality:
- (a) shall consider the land development application with reference to Chapter 6 of the Act and specifically sections 33 and 52 thereof; and
  - (b) may, after consultation with the National or Provincial Government Department, determine that a land development application may not be required.
- (6) Where any land development application in terms of section 21(3) of this By-law, which in the opinion of the Municipality, affects a National or Provincial interest as defined in section 52 of the Act, is submitted, such application shall be referred to the Minister or the MEC respectively and the provisions of subsections 52(5) to 52(7) of the Act, shall apply *mutatis mutandis*.
- (7) Subsections (4) to (6) shall be read with subsection 33(1) of the Act in that the National and/or Provincial Departments shall become parties to the application; however, the Municipality shall remain the decision maker of first instance.
- (8) When an applicant or owner exercises a land use right granted in terms of an approval, he shall comply with the conditions of the approval and the applicable provisions of the land use management scheme.
- (9) When the Municipality, on its own initiative, intends to develop land as contemplated in subsection (2), it must submit an application to the Municipal Planning Tribunal for consideration in accordance with this Chapter and Chapter 5

## 22. Continuation of Application after Change of Ownership

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- (1) If land that is the subject of an application is transferred to a new owner, the new owner may continue with the application as the successor in title to the previous owner and the new owner is regarded as the applicant for the purposes of this By-law, provided that the following is submitted to the Municipality:
  - (a) proof of change of ownership; and
  - (b) an amended power of attorney, if an agent was appointed to make the application.
- (2) The new owner must advise the Municipality in writing of the continuation of the application.

### **23. Establishment of Township**

- (1) No person shall establish a township except with the written approval of the Municipality.
- (2) The owner of land or his agent, who proposes to establish a township on such land, shall submit an application for approval in accordance with subsection (4) to do so, to the Municipality.
- (3) The application shall comply with the requirements of the Municipality pertaining to pre-application consultation as contemplated in Section 40 of this By-law.
- (4) The application for township establishment shall be compiled in accordance with the prescriptions of the Municipality determined and amended from time to time and contained in section 41 read with Schedule 3 of this By-law.
- (5) The application for township establishment shall be advertised in accordance with sections 50, 51 and 53 read with Schedule 3 of this By-law.
- (6) After an owner of land has submitted an application to establish a township thereon, no person shall-
  - (a) enter into any contract whereby any land in such township is sold, exchanged, leased or disposed of in any manner; or
  - (b) erect a building on such land until-
    - (i) the application for approval for the establishment of such township has been approved or refused by the Municipality; or
    - (ii) the applicant has withdrawn the application;
    - (iii) the approval of the application has lapsed;
    - (iv) the Municipality has declared the township an approved township and, in the case of such an owner, who is not a municipality, the Municipality has satisfied itself that the services and amenities that have to be provided in connection with such land in terms of the conditions subject to which the establishment of such township was approved, are available and has issued a certificate to that effect.
- (7) Any contract entered into in conflict as contemplated in section 23(5) shall be of no force or effect.
- (8) (a) An applicant who has been notified in terms of section 66(1), that his/her application has been approved may, within a period of six (6) months from the date of such notice, or such further period as the Municipality may allow, apply to the Municipality for the division/phasing of the township into two or more separate townships; provided that:
  - (i) a division of township shall not be a division of engineering services, but only the division of a township and the divisions shall be regarded as separate townships;
  - (ii) each township resulting from the division of a township must be capable of existing as an independent township, for which engineering services shall be provided to the satisfaction of the Municipality;
  - (iii) for the purpose of subsection (ii) above, the Municipality may require that the applicant enter into engineering service agreements and provide guarantees as contemplated in section 91(4) of this By-

law which shall apply *mutatis mutandis* to separate townships resulting from a division of township;  
and

- (iv) the Municipality may after consultation with the applicant determine the order in which each township created through a division of township shall be proclaimed in terms of section 69(1).
- (b) The application contemplated in subsection (8)(a) shall comply with the requirements of the Municipality pertaining to pre-application consultation as contemplated in Section 40 of this By-law, as well as with the prescriptions contained in section 41 read with Schedule 3 of this By-law.
- (c) The application for the division/phasing of the township shall be advertised in accordance with sections 50, 51 and 53 read with Schedule 3 of this By-law

#### **24 General Plan and Diagrams to be Lodged with Surveyor-General**

- (1) An applicant shall, within a period of twelve (12) months from the date of the notification of the approval of a township or within such further period as the Municipality may in each case determine, lodge for approval with the Surveyor-General the general plan and such diagrams as may be required for the establishment of a township.
- (2) If an applicant fails to lodge the general plan and diagrams with the Surveyor-General within the period or extended period determined in sections 72 and 73 of this By-law, the approval of the township shall lapse unless the Tribunal condones such failure after receipt of a condonation application.
- (3) When such general plan and diagrams have been approved by the Surveyor-General, the applicant shall notify the Municipality and the Registrar of Deeds of such approval.
- (4) The application for township establishment must be accompanied by a township name approved by the Municipality and street names as part of the township layout submitted to the Surveyor-General for approval

#### **25. Lodging of General Plan, Diagrams and Title Deeds with Registrar of Deeds**

- (1) An applicant shall, within a period of twenty-four (24) months from the date of the notification of an approval of a township or within such further period as the Municipality may in each case determine, lodge the general plan and diagrams in question together with the title deeds of the land to which it relates with the Registrar of Deeds for registration, and the Registrar of Deeds shall notify the Municipality of the registration.
- (2) If an applicant fails to lodge such documents with the Registrar of Deeds or to obtain registration thereof within the period or further period contemplated in subsection (1) the approval of the township shall lapse unless the Tribunal condones such failure after receipt of a condonation application

#### **26. Proclamation of Approved Township**

- (1) A services agreement between the owner of land and the Municipality shall be signed within a period of twelve (12) months after the approval of the township by the Municipality.
  - (2) The conditions contained in the services agreement must be implemented and completed within a period of twenty-four (24) months after signing of the services agreement. Extension may be granted by the Municipality for a period not exceeding twelve (12) months or any further period determined by the Municipality in special circumstances.
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- (3) Proclamation of the township may only take place after the conditions contained in the services agreement were met and a certificate has been issued by the relevant departments stating that civil and electrical services were constructed according to specifications of the Municipality. No building plan shall be approved prior to proclamation of the township.
- (4) If an applicant fails to comply with the provisions of this section, the approval of the township and any development right shall lapse.
- (5)
  - (a) After the provisions of sections 24 and 25 have been complied with, the township shall be proclaimed in the provincial gazette in accordance with section 69(1) of the By-law.
  - (b) The proclamation notice shall contain-
    - (i) the conditions of establishment and of title upon which the application for the township establishment has been approved; and
    - (ii) the Municipality may by proclamation rectify any error or omission in a proclamation notice in subsection (5)(a).
- (6) The applicant shall be liable for all costs of any rectification notice in subsection (5)(b)(ii).
- (7) An erf or land parcel in the township may only be sold, exchanged, leased or disposed of to a third party after the proclamation of the township.
- (8) No transfer of land to a third party will be effected prior to proof being provided that all social facilities and infrastructure as specified in the conditions of establishment was installed and transferred to the relevant authorities.

## **27. Amendment or Cancellation of a General Plan**

- (1) When the Municipality is satisfied that it is desirable to amend or cancel a general plan in the interest of the development of a township, or public interest, it may, on application, grant approval for the alteration, amendment or total or partial cancellation of the general plan representing the layout of such township, either unconditionally or subject to such conditions as it may determine.
- (2) The owner of the relevant land parcel or his agent, may apply for the approval of the Municipality for the amendment or cancellation of a general plan and such application shall be submitted to the Municipality in duplicate in such form determined and amended from time to time, and shall be accompanied by such plans, documents, information and fees as may be prescribed or determined by the Municipality.
- (3) When a general plan of a township is totally or partially cancelled by the Surveyor-General, in terms of the Land Survey Act, 1997, (Act No 8 of 1997), the land uses and conditions of title, are simultaneously cancelled and the land use and status revert to the initial zoning.

## **28. Ownership of Public Places and Land Required for Parks, Public Open Spaces, Social Facilities and Municipal Engineering Services**

- (1) An approval of a land development application which provides for the use of land for residential purposes may be subject to the provision of land for parks, public open spaces, social facilities or municipal engineering services by the applicant.
  - (2) The land required for parks, public open spaces or social facilities must be provided within the land area to which the land development application relates: Provided that the Municipality may consider an alternative land area for the provision of parks, public open spaces or social facilities where it is more feasible to do so.
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- (3) The ownership of land contemplated in subsection (1) vest in the Municipality upon registration of the township by the Registrar of Deeds.
- (4) The Municipality may in terms of conditions imposed under section 75 determine that land contemplated in subsection (1), be transferred to the Municipality upon registration of the township or subdivision of or a part thereof by the Registrar of Deeds.
- (5) Proof must be provided to the Municipality that before proclamation, an application for transfer of the land contemplated in subsection (1) to the Municipality was submitted to the Registrar of Deeds.
- (6) The provision of subsections (1) to (4) shall apply *mutatis mutandis* to land development applications contemplated in section 33 of this By-law

## **29. Services Arising from Township Establishment**

- (1) Subsequent to the approval of an application for township establishment in terms of this By-law, the owner of any land parcel originating from the establishment of the township must—
    - (a) allow without compensation that the following be conveyed across the relevant land parcel in favour and in respect of other land parcels originating from the establishment of the township:
      - (i) gas mains;
      - (ii) electricity cables;
      - (iii) telephone cables;
      - (iv) television cables;
      - (v) other electrical infrastructure;
      - (vi) main and other water pipes;
      - (vii) foul sewers;
      - (viii) storm water pipes;
      - (ix) ditches and channels;
      - (x) public roads;
      - (xi) electrical substations and any alternative means of energy supply; and
      - (xii) any other civil, electrical and communication infrastructure relating to the provision of bulk infrastructure and communication networks.
    - (b) allow the following on the relevant land parcel if considered necessary and in the manner and position as may be reasonably required by the Municipality:
      - (i) surface installations such as mini substations;
      - (ii) meter kiosks; and
      - (iii) service pillars;
    - (c) allow access to the land parcel at any reasonable time for the purpose of constructing, altering, removing or inspecting any works referred to in sub-sections (a) or (b); and;
    - (d) receive material or permit excavation on the land parcel as may be required to allow use of the full width of an abutting street and to provide a safe and proper slope to its bank necessitated by differences between the level of the street as finally constructed and the level of the land parcel, unless he elects to build retaining walls to the satisfaction of, and within a period to be determined by, the Municipality.
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- (2) The rights created in subsection (1)(a) and (b) must be secured by a servitude registered in the Deeds Office against the Title Deeds of the relevant land parcels if the services are not conveyed within the building lines applicable to the land.

### **30. Certification by Municipality**

- (1) A person may not apply to the Registrar of Deeds to register the transfer of any erf or land parcel within a newly established township, unless the Municipality has issued the required Service Certificates for municipal services in terms of this section.
- (2) The Municipality may not issue a certificate to transfer a land parcel in terms of any law, or in terms of this By-law, unless the owner furnishes the Municipality with—
- (a) a conveyancer's certificate confirming that money due by the transferor of land to an homeowners' association established in respect of that land has been paid, or that provision has been made to the satisfaction of the homeowners' association for the payment thereof;
  - (b) proof of payment of any contravention penalty or proof of compliance with an instruction in a compliance notice issued in terms of Chapter 8;
  - (c) proof that the land use and buildings constructed on the land parcel comply with the requirements of the land use management scheme and any other legislation;
  - (d) proof that all common property, arising from the subdivision has been transferred to the homeowners' association as contemplated in subsection (3)(e) of Schedule 2; and
  - (e) proof that the conditions of approval that must be complied with before the transfer of erven have been complied with in all respects

### **31. Homeowners' Associations**

- (1) The Municipality may, when approving an application for a subdivision of land, impose conditions relating to the compulsory establishment of an homeowners' association by the applicant for an area determined in the conditions in accordance with Schedule 2 to this By-law.

### **32. Homeowners' Association Ceases to Function**

- (1) If an homeowners' association ceases to function or carry out its obligations, the Municipality may—
- (a) take steps to instruct the association to hold a meeting and to reconstitute itself;
  - (b) subject to the amendment of the conditions of approval, remove the obligation to establish an homeowners' association; or
  - (c) subject to the amendment of title conditions pertaining to the homeowners' association, remove any obligations in respect of an homeowners' association.
- (2) In determining which option to follow, the Municipality must have regard to—
- (a) the purpose of the homeowners' association;
  - (b) who will take over the maintenance of infrastructure for which the homeowners' association is responsible; and
  - (c) the effect of the dissolution of the homeowners' association on the members and the community concerned.

### **33. Rezoning of Land**

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- (1) The Municipality may, on its own initiative, amend its land use management scheme by rezoning any land considered necessary by the Municipality to achieve the developmental goals and objectives of the municipal spatial development framework, to;
  - (a) provide a public service or to provide a public recreational space; or
  - (b) substitute a zoning or part thereof for a zoning in terms of which the land is not necessarily zoned in accordance with the use thereof or existing use rights.
- (2) The owner of land or his agent, who wishes to rezone the said land parcel, shall submit an application to the Municipality in accordance with subsections (3) and (4)
- (3) The application for rezoning shall be compiled in accordance with the prescriptions of the Municipality determined and amended from time to time and contained in section 41 read with Schedule 3 of this By-law.
- (4) The application for rezoning shall be advertised in accordance with sections 50, 51 and 53 read with Schedule 3 of this By-law.
- (5) The Municipality may, on its own initiative or on application, create an overlay zone for land.
- (6) A rezoning application may only be submitted on a land parcel that forms part of a township register which was opened through a township establishment process.
- (7) A rezoning application may be submitted on agricultural land to establish a single land use (e.g. filling stations, lodge, guest farm, solar farms, quarries, mine activity).
- (8) A land use management scheme may be made applicable to a land parcel referred to in subsection (7) or part thereof, and zoning need not follow cadastral boundaries, subject to delineation of a defined area.
- (9) The rezoning approval shall be proclaimed in the provincial gazette in accordance with section 69(1) of the By-law

#### **34. Closure of Public Places**

- (1) The Municipality may, on own initiative or on application, permanently close a public place or any portion thereof in accordance with Chapter 4.
  - (2) An applicant who requires the closure of a public place, whether permanently or temporarily, must apply to the Municipality in terms of section 21(3) of this By-law.
  - (3) The application contemplated in subsection (2) shall be compiled in accordance with the prescriptions of the Municipality determined and amended from time to time and contained in section 41 read with Schedule 3 of this By-law.
  - (4) If any person lodges a claim against the Municipality for loss or damage that he has allegedly suffered due to wrongdoing on the part of the Municipality when it permanently closed a public place, the Municipal Manager must—
    - (a) require proof of negligence or any other wrongdoing on the part of the Municipality which resulted in the loss or damage; and
    - (b) before any claim is validated, paid or settled, obtain a full technical investigation report in respect of the circumstances that led to the closure of the public place to determine whether or not there has been negligence on the part of the Municipality.
  - (5) The Municipality may pay a claim if—
    - (a) the circumstances of loss or damage reveal that the Municipality acted wrongfully;
    - (b) the claimant has proved his loss or damage;
    - (c) the claimant has provided proof of a fair and reasonable quantum;
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- (d) no claim has been made and paid by personal insurance covering the same loss;
  - (e) any other relevant additional adjoining as requested by the authorized employee has been received; and
  - (f) the Council has approved the claim.
- (6) The ownership of the land comprised in any public place or portion thereof that is permanently closed in terms of this section continues to vest in the Municipality, unless the Municipality determines otherwise.
- (7) The Municipality may, without complying with Chapter 4, temporarily close a public place—
- (a) for the purpose of, or pending, the construction, reconstruction, maintenance or repair of the public place; for the purpose of, or pending, the construction, erection, laying, extension, maintenance, repair or demolition of any building, structure,
  - (b) works or service alongside, on, across, through, over or under the public place;
  - (c) if the street or place is in a state that is dangerous to the public;
  - (d) by reason of an emergency or public event that requires special measures for the control of traffic or special provision for the accommodation of crowds; or
  - (e) for any other reason that renders the temporary closing of the public place necessary or desirable.
- (8) The Municipality must notify the Surveyor-General of an approval in terms of subsection (1), and the Surveyor-General must endorse its records to reflect the closure of the public place.
- (9) The approval in terms of subsection (1) shall be proclaimed in the provincial gazette in accordance with section 69(1) of the By-law

### **35. Subdivision or Consolidation of Land**

- (1) No person may subdivide or consolidate land without the approval of the Municipality in terms of section 21(3).
- (2) The owner of land or his agent, who wishes to subdivide or consolidate the said land parcel, shall submit an application to the Municipality in accordance with subsections (3) and (4).
- (3) The application for subdivision or consolidation shall be compiled in accordance with the prescriptions of the Municipality determined and amended from time to time and contained in section 41 read with Schedule 3 of this By-law.
- (4) The application for subdivision or consolidation shall be advertised in accordance with sections 50, 51 and 53 read with Schedule 3 of this By-law.
- (5) An applicant must demonstrate that each subdivision can be adequately served with civil engineering services and acceptable access to a public street or right of way, as part of the submission of a subdivision application.
- (6) A copy of the approval must accompany the diagram that is submitted to the Surveyor-General's office.
- (7) If a Municipality approves a subdivision or consolidation, the applicant must submit a diagram to the Surveyor-General for approval, including proof to the satisfaction of the Surveyor-General of—
- (a) the decision to approve the subdivision or consolidation;
  - (b) the conditions of approval contemplated in section 69; and
  - (c) the approved subdivision or consolidation plan.
- (8) If a Municipality approves a subdivision or consolidation, the Municipality must amend the land use management scheme (after registration with the Surveyor-General and Registrar of Deeds) in terms of Chapter 4 and, where applicable, the register accordingly.
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- (9) The approval in terms of subsection (1) shall be proclaimed in the provincial gazette in accordance with section 69(1) of the By-law.

**36. Lapsing of Approved Subdivision and Consolidation**

- (1) Subject to subsection (2), an approved subdivision or consolidation of land parcels lapses if the subdivision or consolidation is not registered in terms of the Deeds Registries Act, 1937 (Act 47 of 1937) within three (3) years of the date of the approval of the subdivision or consolidation.
- (2) If the subdivision or consolidation of land parcels forms part of land development that has been approved in terms of this By-law subject to longer validity periods, the applicant may apply for an extension of the period referred to in subsection (1).
- (3) If the Municipality approves an extension contemplated in subsection (2), the extended period together with the period contemplated in subsection (1) may not exceed five (5) years.
- (4) If an approval of a subdivision or consolidation lapses in terms of subsection (1)—
- (a) the Municipality must—
    - (i) amend the land use management scheme and, where applicable, the register;
    - (ii) notify the Surveyor-General accordingly; and
  - (b) the Surveyor-General must endorse the records of the Surveyor-General's office to reflect the notification that the subdivision and/or consolidation has lapsed.

**37. Amendment, Suspension or Removal of Restrictive Conditions of Title**

- (1) The Municipality may, on its own initiative or on application in terms of section 21(3), by notice in the Provincial Gazette amend, suspend or remove a restrictive condition.
- (2) The owner of land or his agent, who wishes to have a restrictive condition amended, suspended or removed, shall submit an application to the Municipality in accordance with subsections (3) and (4)
- (3) The application contemplated in subsection (2) shall be compiled in accordance with the prescriptions of the Municipality determined and amended from time to time and contained in section 41 read with Schedule 3 of this By-law.
- (4) The application for amendment, suspension or removal of a restrictive condition shall be advertised in accordance with sections 50, 51 and 53 read with Schedule 3 of this By-law.
- (5) The Municipality may amend, suspend or remove a restrictive condition—
- (a) permanently;
  - (b) for a period specified in the notice; or
  - (c) subject to conditions specified in the notice.
- (6) In addition to the procedures set out in Chapter 4, the owner must—
- (a) submit the original title deed to the Municipality or a certified copy thereof; and
  - (b) where applicable, submit the bondholder's consent to the application.
- (7) The Municipality may require that the notice of an application in terms of subsection (4) to be served on—
- (a) all organs of state that may have an interest in the title deed restriction;
  - (b) every holder of a bond encumbering the land;
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- (c) a person whose rights or legitimate expectations will materially and adversely be affected by the approval of the application; and
  - (d) all persons mentioned in the title deed for whose benefit the restrictive condition applies.
- (8) When the Municipality considers the removal, suspension or amendment of a restrictive condition, the Municipality must have regard to the following:
- (a) the financial or other value of the rights in terms of the restrictive condition enjoyed by a person or entity, irrespective of whether these rights are personal or vest in the person as the owner of land parcel forming the subject of the application;
  - (b) the personal benefits which accrue to the holder of rights in terms of the restrictive condition;
  - (c) the personal benefits which will accrue to the person seeking the removal of the restrictive condition, if it is amended, suspended or removed;
  - (d) the social benefit of the restrictive condition remaining in place in its existing form;
  - (e) the social benefit of the amendment, suspension or removal of the restrictive condition;
  - (f) whether the amendment, suspension or removal of the restrictive condition will completely remove all rights enjoyed by the beneficiary or only some of those rights; and
  - (g) that due consideration be given to the potential impact that the suspension or removal of a restrictive condition will have on the provision of municipal services. The Municipality retains the right to require the submission of services reports and/or traffic impact studies if it is suspected that such services can be adversely affected by the approval of an application
- (9) The approval in terms of subsection (1) shall be proclaimed in the provincial gazette in accordance with section 69(1) of the By-law.
- (10) The amendment, suspension or removal from the title deed of restrictive conditions pertaining to a personal servitude will be exempted from the stipulations of this By-law.

### **38. Endorsements in Connection with Amendment, Suspension or Removal of Restrictive Conditions**

- (1) After compliance with section 37(9), the applicant must, submit the following to the Registrar of Deeds:
- (a) the original title deed;
  - (b) the original letter of approval; and
  - (c) a copy of the notice contemplated in section 37(9)
- (2) The Registrar of Deeds and the Surveyor-General (if applicable) must make the appropriate entries in, and endorsements on any relevant register, title deed, diagram or plan in their respective offices or submitted to them, to reflect the amendment, suspension or removal of the restrictive condition.

## **CHAPTER 5 – APPLICATION PROCEDURE**

### **39. Procedures for Applications**

- (1) An applicant must comply with the procedures in this Chapter, Chapter 3 and Schedule 3 of this By-law, and all applications must be consistent and give effect to Chapter 2 of the Act.
- (2) The application procedures are distinctive to the different types of applications referred to in section 21 and Schedule 3.
- (3) Category 1 and 2 applications as contemplated in section 21(3) should be submitted to the Municipality.
- (a) Category 1 applications must be submitted with a comprehensive application.
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- (b) Category 2 applications must be submitted with an abridged application.

#### **40. Pre-Application Consultation**

- (1) The Municipality may require an owner of land or his agent who intends to submit an application in terms of section 21(2) to meet with the authorized employee(s) for a pre-application consultation before the application is submitted to the Municipality in order to determine the information to be submitted with the application, in relation to the following.
- (a) Category 1 applications; and
- (b) any other application where the Municipality deem necessary.
- (2) The Municipality may make guidelines for determining-
- (a) whether an application requires a pre-application consultation,
- (b) the nature of the information that is required,
- (c) the employees from the Municipality or other organs of state that must attend the meeting and
- (d) the procedures to be followed.
- (3) The Municipality must keep minutes of the proceedings of a pre-application consultation.
- (4) The Municipality must also allow consultation on the request of the applicant or his agent with regards to subsection (1) to (3).
- (5) The Municipality is not obliged to accept an application if no pre-application consultation has taken place.

#### **41. Information Required**

- (1) An application contemplated in section 21, must be accompanied by the following documents:
- (a) comprehensive or abridged application form, as contemplated in Schedule 3, Part A and B, completed and signed by the applicant;
- (b) if the applicant is an agent, a power of attorney authorizing the applicant to make the application on behalf of the owner;
- (c) if the owner of the land is a company, close corporation, trust, body corporate or homeowners' association, proof that the person is authorized to act on behalf of the company, close corporation, trust, body corporate or a homeowners' association by means of a resolution;
- (d) if the land upon which the township is to be established is subject to a mortgage bond, the written consent of the bondholder;
- (e) a comprehensive motivation, based on the criteria for consideration of the application referred to in section 74 with at least but not limited to the following information:
- (i) detailed description and explanation of the proposed application and intended land use rights;
- (ii) reference to the objective and principles contained in section 7 of the Act;
- (iii) reference to the integrated development plan and municipal spatial development framework, and its components and any other policies, plans or frameworks with specific reference on how this application complies with it or departs based on specific circumstances of the property(ies) from it, as well as the desirability thereof;
- (iv) the development context of the area and impact of the development on the surrounding properties; and
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- (v) availability and provision of infrastructure and social facilities, and which amenities will be transferred to the Municipality (if required); and
  - (vi) as required in terms of section 42 of the Act indicate the following:
    - (aa) the public interest;
    - (bb) the constitutional and transformation imperatives and the related duties of the State;
    - (cc) the facts and circumstances relevant to the application;
    - (dd) the respective rights and obligations of all those affected;
    - (ee) the state and impact of engineering services, social infrastructure and open space requirements; and
    - (ff) the effect of the land development application on the environment and environmental legislation and heritage resource (if applicable) and heritage legislation;
  - (f) conditions of establishment or schedule of rights (if applicable);
  - (g) a copy of the title deed indicating all existing title conditions;
  - (h) copy of the zoning certificate; .
  - (i) if required by the Municipality, a conveyancer's certificate indicating that no restrictive condition in respect of the application is contained in the title deed;
  - (j) where applicable, the minutes of any pre-application consultations;
  - (k) a list of surrounding property owners;
  - (l) Town Planning Clearance Certificate, stating that all rates and taxes in respect of the subject property has been paid in full; and
  - (m) proof of payment of application fees in accordance with a quotation received from the Municipality;
  - (n) should any other legislation or authority require any other actions, proof of compliance to such prerequisites.
- (2) Additional to the application form as contemplated in subsection (1)(a) the following plans, maps and documents, compiled in accordance with sections 42(2) to 42(10), must form part of a comprehensive application for operational and administrative efficiency, unless the Municipality has, in writing, indicated differently:
- (a) Orientation locality map;
  - (b) Land use management scheme zoning extract;
  - (c) Land use map;
  - (d) Detail layout map;
  - (e) Site development plan;
  - (f) Aerial photograph;
  - (g) Extract of approved spatial development frameworks;
  - (h) Services reports regarding civil engineering services, electrical services;
  - (i) A Traffic Impact Study (certified as acceptable by the relevant roads authority)(if warranted);
  - (j) An approved environmental authorization by relevant authority commonly referred to as Environmental Impact Assessment (EIA) Report (if warranted);
  - (k) A permit or comments issued by the Provincial Heritage Resources Authority pertaining to a heritage resource (if applicable);
  - (l) Water, Sanitation, Roads and Stormwater Analysis Report with comments from the relevant Sub-directorates;
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- (m) Comments from SANRAL, Free State Roads Department, ESKOM and any other external affected entities, where applicable; and
  - (n) Electrical comments from Centlec (if warranted).
- (3) Additional to the application form as contemplated in subsection (1)(a) the following plans, maps and documentation, compiled in accordance with sections 42(2) to 42(10), must form part of an abridged application, unless the Municipality has, in writing, indicated differently:
- (a) Orientation locality map;
  - (b) Basic layout map
  - (c) Land use management scheme zoning extract;
  - (d) Extract of Approved Spatial Development Frameworks;
  - (e) Proposed Conditions of Establishment and of Title (in the event of applications for township establishment);
  - (f) A permit or comments issued by the Provincial Heritage Resources Authority pertaining to a heritage resource (if applicable); and
  - (g) Schedule of proposed new street names (in the event of applications for township establishment).
- (4) The Municipality may add or remove any information requirements for a particular application as recorded in the pre-application consultation contemplated in section 40.
- (5) The Municipality may make guidelines regarding the submission of additional information and procedural requirements

#### **42. Application Standards**

- (1) Applications that do not comply with the provisions of this section are deemed to be incomplete and must be dealt with in accordance with section 46(2).
- (2) An orientation locality map should be at least clearly readable A3 sized map indicating the application area in relation to the surrounding properties and must include the following basic details:
- (a) True north, scale, key and heading "Orientation Locality Map";
  - (b) The approximate location of the land parcel involved in the application, relative to the nearest town for farming areas and the;
  - (c) immediate residential neighbourhoods for urban areas;
  - (d) Boundary of the Local Municipality, including the names of adjacent Local Municipality for applications near the border of the aforementioned;
  - (e) Roads, indicated whether they are main roads, highways, national roads or provincial roads if near or adjacent to the application area;
  - (f) Size and location of the particular land portion applicable to the application;
  - (g) Any other applicable particulars to give more clarity to the application; and
  - (h) In the case of electronic maps, a pdf should be submitted from the original drawing.
- (3) A basic layout map of at least 1:2000 in scale must include the following details:
- (a) True north, scale, key and heading "Basic Layout Map";
  - (b) Erf boundaries, street names (if applicable), including neighbouring erf or farm numbers;
  - (c) The location of existing buildings on the application area and surrounding properties, if the application has an influence on them;
  - (d) Detail regarding the proposed development, including proposed subdivision and consolidation boundaries;
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- (e) Detail regarding relative internal engineering services;
  - (f) Any physical restrictions on the land parcel or neighbouring land parcels that might influence the application (if applicable);
  - (g) The maximum, minimum, ruling and average erf sizes of the proposed erven; and
  - (h) Any other applicable particulars to give more clarity to the application.
- (4) A land use management scheme zoning map extract of at least 1:2000 in scale must include an extract of the Municipality's official land use management scheme map with the following detail:
- (a) The scale, true north, key and heading "Land Use Management Scheme Zoning Map Extract";
  - (b) All land parcels and existing zonings thereof within a radius of 500m from the outside boundary of the application area, as well as of all undeveloped land parcels (vacant) for applications within Urban Areas; and;
  - (c) All land parcels and existing zonings of adjacent farms for applications within Rural Areas.
- (5) A land use map of at least 1:2000 in scale must be included where the existing land uses differ from the relative zonings of the application area, or if it is requested by the Municipality. A land use map must include the following:
- (a) The scale, true north, key and heading "Land Use Map";
  - (b) All existing land uses found within a radius of 500m from the outside boundary of the application area, as well as all undeveloped land parcels for applications within Urban Areas; and
  - (c) All land parcels and existing land uses of adjacent farms for applications within Rural Areas.
- (6) A detail layout map must be included for any application that necessitates such detail for consideration. A detailed map must be at least on a 1:2000 scale and must indicate at least the following details:
- (a) The scale, true north, key and heading "Detail Layout Map";
  - (b) The Detail Layout plan must indicate the map number and all amendments shall have consecutive numbers;
  - (c) Contours with 1m or 2m height differences up to the outside of the Layout boundary;
  - (d) A slope analysis in accordance with civil engineering regulations in terms of roads and buildings;
  - (e) 1:50-year and or 1:100-year flood-line signed on the plan by a practising registered professional engineer. If neither flood-line is applicable this must also be indicated on the plan;
  - (f) Other physical restrictions that might influence the layout (e.g. hills, valleys, wetlands, rivers, rocky outcrops).
  - (g) All existing services within and surrounding the application area;
  - (h) All existing surrounding social facilities with catchment area using network analyses in accordance with the minimum standards for social facilities;
  - (i) Road layout on adjacent land parcels;
  - (j) The proposed erven;
  - (k) The maximum, minimum, ruling and average erf sizes of the proposed erven;
  - (l) Sufficient measurements to indicate the sizes of the proposed erven;
  - (m) The erven numbered consecutively;
  - (n) The name of the person or firm that prepared the layout, including Professional Registration number;
  - (o) If contours, indicated on the map, were prepared by another person or firm, the particular registered professional engineer should also be mentioned;
  - (p) Co-coordinates together with grid references if requested;
  - (q) The proposed new streets names for new township establishments; and
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- (r) A list of the proposed zonings distinguished by means of different colours, the colour code shall be in accordance with the scheme regulations, indicating the different uses, amount of erven for each use, areas per use and areas expressed as a percentage of the total area of the subdivision. The surface area shall be expressed in m<sup>2</sup> or hectares.
- (7) A site development plan must be included for any application that can have an influence on interested and affected parties and must include the following:
  - (a) The scale, true north, key and heading "Site Development Plan";
  - (b) Existing buildings/structures on the land parcel and on directly adjacent land parcels;
  - (c) All existing services within and surrounding the application area; and
  - (d) All proposed buildings/structures, building lines, building restrictions, access, formal and informal thoroughfares, parking bays, landscaped areas and any other detail that can give more clarity to the application.
- (8) An aerial photograph should accompany a detailed layout plan on the same scale, with the layout over-layer on it.
- (9) All maps should be compiled using the Hartebeesthoek 1994 coordinate system for town level maps and Lambert Conical Conform with the appropriate standard parallels for municipal level maps.
- (10) All maps and plans must be printed in colour with a minimum dot per inch (dpi) of 300.
- (11) All maps and plans for e-lodgement must be uploaded in pdf format with a minimum dot per inch (dpi) of 300.
- (12) All text documents for e-lodgement must be uploaded in pdf format with a minimum dot per inch (dpi) of 150.
- (13) The Municipality can at any time insist on adding details to application standards if the application necessitates such detail for consideration, in accordance with section 47(1).

#### **43. Application Fees**

- (1) An applicant must pay the application fees determined by the Municipality before submitting an application in terms of this By-law
- (2) Application fees that are paid to the Municipality are non-refundable and proof of payment of the application fees must accompany the application contemplated in section 21.

#### **44. Grounds for Refusing to Accept Application**

- (1) The Municipality may refuse to accept an application if—
    - (a) the Municipality has previously decided on the application;
    - (b) the Municipality is already in the process of considering another application involving one (1) or more of the subject properties, without such former application having been officially withdrawn by the applicant;
    - (c) there is no proof of payment of the applicable fees;
    - (d) the application is not in the form required by the Municipality or does not contain the documents required for the submission of the application as set out in section 41 of this By-law;
    - (e) the application documentation contains misrepresentations that may impact on the meaningful consideration of the application;
    - (f) simultaneous applications for amendment of the municipal spatial development framework and rezoning / township establishments are made; and
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- (g) any application submitted contrary to the procedure as specified in the municipal spatial development framework or any policy document.

**45. Receipt of Application and Request for Further Information, Documentation, Plans or Additional Fees**

- (1) The Municipality must—
- (a) screen applications for completeness and if found to be incomplete, the application must not be accepted for consideration and be returned to the Applicant;
  - (b) record the receipt of an application, in writing or by affixing a stamp on the application, on the day of receipt; and
  - (c) within twenty-one (21) days of receipt of the application, notify the applicant in writing of any outstanding information, documentation, plans or additional fees that are required.

**46. Provision of Further Information, Documentation or Plans and Payment of Fees**

- (1) The applicant must provide the Municipality with the requested information, documentation or plans or payment of the requested additional fees contemplated in sections 45(1)(c) and 56(1) for the completion of the application within thirty (30) days of the request therefor or within the further period agreed to between the applicant and the Municipality.
- (2) The Municipality shall refuse to consider the application if the applicant fails to provide the requested information, documentation or plans or pay the additional fees within the periods contemplated in subsection (1).
- (3) The Municipality must notify the applicant in writing of a refusal to consider an application under subsection (2) and must close the application.
- (4) An applicant has no right of appeal to the Appeal Authority in respect of a decision contemplated in subsection (2) to refuse to consider the application.
- (5) If an applicant wishes to continue with an application that the Municipality refused to consider in terms of subsection (2), the applicant must submit a new application and pay the applicable application fees.

**47. Confirmation of Complete Application**

- (1) The Municipality must notify the applicant in writing that the application is complete within twenty-one (21) days of receipt of the requested information, documentation or plans or additional fees required by it under section 45(1) or if further information is required as a result of the additional information received.
- (2) The application must be advertised within twenty-eight (28) days after the notification as contemplated in subsection (1).
- (3) If the Municipality fails to notify the applicant as contemplated in subsection (1) and section 45(1)(c), it can be regarded that the application is complete and that the Municipality will proceed with the finalisation thereof according to the prescribed processes.

**48. Withdrawal of Application or Authorization**

- (1) An applicant may, at any time before the Municipality makes a decision, withdraw an application on written notice to the Municipality.
- (2) The owner of land must in writing inform the Municipality if he has withdrawn the authorization given to his former agent

**49. Notice of Applications in terms of Integrated Procedures**

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- (1) The Municipality may, on written request and motivation by an applicant, before notice is given of an application, determine that—
  - (a) a public notice procedure carried out in terms of another law in respect of the application constitutes public notice for the purpose of an application made in terms of this By-law; or
  - (b) public notice of an application made in terms of this By-law may be published in accordance with the requirements for public notice applicable to a related application in terms of another law.
- (2) If a Municipality determines that an application may be published as contemplated in subsection (1)(b), an agreement must be entered into between the Municipality and the relevant organs of state to facilitate the simultaneous publication of notices.
- (3) The Municipality must, within twenty-one (21) days of having notified the applicant that an application is complete, give notice of the application by simultaneously—
  - (a) causing public notice of the application to be given in terms of section 51(1); and
  - (b) forwarding a copy of the notice together with the application concerned to every municipal department, service provider and organ of state that has an interest in the application, unless the Municipality has determined that a procedure in terms of another law, as contemplated in subsection (1), is considered to be public notice in terms of this By-law.
- (4) The Municipality may require the applicant to give the required notice of an application in the newspapers in accordance with section 50.
- (5) If an applicant has given notice of the application at the request of the Municipality and in the prescribed format, the applicant must furnish the Municipality with proof that a copy of the application has been served to every municipal department, service provider and organ of state that have an interest in the application.

#### **50. Notification of Application in Newspapers and Public Notice**

- (1) Category 1 applications, as contemplated in section 21(2)(a), must give public notice in accordance with the By-law.
  - (a) Notice of the application in the newspapers must be given by:
    - (i) Publishing a notice in the Provincial Gazette; and
    - (ii) Publishing a notice of the application in two (2) newspapers with general circulation in the area in at least two (2) of the official languages of the Province most applicable in the area concerned.
  - (b) Displaying a notice of a size of at least 60 centimetres by 42 centimetres (60cm x 42cm)(A3) on every boundary of the land parcel abutting a public street or at any other conspicuous and easily accessible place on the erf or farm portion, provided that—
    - (i) the notice must be readable from all street or road boundaries and be displayed for a minimum of thirty (30) days that the public may comment on the application.
  - (c) A copy of the notice must be sent by registered mail or delivered by hand to each owner of a property that abuts the land development application area as well as every property within a 50m (urban areas) and 150m (rural areas) radius from the land development area and adjacent street, not later than the date of the first publication.
    - (i) The diagrams below indicate which adjoining owner(s) of properties surrounding the land development application area must be notified by means of a notice:

Diagram A: Land development area in the centre of the block

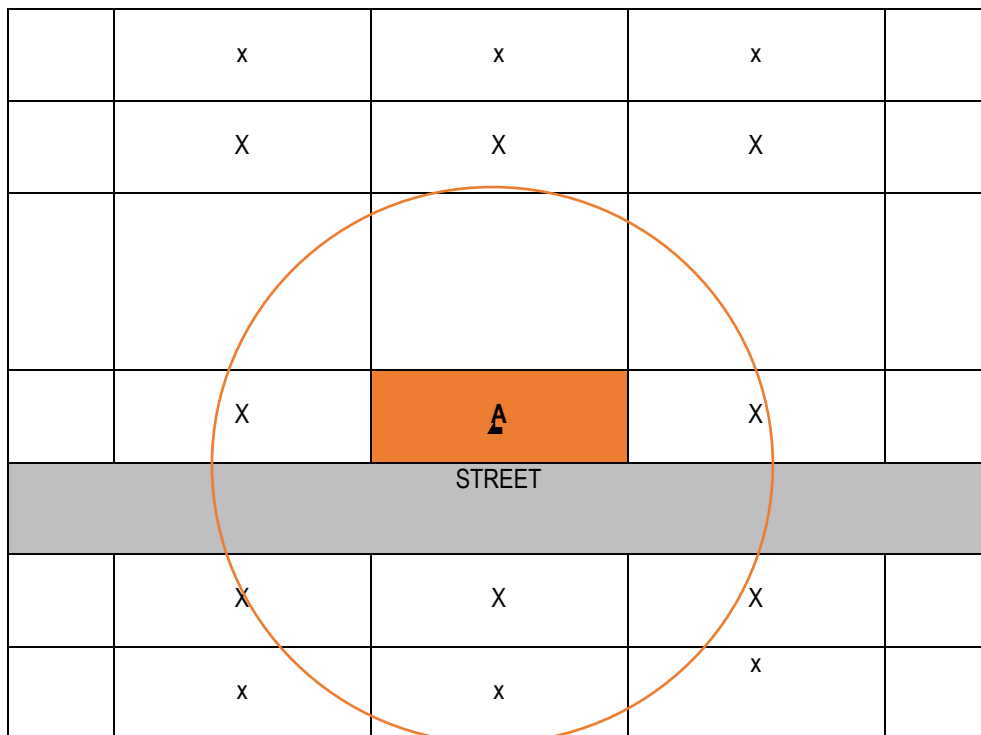
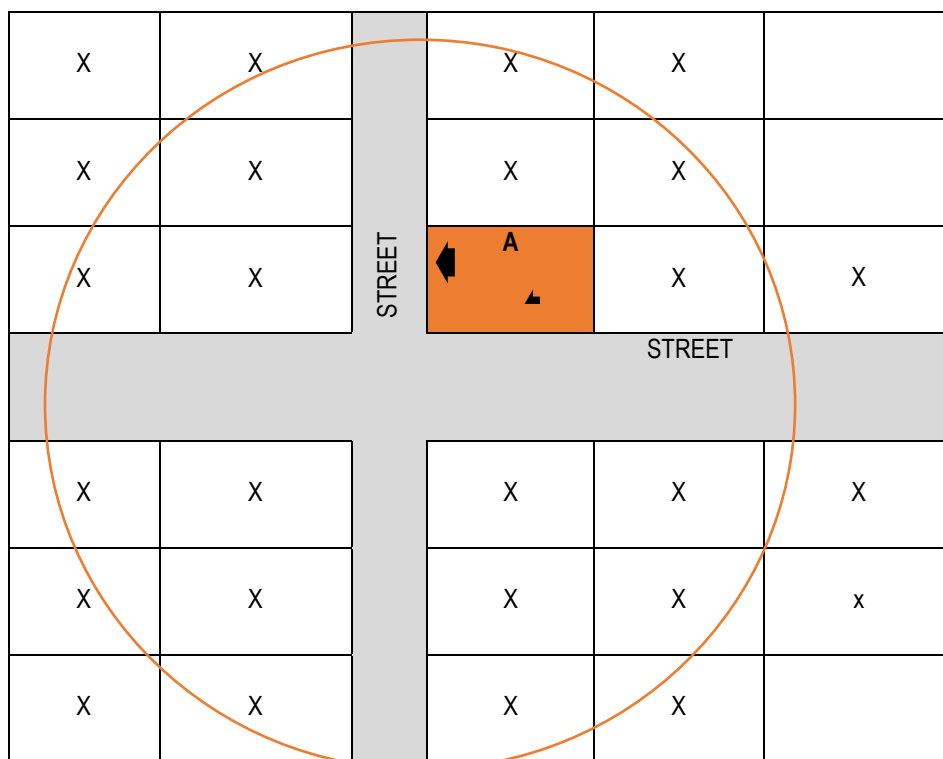


Diagram B: Land development area on a corner of two (2) streets



- (ii) Land parcels marked with "A" represent the land development area (application property);
- (iii) Land parcels marked with "X" represent the properties who must receive a notice;
- (iv) Represent the position of the site notices on the land development area

- (d) The applicant must within seven (7) days of the last day of the notice period submit to the Municipality proof of advertisement by submitting-
  - (i) an affidavit/declaration that the site notice was displayed and maintained on the site for the prescribed period;
  - (ii) at least two (2) photos of the notice, one (1) from close-up and one (1) where the notice and full extent of a boundary can be seen;
  - (iii) a copy of the registered posting delivery; and
  - (iv) a copy of the newspaper advertisements.
- (2) Subsections (1)(b) to (1)(d) shall be *mutatis mutandis* applicable to the public notice process of Category 2 applications.
- (3) The following apply to the public notice contemplated in subsection (1) and (2):
  - (a) The public have a period of thirty (30) days from the date of notice to submit comments or objections to the Municipality;
  - (b) The applicant must within seven (7) days of the last day of the notice period provide proof of the public notices to the Municipality in accordance with subsection (1)(d);
  - (c) The applicant must within twenty-eight (28) days from being notified, cause public notice; failure thereof, the application will be regarded as incomplete and will lapse.
  - (d) No public notices shall be advertised within the public holiday/s period/s or between 10 December to 10 January of any year or any other date as may be determined by the Municipality.

#### 51. Serving of Notices

- (1) Notice of an application contemplated in section 50 must be served—
  - (a) in accordance with section 115 of the Municipal Systems Act, 2000 (Act 32 of 2000);
  - (b) in at least two (2) of the official languages of the Province most spoken in the area concerned; and
  - (c) on each person whose rights or legitimate expectations will be affected by the approval of the application.
- (2) The Municipality must at least cause a notice contemplated in section 50 to be served of all applications anticipated in section 21(2)(a) of this By-law.
- (3) The Municipality may require the serving of a notice as contemplated in this section for any other application made in terms of this By-law and that is not listed in subsection (2).
- (4) The Municipality may require the applicant to attend to the serving of a notice of an application contemplated in subsection (1).
- (5) If an applicant has served a notice at the request of the Municipality, the applicant must furnish the Municipality with proof that the notice has been served as required within seven (7) days of the date the notice has been served.
- (6) The date of notification in respect of a notice served in terms of this section—
  - (a) when it was served by registered post, is the date of registration of the notice; and
  - (b) when it was delivered to that person personally, is the date of delivery to that person;
  - (c) when it was left at that person's place of residence or business in the Republic with a person apparently over the age of sixteen (16) years, is the date on which it was left with that person; or
  - (d) when it was displayed in a conspicuous place on the property or premises to which it relates, is the date that it is posted in that place.

**52. Content of Notice**

- (1) When notice of an application must be given in terms of section 50 or served in terms of section 51 or 53, the notice must—
- (a) provide the full names of the applicant, if authorized representative, the full names and organisation of the representative;
  - (b) identify the land or land parcel to which the application relates by giving the property description and the physical address;
  - (c) state the intent and purpose of the application;
  - (d) state that a copy of the application and supporting documentation will be available for viewing during the hours and at the place mentioned in the notice;
  - (e) state the name and contact details of the person to whom comments, objections or representations must be addressed;
  - (f) invite members of the public to submit written comments, objections or representations, together with the reasons therefor, in respect of the application;
  - (g) state in which manner comments, objections or representations may be submitted;
  - (h) state the date by which the comments, objections or representations must be submitted, which date may not be less than thirty (30) days from the date on which the notice was given; state that any person who cannot write may during office hours come to an address stated in the notice where a named staff member of the Municipality will assist those persons by transcribing their objections, comments or representations.

**53. Additional Methods of Public Notice**

- (1) The Municipality may, on its own initiative or on request, require the applicant to employ one (1) or more of the following methods to give additional public notice of any application in terms of this By-law:
- (a) displaying a notice of a size of at least 60 centimetres by 42 centimetres (60cm x 42cm)(A3) on every boundary of the land parcel abutting a public street or at any other conspicuous and easily accessible place on the erf or farm portion, provided that—
    - (i) the notice must be readable from all street or road boundaries and be displayed for a minimum of thirty (30) days that the public may comment on the application; and
    - (ii) the applicant must, within seven (7) days from the last day of display of the notice, submit to the Municipality—
      - (aa) an affidavit/declaration that the site notice was displayed and maintained on the site for the prescribed period;
      - (bb) at least two (2) photos of the notice, one (1) from close-up and one (1) where the notice and full extent of a boundary can be seen;
  - (b) convening a meeting for the purpose of informing the affected members of the public of the application;
  - (c) broadcasting information regarding the application on a local radio station in a specified language;
  - (d) holding an open day or public meeting to notify and inform the affected members of the public of the application;
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- (e) provide the Municipality with the application in the required electronic format to be published on the Municipality's website for the duration of the period within which the public may comment on the application; or
  - (f) obtaining letters of consent or objection to the application.
  - (g) by serving a copy of the notice on every adjoining owner, provided that-
    - (i) the applicant must within twenty-one (21) days of the last day of notice submit to the Municipality a copy of the registered posting delivery.
- (2) The Municipality must give additional public notice contemplated in subsection (1) if it is considered that notice in accordance with sections 49 or 50 to be ineffective or if it is expected that the public notice would be ineffective.
- (3) Additional public notice can be given simultaneously with notice given in accordance with sections 49 or 50 or thereafter.
- (4) If an applicant has given additional public notice of an application on behalf of the Municipality, the applicant must provide proof that the additional public notice has been given as required within seven (7) days that the additional public notice has been given.
- (5) Both Category 1 and Category 2 applications, as contemplated in sections 21(2)(a) and 21(2)(b) must give additional notice in terms of subsection (1)(a) and 1(g).

#### **54. Requirements for Petitions**

- (1) All petitions must clearly state—
- (a) the contact details of the authorized representative of the signatories of the petition;
  - (b) the full name and physical address of each signatory; and
  - (c) the objections, comments or representations and reason, therefore.
- (2) Notice to the person contemplated in subsection (1)(a) constitutes notice to all the signatories to the petition.

#### **55. Requirements for Objections, Comments or Representations**

- (1) Any person may in response to a notice received in terms of sections 49, 50 or 53 object, comment or make representations in accordance with this section.
- (2) Any objections, comments or representations received as a result of a notice process must be in writing and addressed to the person mentioned in the notice and must be submitted within the time period stated in the notice and in the manner set out in this section.
- (3) The objections, comments or representations must:
- (a) provide the name of the person or institution concerned;
  - (b) provide detailed written comments;
  - (c) provide their contact details which shall include an address for delivery of registered mail or where the person or body concerned will accept notice or service of documents;
  - (c) details of the interest or locus standi of the interested and affected party or objector to the satisfaction of the Municipality; and
  - (d) detailed reason for the objections, comments or representations.
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- (4) The reasons for any objections, comments or representations must be set out in sufficient detail in order to—
- (a) indicate the facts and circumstances that explain the objection, comment or representation;
  - (b) demonstrate the undesirable effect which the outcome of the application will have; or
  - (c) demonstrate any aspect of the application which is not considered consistent with applicable policy.
- (5) The Municipality must refuse to accept an objection, comment or representation received after the closing date for objections, comments or representation or if the objection, comment or representation does not comply with subsection (3).

#### **56. Furnishing of Comments and Information**

- (1) If a person or government department is required by the Municipality to furnish any comment or other information in terms of this By-law, and that person fails to furnish that comment or other information within a period of sixty (60) days from the date on which that comment or other information was so required, it may be deemed that that person or institution have had no comment or other information to furnish.
- (2) The period of sixty (60) days mentioned in subsection (1) shall not apply to the notice of applications for public comment or objections, where the period mentioned in the notice concerned shall apply.
- (3) The Municipality, MEC or Minister may request Provincial or National Technical Advisory directorates to investigate the refusal or failure of a person or body to furnish comment or information.

#### **57. Amendments Prior to and Post Approval**

- (1) An applicant may amend his application at any time after notice of the application has been given in terms of this By-law and prior to the approval thereof—
- (a) at the applicant's own initiative;
  - (b) as a result of an objection comment or representation made during the notice process; or
  - (c) at the request of the Municipality.
- (2) If an amendment to an application is material, the Municipality may require that further notice of the application be given or served in terms of this By-law or that notice of the application be given or served anew and may require that the notice and the application be re-sent to municipal departments, organs of state and service providers for further comment.
- (3) After an applicant has been notified that his/her land development application has been approved, he/she may:
- (i) within sixty (60) days from the date of such notification of approval; and
  - (ii) before a notice has been placed in the Provincial Gazette, as required in terms of this By-law or any other legislation, to bring the land development rights into operation; and
  - (iii) before the registration of any property created as a result of a land development application for subdivision or consolidation, in terms of this By-law or other legislation; and
  - (iv) before the registration of any registration transaction required as a result of the approval of a land development application in terms of this By-law or other relevant legislation;
- apply for the amendment of the land development application in accordance with the prescriptions of the Municipality determined and amended from time to time and contained in section 41 read with Schedule 3 of this By-law and he/she shall at the same time pay the Municipality such fees as may be levied
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- (4) The Municipality shall not approve an application for amendment in terms of subsection (3) if the amendment of the land development application is so material as to constitute a new land development application. A new land development application shall be submitted in this instance.

**58. Further Public Notice**

- (1) The Municipality may require that notice of an application be given again if more than eighteen (18) months has elapsed since the first public notice of the application and if the Municipality has not considered the application.
- (2) The Municipality may, at any stage during the processing of the application—
- (a) require notice of an application to be given or served again in terms of section 49, 50 or 53; and
  - (b) an application to be re-sent to municipal departments for comment, if new information comes to its attention which is material to the consideration of the application.

**59. Liability for Cost of Notice**

The applicant is liable for the costs of giving and serving notice of an application in terms of sections 49, 50, 53 and 58

**60. Right of an Applicant to Reply**

- (1) Copies of all objections, comments or representations submitted to the Municipality must be given to the applicant within fourteen (14) days after the closing date for public comment together with a notice informing the applicant of its rights in terms of this section.
- (2) The applicant may, within a period of twenty-one (21) days from the date of the provision of the objections, comments or representations, as contemplated in subsection (1), submit a written reply thereto to the Municipality and must serve a copy thereof on all the parties that submitted objections, comments or representations.
- (3) The applicant may, before the expiry of the twenty-one-day period referred to in subsection (2), apply to the Municipality for an extension of the period to submit a written reply.
- (4) If the applicant does not submit comments within the period of twenty-one (21) days, the applicant is considered to have no comment.
- (5) If as a result of the objections, comments or representations submitted to the Municipality additional information regarding the application is required by the Municipality, the information must be supplied within the further period as may be agreed upon between the applicant and the Municipality
- (6) If the applicant does not provide the additional information within the period contemplated in subsection (5), section 46(2) to (5), read with the necessary changes, applies.

**61. Written Assessment of Application**

An assessment of an application must include a motivation for the recommendation and, where applicable, the proposed conditions of approval.

**62. Decision-Making Period**

- (1) If the power to take a decision in respect of an application is delegated to an authorized employee and no integrated process in terms of another law is being followed, the authorized employee must decide on the application within sixty (60) days calculated from—
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- (a) the last day of submission of comments, objections or representations if no comments, objections or representations as contemplated in section 52(1)(h), were submitted; or
  - (b) the last day of the submission of the applicant's reply to comments, objections or representations submitted as contemplated in sections 60(2) and (3); or
  - (c) the last day of the submission of additional information as contemplated in section 60(5) or (d) within such further period agreed to between the applicant and the Municipality.
- (2) If the power to take a decision is not delegated to an authorized employee and no integrated process in terms of another law is being followed, the Municipal Planning Tribunal must decide on the application within hundred and twenty (120) days calculated from the dates contemplated in subsections (1)(a) to (d).

**63. Failure to Act Within Time Period**

- (1) An applicant may lodge an appeal to the Appeal Authority if the authorized employee or the Municipal Planning Tribunal fails to decide on an application within the period referred to in section 62
- (2) Subject to sections 46(2) and 47(2), an applicant may not appeal to the Appeal Authority if the authorized employee or the Municipal Planning Tribunal fails to decide on an application due to the fact that all required information to decide on the matter is not available.

**64. Powers to Conduct Routine Inspections**

- (1) An employee authorized by the Municipality may, in accordance with the requirements of this section, enter land or a building for the purpose of assessing an application in terms of this By-law and to prepare a written assessment contemplated in section 61.
- (2) When conducting an inspection, the authorized employee may: -
  - (a) request that any record, document or item be produced to assist in the inspection;
  - (b) copies of, or take extracts from any document produced by virtue of sub-section (a) that is related to the inspection;
  - (c) on providing a receipt, remove a record, document or other item that is related to the inspection; and
  - (d) inspect any building or structure and make enquiries regarding that building or structure.
- (3) No person may interfere with an authorized employee who is conducting an inspection as contemplated in subsection (1).
- (4) The authorized employee must, upon request, produce identification showing that he is authorized by the Municipality to conduct the inspection.
- (5) An inspection under subsection (1) must take place at a reasonable time and after reasonable notice has been given to the owner or occupier of the land or building.

**65. Determination of Application**

- (1) An authorized employee, or if such an employee is not in the employ of the Municipality or they cannot afford to solicit the services of such an authorized employee, the Municipality shall make use of the Provincial or National Technical advisers employed in the directorates responsible for Spatial Planning and Land Use Management in these two (2) spheres or the Tribunal authorized in terms of section 74 may in respect of a Category 2 application contemplated in subsection 21(2)(b)—
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- (a) approve, in whole or in part, or refuse that application;
  - (b) upon the approval of that application, impose conditions under section 75, including conditions related to the provision of engineering services and the payment of a development charge;
  - (c) make an appropriate determination regarding all matters necessary or incidental to the performance of its functions in terms of this By-law and provincial legislation;
  - (d) conduct any necessary investigation;
  - (e) give directions relevant to its functions to any person in the service of the Municipality or municipal entity; and
  - (f) appoint a technical adviser to advise or assist in the performance of the Municipal Planning Tribunal's functions in terms of this By-law.
- (2) An approval comes into effect only after the expiry of the period contemplated in section 87(2) within which an appeal must be lodged.
- (3) If an appeal has been lodged, the Municipality must notify the applicant in writing whether or not the operation of the approval of the application is suspended as contemplated in section 88(14).

#### **66. Notification of Decision**

- (1) The Municipality must, within twenty-one (21) days of its decision, in writing notify the applicant and any person whose rights are affected by the determination of the decision and their right to appeal if applicable
- (2) A notice contemplated in subsection (1) must inform an applicant that-
- (a) an approval comes into operation only after the expiry of the period contemplated in section 87(2) within which an appeal must be lodged if no appeal has been lodged; and
  - (b) the rates and taxes applicable to the property will be adjusted after approval in accordance with the stipulations of the Local Government: Municipal Finance Management Act 2003, (Act 56 of 2003).
- (3) If the owner has appointed an agent, the owner must take steps to ensure that the agent notifies him of the decision of the Municipality.

#### **67. Duties of an Agent**

- (1) An agent must ensure that he has the contact details of the owner who authorized him to act on his behalf.
- (2) An agent may not provide information or make a statement in support of an application which information or statement he knows or believes to be misleading, false or inaccurate.
- (3) An agent is duty bound to make a full disclosure to his client regarding legislation that governs an application, the potential implications of the application, as well as known aspects that may hinder the approval of an application.

#### **68. Errors and Omissions**

- (1) The Municipality may at any time correct an error in the wording of its decision if the correction does not change its decision or result in an alteration, suspension or deletion of a condition of approval.
- (2) The Municipality may, on its own initiative or on application by the applicant or interested party, upon good cause shown, condone an error in a procedure, provided that such condonation does not have a material adverse effect on, or unreasonably prejudices, any party.

#### **69. Proclamation of Land Use Approvals**

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- (1) (a) After proof has been provided that-
- (i) the provisions of sections 91, 92 and 93 of this By-law read with section 40(7) of the Act, with regards to conditions related to payment of development charges and/or contributions, the provision of engineering services and the provision of open spaces (if applicable) has been complied with;
  - (ii) the conditions of approval have been fulfilled; and
  - (iii) any other requirement stipulated in this By-law has been complied with;
- the land use approval shall be proclaimed by notice in the provincial gazette.
- (b) The applicant shall, on his own cost, advertise the proclamation notice in the provincial gazette on instruction of the Municipality.
- (2) The provisions of subsection (1) shall apply *mutatis mutandis* to all land development applications in terms of this By-law.

#### **70. Withdrawal of Approval**

- (1) The Municipality may withdraw an approval granted for a consent use or temporary departure if the applicant or owner fails to comply with a condition of approval or if such approval proves to have unforeseen negative consequences as far as the general interest is concerned.
- (2) Before the withdrawal of a consent use approval, the Municipality must serve a notice on the owner—
- (a) informing the owner of the alleged breach of the condition;
  - (b) instructing the owner to rectify the breach within a specified time period;
  - (c) inviting the owner to make representations on the notice within a specified time period.

#### **71. Procedure to Withdraw an Approval**

- (1) The Municipality may withdraw, in terms of Section 70, an approval granted—
- (a) after consideration of the representations made by virtue of section 70(2)(c); and
  - (b) if the condition is still being breached and not being complied with at the end of the time period specified in terms of section 70(2)(b).
- (2) If the Municipality withdraws the approval, the Municipality must notify the owner of the withdrawal of the approval and instruct the owner to cease the unlawful use immediately.
- (3) The approval is withdrawn from the date of notification of the owner

#### **72. Lapsing of Land Use Approvals**

- (1) An applicant shall, within a period of twelve (12) months or such further period as the Municipality may determine, which period shall not exceed five (5) years as contemplated in section 43(2) of the Act,-
- (i) provide proof that he has complied with the provisions of sections 91 and 92 of this By-law read with section 40(7) of the Act, with regard to conditions related to payment of development charges and/or contributions, the provision of engineering services and the provision of parks and open spaces;
  - (ii) complied with the conditions of approval which conditions must be complied with prior to the land use rights being adopted, coming into operation or exercised; and
  - (iii) provide a copy of the promulgation advertisement in the provincial gazette;
- failing which the land use application shall lapse.
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**73. Applications for Extension of Validity Periods**

- (1) The Municipality may approve an application for the extension of a validity period imposed in terms of this By-law, on a date before the expiry of the validity period of a land use approval, provided that the application for the extension of the period was submitted at least one (1) month before the expiry of the validity period.
- (2) When the Municipality considers an application in terms of subsection (1), it must have regard to the following:
  - (a) whether the circumstances prevailing at the time of the original approval have materially changed; and
  - (b) whether the legislative or policy requirements applicable to the approval that prevailed at the time of the original approval, have materially changed.
- (3) If there are material changes in circumstances or in legislative or policy requirements that will necessitate new conditions of approval if an extension of a validity period is approved, an application contemplated in section 21(3) must be submitted for consideration before or simultaneously with the application for the extension of a validity period.
- (4) The extended validity period takes effect on and is calculated from the expiry date of the period applicable to the original approval or from the expiry date of the previous extended validity period approved in terms of this By-law.

**CHAPTER 6 – CRITERIA FOR DECISION-MAKING****74. General Criteria for Consideration of Applications**

- (1) When the Municipality considers an application, it must have regard to the following:
    - (a) the application submitted in terms of this By-law to be lodged to the Municipal Manager;
    - (b) the procedure followed in processing the application;
    - (c) the desirability of the proposed use of land and any guidelines issued by the Provincial Minister regarding the desirability of proposed land uses;
    - (d) the objection, comment or representation in response to the notice of the application and the comment received from organs of state and municipal departments;
    - (e) the response by the applicant, if any, to the objection, comment or representation referred to in subsection (d);
    - (f) Investigations carried out in terms of other laws that are relevant to the consideration of the application;
    - (g) the integrated development plan and municipal spatial development framework;
    - (h) the integrated development plan and spatial development framework of the district municipality, where applicable;
    - (i) the applicable local spatial development frameworks adopted by the Municipality;
    - (j) the applicable structure plans;
    - (k) the applicable policies of the Municipality that guide decision-making;
    - (l) the national spatial development framework and provincial spatial development framework;
    - (m) where applicable, a regional spatial development framework contemplated in section 18 of the Act;
    - (n) the policies, principles, and the planning and development norms and criteria set by national and provincial government;
    - (o) the matters referred to in section 42 of the Act;
    - (p) the development principles, norms and standards referred to in Chapter 2 of the Act;
    - (q) the applicable provisions of the land use management scheme;
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- (r) public interest;
  - (s) the constitutional transformation imperatives and the related duties of the State;
  - (t) the facts and circumstances relevant to the application;
  - (u) the respective rights and obligations of all those affected;
  - (v) the state and effect of engineering services, social infrastructure and open space requirements; and
  - (w) any factors that may be prescribed, including timeframes for making decisions.
- (2) The Municipality must approve a site development plan submitted to it for approval in terms of applicable development parameters or conditions of approval if the site development plan—
- (a) is consistent with the development rules of the land use management scheme;
  - (b) is consistent with the development rules of the overlay zone;
  - (c) complies with the conditions of approval; and
  - (d) complies with this By-law.

## **75. Conditions of Approval**

- (1) The Municipality may approve an application subject to reasonable conditions that arise from the approval of the proposed use of land.
- (2) Conditions imposed in accordance with subsection (1) may, *inter alia*, include conditions relating to—
- (a) the provision of engineering services and infrastructure and the conclusion of a Services Agreement with the Municipality to this effect;
  - (b) the cession of land or the payment of money;
  - (c) the provision of land needed for public places or the payment of money *in lieu* of the provision of land for that purpose;
  - (d) the extent of land to be ceded to the Municipality for the purpose of a public open space or road as determined in accordance with a policy adopted by the Municipality;
  - (e) settlement restructuring;
  - (f) agricultural or heritage resource conservation;
  - (g) biodiversity conservation and management;
  - (h) the provision of housing with the assistance of a state subsidy, social facilities or social infrastructure;
  - (i) energy efficiency;
  - (j) requirements aimed at addressing climate change;
  - (k) the establishment of an homeowners' association in respect of the approval of a subdivision;
  - (l) the provision of land needed by other organs of state;
  - (m) the endorsement in terms of section 31 of the Deeds Registries Act, 1937 (Act 47 of 1937) in respect of public places where the ownership thereof vests in the Municipality;
  - (n) the registration of public places in the name of the Municipality;
  - (o) the transfer of ownership to the Municipality of land needed for other public purposes;
  - (p) the implementation of a township establishment in phases;
  - (q) requirements of other organs of state;
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- (r) the submission of a construction management plan to manage the influence of the construction of a new building on the surrounding properties or on the environment;
  - (s) agreements to be entered into in respect of certain conditions;
  - (t) the phasing of a development, including lapsing clauses relating to such phasing;
  - (u) the delimitation of development parameters or land uses that are set for a particular zoning;
  - (v) the setting of a validity period, if the Municipality determined a shorter validity period as contemplated in this By-laws;
  - (w) the setting of a period within which a particular condition must be met;
  - (x) requirements relating to engineering services as contemplated in section 90;
  - (y) requirements for an occasional use, which must include—
    - (i) parking and the number of ablution facilities required;
    - (ii) the maximum duration or occurrence of the occasional use; and
    - (iii) parameters relating to a consent use in terms of the zoning;
  - (z) the rehabilitation of mining land.
- (3) If the Municipality imposes a condition contemplated in subsection (2)(a) or (x), a services agreement must be concluded between the Municipality and the owner of the land concerned before the construction of infrastructure commences on the land.
- (4) Municipal public expenditure contemplated in subsection (4) includes but is not limited to municipal public expenditure for municipal service infrastructure and amenities relating to—
- (a) community facilities, including play equipment, street furniture, crèches, clinics, sports fields, indoor sports facilities or community halls;
  - (b) conservation purposes;
  - (c) energy conservation;
  - (d) climate change; or
  - (e) engineering services.
- (5) Except for land needed for public places or internal engineering services, any additional land required by the Municipality or other organs of state arising from an approved subdivision must be acquired subject to applicable laws that provide for the acquisition or expropriation of land.
- (6) An homeowners' association or homeowners' association that came into being by virtue of a condition imposed under the Ordinance and that is in existence immediately before the commencement of this By-law is regarded as an homeowners' association that came into being by virtue of a condition imposed by the Municipality in accordance with this By-law.
- (7) The Municipality may not approve a land use application subject to a condition that approval in terms of other legislation is required.
- (8) Conditions requiring a standard to be met must specifically refer to an approved or published standard.
- (9) No conditions may be imposed that rely on a third party for fulfilment.
- (10) If the Municipality approves a land use application subject to conditions, it must specify which conditions must be complied with before the sale, development or transfer of the land.
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- (11) The Municipality may, on its own initiative or on application, amend, delete or impose additional conditions after having given due notice to the owner and any persons whose rights may be affected.
- (12) A site development plan must be submitted as proof when sectional title deeds, township establishments and amendments of the general plan are concerned as a condition of approval.

#### **76. Technical and Other Advisers**

- (1) The Municipality in terms of section 39 of the Act co-opts the Provincial Directorate of COGTA responsible for Spatial Planning as Provincial Technical Advisers in the following capacities –
  - (a) Registered Professional Town and Regional Planners;
  - (b) Administrative Professionals; or
  - (c) Legal Advisors.
- (2) The Municipality may, in terms of section 39 of the Act co-opt the National Directorate of the Department of Rural Development and Land Reform responsible for Spatial Planning as a Provincial Technical Advisers in the following capacities –
  - (a) Registered Professional Town and Regional Planners;
  - (b) Registered GISc Practitioners or
  - (c) Legal Advisors.
- (3) The Municipality in terms of section 39 of the Act co-opts the National Directorate of the Department of Rural Development and Land Reform responsible for National Geomatic Management as a Provincial Technical Advisers in the following capacities –
  - (a) Registered Professional Land Surveyors.
- (4) The Municipality in terms of section 39 of the Act co-opts the Municipal Infrastructure Support Agency of the National Department of Cooperative Governance as a Provincial Technical Advisers in the following capacities –
  - (a) Registered Professional Town and Regional Planners
  - (b) Registered Professional Engineers.

### **CHAPTER 7 – MUNICIPAL PLANNING DECISION-MAKING STRUCTURES**

#### **77. Municipal Planning Decision-Making Structures**

- (1) Applications are decided by—
  - (a) an authorized employee who has been authorized by the Municipality to consider and determine the applications contemplated in subsection 78(1);
  - (b) the Municipal Planning Tribunal, where the powers and duties to consider and determine an application has not been delegated to an authorized employee contemplated in section 78(2); and
  - (c) the Appeal Authority where an appeal has been lodged against a decision of the authorized employee or the Municipal Planning Tribunal.

#### **78. Consideration of Applications**

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- (1) Category 2 applications must be considered and determined by an authorized employee and the Municipality must delegate the powers and duties to decide on those applications to an authorized employee, as contemplated in Section 35(2) of the Act.
- (2) The Municipal Planning Tribunal considers and determines all applications, other than those in respect of which the powers and duties to consider and determine them have been delegated and assigned to an authorized employee in terms of subsection (1).
- (3) The Municipal Planning Tribunal may not take a decision contrary to the land development policies of the Municipality.
- (4) In line with section 7, the Land Use Planning Directorate must first apply to Council for amendment of the relevant policy and provide a comprehensive motivation for such an amendment.

#### **79. Establishment of Municipal Planning Tribunal**

- (1) The Municipality must—
  - (a) establish a Municipal Planning Tribunal for its municipal area.
- (2) A notice must be published in the Provincial Gazette and must provide for—
  - (a) the composition of the Municipal Planning Tribunal;
  - (b) the terms and conditions of appointment of members of the Municipal Planning Tribunal; and
  - (c) the determination of rules and proceedings of the Municipal Planning Tribunal.

#### **80. Composition of Municipal Planning Tribunal for Municipal Area**

- (1) A Municipal Planning Tribunal established in terms of subsection 79(1)(a) of this By-law, must consist of the following members:
    - (a) number of members who are employees, to be determined by Council resolution, who are appointed on full-time basis by the Municipality; and
      - (i) number of members who are not municipal employees or councillors and who have knowledge and experience of spatial planning, land use management and land development or the law related thereto, appointed by the Municipality.
    - (b) a Land Development Officer in the full time employ of the Municipality, with the necessary qualifications, skills and knowledge of spatial planning, land use management and land development.
  - (2) The members of the Municipal Planning Tribunal referred to in subsection (1)(b) may be appointed only after the Council, by notice in the Provincial Gazette and in other media that the Council considers appropriate, has invited interested parties to submit within the period mentioned in the notice, names of persons who are fit and proper persons to be so appointed.
  - (3) Nominations, in respect of the notice placed in terms of subsection (2), must be submitted within thirty (30) days of the publication date, accompanied by the following:
    - (a) personal details of the applicant or nominee;
    - (b) particulars of the applicant's or nominee's qualifications or experience in the matters listed in section 36(1)(b) of the Act;
    - (c) in the case of a nomination, a letter of acceptance of nomination by the nominee;
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- (d) a sworn declaration by the applicant or nominee that he is not disqualified in terms of section 38 of the Act;
  - (e) a disclosure of the information contemplated in section 38(3) and (4) of the Act; and
  - (f) Permission from the applicant or nominee to verify the information provided by him.
- (4) The Council must appoint members of the Municipal Planning Tribunal within thirty (30) days of the expiry date of the notice, as contemplated in subsection (2).
- (5) The Council must designate from among the members contemplated in subsection (1)(a)—
- (a) a chairperson; and
  - (b) another member as deputy chairperson, to act as chairperson of the Municipal Planning Tribunal when the chairperson is absent or unable to perform his duties.
- (6) The Municipal Manager must, within thirty (30) days of the first appointment of members to a Municipal Planning Tribunal—
- (a) obtain written confirmation from the Council that it is satisfied that the Municipal Planning Tribunal is in a position to commence its operations; and
  - (b) after receipt of the confirmation referred to in sub-section (a), publish a notice in the Provincial Gazette of the date that the Municipal Planning Tribunal will commence its operation.
- (7) The Municipal Planning Tribunal may only commence its operations after publication of the notice contemplated in subsection (4).

**81. Term of Office and Conditions of Service of Members of Municipal Planning Tribunal for Municipal Area**

- (1) A member of the Municipal Planning Tribunal is appointed for a term of five (5) years which may be renewable once.
- (2) The term of office and conditions of service of members of Municipal Planning Tribunal is contemplated in Schedule 4 to this By-law.
- (3) The office of a member becomes vacant if—
- (a) the member is absent from two (2) consecutive meetings of the Municipal Planning Tribunal without the leave of the chairperson of the Municipal Planning Tribunal;
  - (b) the member resigns in writing to the chairperson of the Municipal Planning Tribunal;
  - (c) the member is removed from the Municipal Planning Tribunal under subsection (3); or the member dies.
- (4) The Council may, after having given the member an opportunity to be heard, remove a member of the Municipal Planning Tribunal if—
- (a) sufficient grounds exist for his removal;
  - (b) a member contravenes the code of conduct referred to in section 83;
  - (c) a member becomes subject to a disqualification from membership of the Municipal Planning Tribunal as referred to in section 38(1) of the Act.
- (5) A vacancy on the Municipal Planning Tribunal must be filled by the Council in terms of section 80(1)(a) or, in the case of a member contemplated in section 80(1)(b), in terms of section 80(2).
- (6) A member who is appointed by virtue of subsection (4) holds office for the unexpired portion of the period for which the member he replaces was appointed.
- (7) Members of the Municipal Planning Tribunal referred to in section 80(1)(b) must be appointed on the terms and conditions and must be paid the remuneration and allowances and be reimbursed for expenses as determined by the relevant legislation.
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- (8) The Council must publish a notice in terms of section 80(2), ninety (90) days before the expiry of every term of office, as contemplated in subsection (1).

**82. Meetings of Municipal Planning Tribunal for Municipal Area**

- (1) The Municipal Planning Tribunal contemplated in section 79(1)(a) must determine its own internal arrangements, proceedings and procedures and those of its committees by drafting rules for—
- (a) the convening of meetings;
  - (b) preparation and distribution of agendas (c) the procedure at meetings including-
    - (i) formal meeting procedures
    - (ii) Apologies
    - (iii) attendance, and
  - (c) the frequency of meetings.
- (2) A quorum for a meeting of the Municipal Planning Tribunal or its committees is a majority of its members present at the meeting.
- (3) Decisions of the Municipal Planning Tribunal are taken by resolution of a majority of all the members present at a meeting of the Municipal Planning Tribunal, and in the event of an equality of votes on any matter, the person presiding at the meeting in question will have a deciding vote in addition to his deliberative vote as a member of the Municipal Planning Tribunal.
- (4) Meetings of the Municipal Planning Tribunal must be held at the times and places determined by the chairperson of the Municipal Planning Tribunal in accordance with the rules of the Municipal Planning Tribunal.

**83. Code of Conduct for Members of the Municipal Planning Tribunal for Municipal Area**

- (1) The code of conduct contemplated in Schedule 5 applies to every member of the Municipal Planning Tribunal.

**84. Code of Conduct for Registered and Professional Planners involved in the Applications before the Municipal Planning Tribunal for Municipal Area and Identification of Planning Professions Work**

- (1) The code of conduct in Schedule 5, as referred to in section 22(1) of Chapter 5 of the Planning Professional Act (Act No; 36 of 2002) - Government Gazette, notice 1230 of 2013 applies to every member of the South African Council for Planners participating in the Municipal Planning Tribunal processes.
- (2) Members as defined above, are required and expected to display at all material times, the highest level of ethical, professional integrity and honesty in their interaction with land use and development applications.
- (3) Any deviation and proven indiscretion must be reported to the South African Council for Planners and must be dealt with in accordance with the provisions of the code of conduct referred to in section 84(b)(1) of this By-law.
- (4) In accordance with section 16 of the Planning Professional Act (Act No; 36 of 2002) the Council will identify work reserved for professional and registered planners in order to maintain standards within the industry.
- (5) According to section 16(3) of the Planning Professional Act (Act No; 36 of 2002) a person who is not registered in terms of the Act may not:
- (a) perform any kind of work reserved for any category of registered persons;

- (b) pretend to be, or in any manner hold himself out or allow himself or herself out or allow himself or herself to be held out as a person registered in terms of this Act;
- (c) however, the above-mentioned should be read in conjunction with section 16(5) of the Planning Professional Act (Act No; 36 of 2002).

**85. Administrator for Municipal Planning Tribunal for Municipal Area**

- (1) The Municipal Manager must appoint an employee as the Administrator and other staff for the Municipal Planning Tribunal in terms of the Municipal Systems Act, 2000 (Act 32 of 2000).
- (2) The Administrator must—
  - (a) liaise with the relevant Municipal Planning Tribunal members and the parties in relation to any application or other proceedings filed with the Municipal Planning Tribunal;
  - (b) maintain a diary of hearings of the Municipal Planning Tribunal;
  - (c) allocate meeting dates for and application numbers to applications;
  - (d) arrange the attendance of meetings by members of the Municipal Planning Tribunal;
  - (e) arrange venues for Municipal Planning Tribunal meetings;
  - (f) perform the administrative functions in connection with the proceedings of the Municipal Planning Tribunal;
  - (g) ensure the efficient administration of the proceedings of the Municipal Planning Tribunal in accordance with the directions of the chairperson of the Municipal Planning Tribunal;
  - (h) arrange the affairs of the Municipal Planning Tribunal to ensure that time is available to liaise with other authorities regarding the alignment of integrated applications and authorizations;
  - (i) notify parties of decisions and procedural directives given by the Municipal Planning Tribunal;
  - (j) keep a record of all applications submitted to the Municipal Planning Tribunal and the outcome of each, including—
    - (i) decisions of the Municipal Planning Tribunal;
    - (ii) on-site inspections and any matter recorded as a result thereof;
    - (iii) reasons for decisions; and
  - (iv) proceedings of the Municipal Planning Tribunal; and
  - (k) keep records by any means as the Municipal Planning Tribunal may deem expedient.

**86. Functioning of Municipal Planning Tribunal for Municipal Area**

- (1) The meetings of the Municipal Planning Tribunal contemplated in section 82(4) must be held at the times and places as the chairperson may determine.
  - (2) The meetings of the Municipal Planning Tribunal must be held at least once per month if there are applications to consider.
  - (3) If the chairperson and the deputy chairperson fail to attend a meeting of the Municipal Planning Tribunal, the members who are present at the meeting must elect one from among them to preside at that meeting.
  - (4) If an applicant or a person whose rights or legitimate expectations will be affected by the approval of an application wishes to make a verbal representation at a meeting of the Municipal Planning Tribunal, he must submit a written request to the Administrator, at least fourteen (14) days before that meeting.
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- (5) The Chairperson may approve a request to make a verbal representation subject to reasonable conditions.

#### **87. Appeals**

- (1) The Executive Authority of the Municipality is the Appeal Authority of the Municipality in respect of decisions contemplated in section 66(1) and a failure to decide on an application as contemplated in section 63(1), provided that the Municipality may, in terms of section 51(6) of the Act, in the place of its Executive Authority, appoint a body, or institution outside of the Municipality to assume the obligations of an Appeal Authority. The body or institution established by the Municipality as an Appeal Authority shall be known as the Municipal Appeals Tribunal.
- (2) The provisions of sections 80(5), 81, 82 and 83 of this By-law shall apply to the Municipal Appeals Tribunal *mutatis mutandis* and any reference to the Municipal Planning Tribunal and/or members of the Municipal Planning Tribunal, contained therein, shall be construed as a reference to the Municipal Appeals Tribunal and/or members of the Municipal Appeals Tribunal, unless otherwise specified under this section.
- (3) A person whose rights are affected by a decision of the Municipal Planning Tribunal or an authorized employee may appeal in writing, stating reasons, to the Municipal Manager within twenty-one (21) days of notification of the decision, as contemplated in section 50(1) in the Act.
- (4) An applicant may appeal in writing to the Municipal Manager in respect of the failure of the Municipal Planning Tribunal or an authorized employee to take a decision within the period contemplated in section 62(1) of (2), any time after the expiry of the applicable period contemplated in section 63.

#### **88. Procedures for Appeal**

- (1) An appeal that is not lodged within the applicable period contemplated in section 87 or that does not comply with this section, is invalid.
- (2) An appeal must set out the grounds on which the appellant believes the decision-maker erred in coming to the conclusion it did or the decision-maker failed to take a decision.
- (3) A person who lodges an appeal must simultaneously serve notice of the appeal on the Municipal Planning Tribunal, the applicant (if applicable) and any person who commented or made representations on, or objected to, the application concerned.
- (4) The notice must be served in accordance with section 115 of the Municipal Systems Act, 2000 (Act 32 of 2000) and the additional requirements as may be determined by the Municipality.
- (5) The notice must invite persons to object, comment or make a representation on the appeal within twenty-one (21) days of being notified of the appeal.
- (6) The appellant must submit proof of the notification contemplated in subsections (3) and (4) to the Municipality within fourteen (14) days of the date of notification.
- (7) If a person other than the applicant lodges an appeal, the Municipality must give notice of the appeal to the applicant within fourteen (14) days of receipt thereof.
- (8) An applicant who has received notice of an appeal in terms of subsection (7) may comment on the appeal within twenty-one (21) days of being notified.
- (9) The Municipality may refuse to accept any comments on an appeal after the closing date for those comments.
-

- (10) The Municipality: -
- (a) may request National and Provincial departments to comment in writing on an appeal within sixty (60) days of receipt of the request; and
  - (b) must notify and request the National and Provincial departments to comment on an appeal in respect of the following applications within sixty (60) days of receipt of the request:
    - (i) a development outside the Municipality's planned outer limit of urban expansion as reflected in its municipal spatial development framework;
    - (ii) if the Municipality has no approved municipal spatial development framework, a development outside the physical edge, including existing urban land use approvals, of the existing urban area
    - (iii) a rezoning of land zoned for agricultural or conservation purposes;
    - (iv) any development or category of land use applications as may be prescribed by legislation and national and provincial policies.
- (11) The authorized employee must draft a report assessing an appeal and must submit it to the Municipal Manager within: -
- (a) thirty (30) days of the closing date for comments requested in terms of subsection (8) if no comments were requested in terms of subsection (10); or
  - (b) within thirty (30) days of the closing date for comments requested in terms of subsection (10).
- (12) The Appeal Authority must decide on an appeal within sixty (60) days of receipt of the assessment report contemplated in subsection (11).
- (13) The parties to an appeal must be notified in writing of the decision of the Appeal Authority within twenty-one (21) days from the date of the decision.
- (14) The Municipality must—
- (a) on receipt of an appeal in terms of this section notify the applicant in writing whether or not the operation of the approval of the application is suspended; and
  - (b) if a decision on the appeal upholds an approval, notify the applicant in writing that he may act on the approval.
- (15) The operation of the approval of a land use application that is the subject of an appeal is suspended pending the decision of the appeal authority on the appeal, as contemplated in subsection (14).
- (16) If an appeal is lodged only against conditions imposed in terms of section 75, the Municipality may determine that the approval of the land use application is not suspended.
- (17) The appeal authority must designate a presiding officer and a registrar for an appeal lodged, a group of appeals or a time-period to deal with appeals.
- (18) The presiding officer will act as the chairperson of the appeal process and the registrar as the secretariat of the appeal process.

#### **89. Hearing of Appeal Authority**

- (1) The appeal authority must notify the relevant parties of the date, time and place of the hearing, fourteen (14) days prior to the hearing.
  - (2) A hearing must commence within fifteen (15) days after the completed notice of appeal has been delivered to the appeal authority, unless otherwise stated by the appeal authority.
-

- (3) An appellant of any respondent may at any time before the appeal hearing withdraw an appeal or opposition to an appeal and must give notice of such withdrawal to the registrar and all other parties to the appeal.
- (4) The hearing of the appeal authority may take place as an oral hearing or a written hearing.
- (5) Procedural arrangements for an oral hearing include that:
- (a) an oral hearing must take place in an area within the jurisdiction of the Municipality excluding the office of the Municipal Planning Tribunal or the official authorized in terms of section 77(1);
  - (b) the appellant will first present his case, followed by the Municipal Planning Tribunal or the official authorized in terms of section 77(1);
  - (c) each party has the right to call witnesses to give evidence;
  - (d) if a party does not appear at an oral hearing, the appeal authority may proceed in the absence of the party, after it was determined if the absent party was notified. If the party was not notified the hearing cannot proceed and the presiding officer must reschedule the hearing;
  - (e) hearings of the appeal authority may be recorded;
  - (f) witnesses and parties are required to give evidence under oath or confirmation;
  - (g) any additional documentation not included in the appeal record should be provided three (3) days before the hearing to the appeal authority;
  - (h) the registrar must distribute the documentation to all parties to the appeal authority and members of the appeal authority;
  - (i) if the additional documentation, as contemplated in subsection (g) is not provided at least three (3) days prior to the hearing, it may be provided at the hearing, where the party must bring copies of the additional documentation for the members of the appeal authority;
  - (j) if the additional documentation, as contemplated in subsection (g), is substantive or voluminous, the other party may request an adjournment.
- (6) Procedural arrangements for a written hearing include that:
- (a) each party must be provided an opportunity to provide written submissions to support their case;
  - (b) the appellant will be given seven (7) days to provide a written submission;
  - (c) upon receipt of the appellant's written submission the appeal authority must forward it to the Municipal Planning Tribunal or the official authorized in terms of section 77(1);
  - (d) the Municipal Planning Tribunal or the authorized official has seven (7) days in which to provide the written response, if no written submission is received it will be deemed that the party has declined the opportunity;
  - (e) an extension of time maybe requested in writing in advance of the due date for submissions, accompanied by reasons for the request of extension;
  - (f) following receipt of a request the appeal authority must issue a written decision to all parties;
  - (g) following receipt of any written submissions the registrar must forward the appeal record to the appeal authority, including written submissions;
  - (h) if no written submissions are received from the parties the registrar will forward the existing appeal record to the appeal authority for adjudication;
  - (i) the presiding officer of the appeal authority will decide whether to accept the late written submissions;
  - (j) the appeal authority issues a decision in writing to all other parties, who have seven (7) days to respond.
-

**90. Decision of Appeal Authority**

- (1) After hearing all parties, the appeal authority:
  - (a) may request any further information from any party;
  - (b) may postpone the matter for a reasonable period; and
  - (c) must within twenty-one (21) days after the last day of the hearing, issue its decision with reasons
- (2) The appeal authority may confirm, amend or rescind the decision of the Municipal Planning Tribunal or official authorized in terms of section 77(1) and may include an award of costs.
- (3) The presiding officer must sign the decision of the appeal authority and any order made by it.
- (4) The registrar must notify the parties of the decision of the appeal authority within twenty-one (21) days after a decision was taken by the appeal authority together with reasons.
- (5) The appeal authority must, in its decision, give directives to the Municipality as to how such a decision must be implemented.
- (6) The Appellant shall within twenty-one (21) days of the decision publish the decision in the Provincial Gazette.

**CHAPTER 8 – PROVISION OF ENGINEERING SERVICES****91. Responsibility for Provision of Engineering Services**

- (1) An applicant is responsible for the provision, installation and costs of internal engineering services required for a development when an application is approved, as contemplated in section 49(1) of the Act.
  - (2) The Municipality is responsible for the provision and installation of external engineering services, as contemplated in section 49(2) of the Act.
  - (3) When the Municipality is not the provider of an engineering service, the applicant must satisfy the Municipality that adequate arrangements have been made with the relevant service provider for the provision of that service, as contemplated in section 49(3) of the Act.
  - (4) The Municipality may enter into a written services agreement with an applicant to provide that—
    - (a) the applicant will install the external engineering service instead of paying the applicable development charges; or
    - (b) the fair and reasonable cost of the external engineering service may be set off against the development charges payable by the applicant.
  - (5) If necessary, to maintain the functionality of the Municipality's long-term plans, the Municipality may require an applicant, when installing an external engineering service, to install a service in excess of the capacity of service of service required for the land development.
    - (a) If the Municipality requires the applicant to install an external engineering service, the fair and reasonable cost of doing so may be set off against the applicant's development charge liability.
    - (b) An applicant is liable for the full development cost for installing external engineering services to meet the capacity of services required for the land development even if the costs exceed the developmental charges for all phases of the development.
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- (6) Areas under traditional leadership: -
- (a) A traditional council may conclude a service level agreement with the Municipality in whose municipal area that traditional council is located, subject to the provisions of any relevant national and provincial legislation, provided that the traditional council may not make a land development decision.
  - (b) If a traditional council does not conclude a service level agreement with the Municipality as contemplated in (a), that the traditional council is responsible for providing proof of the allocation of land in terms of customary law applicable in that traditional area to the applicant of a land development and land use application.
- (7) Expansion of the Urban Edge:
- (a) in cases of expanding the Urban Edge, the Head of Engineering services in conjunction with the Chief Financial Officer and Municipal Manager should provide written consent for the provision of external engineering services in the geographical area concerned;
  - (b) all applications for expansion of the urban edge should be accompanied with a comprehensive Engineering report on the availability of external engineering services to the satisfaction of the Head Engineering Services for consideration.

**92. Development Charges**

- (1) The applicant must pay development charges to the Municipality in respect of the provision of an external engineering service.
  - (2) The external engineering service for which development charges is payable, must be set out in a policy adopted by the Municipality.
  - (3) The amount of the development charges payable by an applicant, must be calculated in accordance with the policy adopted by the Municipality.
  - (4) The date by which a development charges must be paid, and the means of payment must be specified in the conditions of approval.
  - (5) The comments from Engineering services should include if a services agreement is required for a land development application.
  - (6) The compilation of the services agreement shall be finalised by the Municipality within a period of six (6) months after approval of the land development application.
  - (7) Payment of development charges must be done within six (6) months after approval of the land development application by the Municipality.
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- (8) The development charges imposed are subject to escalation at the rate calculated in accordance with the policy on development charges.
- (9) The Municipality must annually submit a report to the Council on the amount of development charges paid to the Municipality, together with a statement of the expenditure of the amount and the purpose of the expenditure.
- (10) When determining the contribution contemplated in sections 75(4) and (5), the Municipality must have regard to provincial norms and standards and—
- (a) the municipal service infrastructure and amenities for the land concerned that are needed for the approved land use;
  - (b) the public expenditure on that infrastructure and those amenities incurred in the past and that facilitates the approved land use;
  - (c) the public expenditure on that infrastructure and those amenities that may arise from the approved land use;
  - (d) money in respect of contributions contemplated in subsection 75(4) paid in the past by the owner of the land concerned; and
  - (e) money in respect of contributions contemplated in subsection 75(4) to be paid in the future by the owner of the land concerned.

**93. Land for Parks, Open Spaces and Other Uses**

- (1) When the Municipality approves a development application which provides for the use of land for residential purposes, the applicant may be required to provide land for parks or public open spaces.
- (2) The extent of land required for parks or public open spaces is determined by the Municipality in accordance with a policy approved by the Municipality.
- (3) The land required for parks or public open spaces must be provided within the land area of the development application or may, with the consent of the Municipality, be provided elsewhere within the municipal area, as contemplated in section 50(2) of the Act.
- (4) When a development application is approved without the required provision of land for parks or open spaces within the land area of the development, the applicant may be required to pay money to the Municipality *in lieu* of the provision of land.
- (5) Private open spaces established within a land use application shall not be allowed to be changed to any other land use for a period of at least ten (10) years after the creation thereof as private open space.

**CHAPTER 9 - ENFORCEMENT**

**94. Enforcement**

- (1) The Municipality must ensure compliance with—
- (a) the provisions of this By-law;
  - (b) the provisions of a land use management scheme;
  - (c) conditions imposed in terms of this By-law or previous planning legislation; and (d) conditions of Deed of Title.
-



- (2) The Municipality may not do anything that is in conflict with subsection (1).

#### **95. Offences, Penalties and Fines**

- (1) Any person who—
- (a) contravenes or fails to comply with section 92(1);
  - (b) fails to comply with a compliance notice served in terms of section 96(2);
  - (c) uses land in a manner other than prescribed by a land use management scheme without the approval of the Municipality;
  - (d) upon registration of the first land parcel arising from a subdivision, fails to transfer all common property arising from the subdivision to the homeowners' association;
  - (e) supplies particulars, information or answers in an application, or in an appeal to a decision on a land development application, knowing it to be false, incorrect or misleading or not believing them to be correct;
  - (f) falsely professes to be an authorized employee or the interpreter or assistant of an authorized employee;
  - (g) hinders or interferes with an authorized employee in the exercise of any power, or the performance of any duty, of that employee; or
  - (h) make any illegal amendments to or falsify resolutions of the Municipal Planning Tribunal;
- is guilty of an offence and is liable upon conviction to a fine or imprisonment not exceeding a period of ten (10) years or to both a fine and such imprisonment.
- (2) An owner who permits his land to be used in a manner set out in subsection (1)(c) and who does not cease that use or take reasonable steps to ensure that the use ceases, or who permits a person to breach the provisions of a land use management scheme, is guilty of an offence and liable upon conviction to a fine not exceeding R100 000 or imprisonment for a period not exceeding ten (10) years or to both a fine and such imprisonment.
- (3) A person convicted of an offence in terms of this By-law who, after conviction, continues with the action in respect of which he was so convicted, is guilty of a continuing offence and liable upon conviction to imprisonment for a period not exceeding three (3) months or to an equivalent fine or to both such fine and imprisonment, in respect of each day on which he so continues or has continued with that act or omission.
- (4) The Municipality have the right to cut off services (water and electricity) with immediate effect from the date of inspection by the authorized official of an illegal land use or building.
- (5) The Municipality may issue a fine to any person that is contravening the Land Use Scheme in accordance with approved municipal tariffs.
- (a) The fines shall be revised and approved by the Council annually; and
  - (b) Collection of the fines shall be conducted by the Department responsible for collections within the Municipality.

#### **96. Serving of Compliance Notice**

- (1) The Municipality must serve a compliance notice on a person if it has reasonable grounds to suspect that the person or owner is guilty of an offence in terms of section 95
- (2) A compliance notice must instruct the occupier and owner to cease the unlawful land use or construction activity or both without delay or within the time period determined by the Municipality, and may include an instruction to—
-

- (a) demolish unauthorized building work and rehabilitate the land or restore the building, as the case may be, to its original form within thirty (30) days or another period determined by the Municipal Manager; or
  - (b) submit an application for land use or construction activity in terms of this By-law within thirty (30) days of the service of the compliance notice and to pay the contravention penalty.
- (3) A person who has received a compliance notice with an instruction contemplated in subsection (2)(a) may not submit an application in terms of subsection (2)(b).
- (4) An instruction to submit an application in terms of subsection (2)(b) must not be construed as an indication that the application will be approved.
- (5) In the event that the application submitted in terms of subsection (2)(b) is refused, the owner must demolish the unauthorized building work.
- (6) A person who received a compliance notice in terms of this section may object to the notice by lodging representations to the Municipality within thirty (30) days of receipt of the notice.

#### **97. Content of Compliance Notices**

- (1) A compliance notice must—
- (a) identify the judicial person as registered owner to whom it is addressed;
  - (b) describe the alleged unlawful use of land or construction activity concerned and the land on which it occurs;
  - (c) state that the activity is unlawful and inform the person of the particular offence contemplated in section 96 which that person allegedly has committed or is committing through the continuation of that activity on the land;
  - (d) the steps that the person must take and the period within which those steps must be taken;
  - (e) anything which the person may not do and the period during which the person may not do it;
  - (f) provide for an opportunity for a person to submit representations in terms of section 96(6) with the contact person stated in the notice; and
  - (g) issue a warning to the effect that—
    - (i) the person may be prosecuted for and convicted of an offence contemplated in section 95;
    - (ii) on conviction of an offence, the person will be liable for the penalty as provided for;
    - (iii) the person may be required by an order of court to demolish, remove or alter any building, structure or work illegally erected or constructed or to rehabilitate the land concerned or to cease the activity;
    - (iv) in the case of a contravention relating to a consent use or temporary departure, the approval may be withdrawn;
    - (v) in the case of an application for authorization of the activity or development parameter, that a contravention penalty, including any costs incurred by the Municipality, will be imposed.
- (2) Any person on whom a compliance notice is served must comply with that notice within the time period stated in the notice, unless the Municipality has agreed to suspend the operation of the compliance notice in terms of section 95.

#### **98. Objections to Compliance Notice**

- (1) Any person or owner who receives a compliance notice in terms of section 96 may object to the notice by making written representations to the Municipal Manager within thirty (30) days of receipt of the notice.
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- (2) After the consideration of any objections or representations made in terms of subsection (1) and any other relevant information, the Municipal Manager—
- (a) may suspend, confirm, vary or cancel a compliance notice or any part of the notice; and
  - (b) must specify the period within which the person who received the notice must comply with any part of the notice that is confirmed or varied.

**99. Failure to Comply with Compliance Notice**

- (1) If a person fails to comply with a compliance notice, the Municipality may—
- (a) lay a criminal charge against the person;
  - (b) apply to the High Court for an order—
    - (i) restraining that person from continuing the unlawful use of the land,
    - (ii) directing that person to, without the payment of compensation—
      - (aa) demolish, remove or alter any building, structure or work illegally erected or constructed; or
      - (bb) rehabilitate the land concerned.
  - (b) in the case of a temporary departure or consent use, withdraw the approval granted and act in terms of section 94.

**100. Urgent Matters**

- (1) The Municipality does not have to comply with sections 96(6), 97(1)(f) and 98 in a case where an unlawful use of land must be stopped urgently and may issue a compliance notice calling upon the person or owner to cease the unlawful use of land immediately.
- (2) If the person or owner fails to cease the unlawful use of land immediately, the Municipality may apply to the High Court for an urgent interdict or any other relief necessary.

**101. Subsequent Application for Authorisation of Activity**

- (1) If instructed to rectify or cease an unlawful use of land, a person may apply to the Municipality for an appropriate land development contemplated in section 21(3), unless the person is instructed in terms of section 96(2)(a) to demolish the building work.
- (2) The applicant must, within thirty (30) days after approval is granted, pay to the Municipality a contravention penalty in the amount determined by the Municipality.

**102. General Powers and Functions of Authorized Employees**

- (1) An authorized employee may, with the permission of the occupier or owner of land, at any reasonable time, without a warrant and without previous notice, enter upon land or enter a building or premises for the purpose of ensuring compliance with this By-law.
- (2) An authorized employee must be in possession of proof that he has been designated as an authorized employee for the purposes of subsection (1).
- (3) An authorized employee may be accompanied by an interpreter, a police official or any other person who may be able to assist with the inspection.
-

**103. Powers of Entry, Search and Seizure**

- (1) In ensuring compliance with this By-law in terms of section 96, an authorized employee may—
- (a) question any person on land entered upon, or in a building or on premises entered, who, in the opinion of the authorized employee, may be able to furnish information on a matter that relates to the enforcement of this By-law;
  - (b) question any person on that land or premises or in that building about any act or omission in respect of which there is a reasonable suspicion that it might constitute—
    - (i) an offence in terms of this By-law;
    - (ii) a contravention of this By-law; or
    - (iii) a contravention of an approval or a term or condition of that approval;
  - (c) question that person about any structure, object, document, book, record or written or electronic information or inspect any structure, object, document, book or record which may be relevant for the purpose of this subsection
  - (d) copy or make extracts from any document, book, record or written or electronic information referred to in sub-section (c), or remove that document, book, record or written or electronic information in order to make copies or extracts;
  - (e) require that person to produce or deliver to a place specified by the authorized employee, any document, book, record or any written or electronic information referred to in sub-section (c) for inspection;
  - (f) examine that document, book, record or any written or electronic information or make a copy thereof or an extract therefrom;
  - (g) require from that person an explanation of any entry in that document, book, record or any written or electronic information;
  - (h) inspect any article, substance, plant or machinery which is or was on the land, or any work performed on the land or any condition prevalent on the land, or remove for examination or analysis any article, substance, plant or machinery or a part or sample thereof;
  - (i) take photographs or make audio-visual recordings of anything or any person on that land or those premises or in that building that is relevant to the purposes of the investigation; or
  - (j) seize that book, record or any written or electronic information or that article, substance, plant or machinery or a part or sample thereof that in his opinion may serve as evidence at the trial of the person to be charged with an offence under this By-law or the common law, provided that the user of the article, substance, plant or machinery on the land or premises or in the building concerned may make copies of such book, record or document before the seizure.
- (2) When an authorized employee removes or seizes any article, substance, plant or machinery, book, record or other document as contemplated in this section, he must issue a receipt to the owner or person in control thereof.
- (3) An authorized employee may not have a direct or indirect personal or private interest in the matter to be investigated.

**104. Warrant of Entry for Enforcement Purposes**

- (1) A judge of a High Court or a magistrate for the district in which the land is situated may, at the request of the Municipality, issue a warrant to enter upon the land or building or premises if the—
- (a) prior permission of the occupier or owner of land cannot be obtained after reasonable attempts; or
-

- (b) purpose of the inspection would be frustrated by the occupier or owner's prior knowledge thereof.
- (2) A warrant may only be issued if it appears to the judge or magistrate from information on oath that there are reasonable grounds for believing that—
  - (a) an authorized employee has been refused entry to land or a building that he is entitled to inspect;
  - (b) an authorized employee reasonably anticipates that entry to land or a building that he is entitled to inspect will be refused,
  - (c) there are reasonable grounds for suspecting that an offence contemplated in section 94 has occurred and an inspection of the premises is likely to yield information pertaining to that contravention; or
  - (d) the inspection is reasonably necessary for the purposes of this By-law.
- (3) A warrant must authorize the Municipality to enter upon the land or to enter the building or premises to take any of the measures referred to in section 102 and 103 as specified in the warrant, on one (1) occasion only, and that entry must occur—
  - (a) within one (1) month of the date on which the warrant was issued; and
  - (b) at a reasonable hour, except where the warrant was issued on grounds of urgency.

#### **105. Regard to Decency and Order**

- (1) The entry of land, a building or structure under this Chapter must be conducted with strict regard to decency and order, which must include regard to—
  - (a) a person's right to respect for and protection of his dignity;
  - (b) the right to freedom and security of the person; and
  - (c) the right to a person's personal privacy.

#### **106. Enforcement Litigation**

- (1) Whether or not a Municipality lays criminal charges against a person for an offence contemplated in section 94 and 95, the Municipality may apply to the High Court for an interdict or any other appropriate relief including an order compelling that person to—
    - (a) demolish, remove or alter any building, structure or work illegally erected or constructed;
    - (b) rehabilitate the land concerned; or
    - (c) cease with the unlawful use of land.
  - (2) The Municipality may issue a penalty to a juristic person who has contravened a provision of the Municipal By-Laws to an amount determined by the Chief Financial Officer in accordance with the approved municipal rates and tariffs policy as amended from time to time and must provide the information contemplated regarding the non-compliance to the extent that is known to the Municipality.
  - (3) If after considering representations by the Municipal Manager and the person concerned, the Municipal Planning Tribunal decides, in consultation with the Chief Financial Officer, to impose an administrative penalty on a person who has contravened this By-law, it must determine an amount which –
    - (a) for building work in contravention of this bylaw – may not be less than 30% and not more than 100% of the value of the building, construction and engineering work unlawfully carried out, as determined by the Municipality.
-

- (b) for land use in contravention of this bylaw may not be less than 15% and more than 100% of the municipal valuation of the area that is used unlawfully, as determined by the Municipality.
- (4) For building work and land use contraventions – must comprise penalties of both (a) and (b).
- (5) When determining an appropriate penalty, the Municipal Planning Tribunal must consider the following factors: -
- (a) the nature, duration, gravity and extent of the contravention
  - (b) the conduct of the person involved in the contravention
  - (c) whether the unlawful conduct was stopped
  - (d) whether the person involved in the contravention has previously contravened the By Law or a previous planning law.
- (6) A penalty determined in terms of this section must be paid to the Municipality within 30 days.
- (7) The Municipality may apply to the High Court for an order confirming the order of the Municipal Planning Tribunal to pay an administrative penalty.
- (8) A person who is in contravention of this By-Law, and who wishes to rectify such contravention, may apply to the Municipality for the determination of an administrative penalty if the Municipality has not issued a demolition in respect of the land or building or part thereof concerned.
- (9) The Municipal Planning Tribunal may, where any person has contravened this By-law, and in consultation with the Chief Financial Officer as required by the Municipal rates and tariffs policy: -
- (a) decides to impose an administrative penalty; and;
  - (b) determine the amount of the penalty.
- (10) A person making an application contemplated in subsection 9 must: -
- (a) submit an application;
  - (b) pay the prescribed fee;
  - (c) provide the information contemplated in subsections (5)
  - (d) comply with the duties of an applicant.
- (11) The Municipal Manager may apply to the Municipal Planning Tribunal for an order that a person who has contravened this By-law must pay an administrative penalty in an amount determined by Municipal Planning Tribunal,
- (12) If the Municipal Manager makes an application contemplated in subsection (3), the Municipal Planning Tribunal must invite the person concerned within a specified time to make written representations on the application.
- (13) The Department must provide a written report to the Municipal Planning Tribunal.
- (14) The Municipal Planning Tribunal may –
- (a) call for additional information to decide an application in terms of this section; and
  - (b) draw an adverse inference against a person who fails or refuses to provide, to the satisfaction of the Municipal Planning Tribunal, information contemplated in subsection (5).

## **CHAPTER 10 - MISCELLANEOUS**

### **107. Naming of Streets and Numbering of Properties**

- (1) If as a result of the approval of a development application streets or roads are created, public or private, the Municipality must approve the naming of the street and must allocate a street number to each of the erven or land parcels located in such street or road.
-

- (2) The proposed names of the streets and numbers of properties must be submitted as part of an application.
- (3) In considering the naming of streets, the Municipality must take into account the relevant policies regarding street naming and numbering of properties.
- (4) The Municipality must notify the Surveyor-General of the approval of new street names as a result of the approval of an amendment or cancellation of a general plan. The Surveyor-General must endorse the records of the Surveyor-General's office to reflect the amendment to the street names on an approved general plan.

#### 108. Reporting to Council on Development Applications

- (1) Reporting to Council on processing of development applications should be done once a quarter.
- (2) Format of reporting should include:
  - (a) Number of applications processed;
  - (b) Number of applications approved;
  - (c) Number of applications rejected;
  - (d) Number of applications on appeal;
  - (e) Number of meetings of the MPT
- (3) The report contemplated in subsection (1) should *inter alia* contain the property description (erf number or physical street address) and in the case of applications for the consent of the Municipality, the amendment of the land use scheme or the establishment of a township, the type of land use or amendment(s) approved.

#### 109. Short Title and Commencement

This By-law is called Mangaung, Municipal Land Use Planning By-law 2021 and the amendments effected come into operation on the date of its promulgation in the Provincial Gazette and further subject to provisions of the Spatial Planning and Land Use Management Act 2013.

### SCHEDULES

#### SCHEDULE 1

#### PRIMARY SPATIAL PLANNING CATEGORIES

(read with section 3)

- (1) In order to create a uniform system across the Province, the attribute data must be represented as follows:
  - (a) Core Conservation Areas that must be captured in the attribute data as a capital letter **A** including:
    - (i) Statutory Protected Areas that must be captured in the attribute data as a letter **A.a**;
  - (b) Natural Buffer Areas that must be captured in the attribute data as a capital letter **B** including:
    - (i) Non-Statutory Conservation Areas that must be captured in the attribute data as a letter **B.a**;
    - (ii) Ecological Corridors that must be captured in the attribute data as a letter **B.b**;
    - (iii) Urban Green Areas that must be captured in the attribute data as a letter **B.c**;
  - (c) Agricultural Areas that must be captured in the attribute data as a capital letter **C** including:
    - (i) Extensive agricultural areas that must be captured in the attribute data as a letter **C.a**;
    - (ii) Intensive agricultural areas that must be captured in the attribute data as a letter **C.b**;
  - (d) Urban Related Areas that must be captured in the attribute data as a capital letter **D** including:
    - (i) Main Towns that must be captured in the attribute data as a letter **D.a**;

- (ii) Local Towns that must be captured in the attribute data as a letter **D.b**;
- (iii) Rural Settlements that must be captured in the attribute data as a letter **D.c**;
- (iv) Tribal Authority Settlements that must be captured in the attribute data as a letter **D.d**;
- (v) Communal Settlements that must be captured in the attribute data as a letter **D.e**;
- (vi) Institutional Areas that must be captured in the attribute data as a letter **D.f**;
- (vii) Authority Areas that must be captured in the attribute data as a letter **D.g**;
- (viii) Residential Areas that must be captured in the attribute data as a letter **D.h**;
- (ix) Business Areas that must be captured in the attribute data as a letter **D.i**;
- (x) Service-Related Business that must be captured in the attribute data as a letter **D.j**;
- (xi) Special Business that must be captured in the attribute data as a letter **D.k**;
- (xii) SMME Incubators that must be captured in the attribute data as a letter **D.l**;
- (xiii) Mixed Use Development Areas that must be captured in the attribute data as a letter **D.m**;
- (xiv) Cemeteries that must be captured in the attribute data as a letter **D.n**;
- (xv) Sports fields and Infrastructure that must be captured in the attribute data as a letter **D.o**;
- (xvi) Airports and Infrastructure that must be captured in the attribute data as a letter **D.p**;
- (xvii) Resorts and Tourism Related Areas that must be captured in the attribute data as a letter **D.q**;
- (xviii) Farmsteads and Outbuildings that must be captured in the attribute data as a letter **D.r**;
- (e) Industrial Areas that must be captured in the attribute data as a capital letter **E** including:
  - (i) Agricultural industry that must be captured in the attribute data as a letter **E.a**;
  - (ii) Industrial Development Zone that must be captured in the attribute data as a letter **E.b**;
  - (iii) Light industry that must be captured in the attribute data as a letter **E.c**;
  - (iv) Heavy industry that must be captured in the attribute data as a letter **E.d**;
  - (v) Extractive industry that must be captured in the attribute data as a letter **E.e**
- (f) Surface Infrastructure that must be captured in the attribute data as a capital letter **F** including:
  - (i) National roads that must be captured in the attribute data as a letter **F.a**;
  - (ii) Main roads that must be captured in the attribute data as a letter **F.b**;
  - (iii) Minor roads that must be captured in the attribute data as a letter **F.c**;
  - (iv) Public Streets that must be captured in the attribute data as a letter **F.d**;
  - (v) Heavy Vehicle Overnight Facilities that must be captured in the attribute data as a letter **F.e**;
  - (vi) Railway lines that must be captured in the attribute data as a letter **F.f**;
  - (vii) Power lines that must be captured in the attribute data as a letter **F.g**;
  - (viii) Telecommunication Infrastructure that must be captured in the attribute data as a letter **F.h**;
  - (ix) Renewable Energy Structures that must be captured in the attribute data as a letter **F.i**;
  - (x) Dams and Reserves that must be captured in the attribute data as a letter **F.j**;
  - (xi) Canals that must be captured in the attribute data as a letter **F.k**;
  - (xii) Sewerage Plants and Refuse Areas that must be captured in the attribute data as a letter **F.l**;
  - (xiii) Planned future road alignments (to be added to this list).

## SCHEDULE 2

### ESTABLISHMENT OF A HOMEOWNERS' ASSOCIATION



(read with section 31)

- (1) An homeowners' association that comes into being by virtue of this Schedule is a juristic person and must have a constitution.
- (2) The constitution of an homeowners' association must be approved by the Municipality before the transfer of the first land parcel and must provide for—
  - (a) the homeowners' association to formally represent the collective mutual interests of the area, suburb or neighbourhood set out in the constitution in accordance with the conditions of approval;
  - (b) control over and maintenance of buildings, services or amenities arising from the subdivision;
  - (c) the regulation of at least one (1) yearly meeting with its members;
  - (d) control over the design guidelines of the buildings and erven arising from the subdivision;
  - (e) the ownership by the homeowners' association of all common property arising from the subdivision, including—
    - (i) private open spaces;
    - (ii) private roads;
    - (iii) private places; and
    - (iv) land required for services provided by the homeowners' association;
  - (f) enforcement of conditions of approval or management plans;
  - (g) procedures to obtain the consent of the members of the homeowners' association to transfer an erf if the homeowners' association ceases to function;
  - (h) the implementation and enforcement by the homeowners' association of the provisions of the constitution.
- (3) The constitution of an homeowners' association may have other objects as set by the association but may not contain provisions that are in conflict with any law.
- (4) An homeowners' association may amend its constitution when necessary, but if an amendment affects the Municipality or a provision referred to in subsection (2), the amendment must also be approved by the Municipality.
- (5) An homeowners' association that comes into being by virtue of this Schedule —
  - (a) has as its members all the owners of land parcels originating from the subdivision and their successors in title, who are jointly liable for expenditure incurred in connection with the association; and
  - (b) is upon registration of the first land parcel automatically constituted
- (6) The design guidelines contemplated in subsection (2)(d) may introduce more restrictive development rules than the rules provided for in the land use management scheme.
- (7) If an homeowners' association fails to meet any of its obligations contemplated in subsection (2) and any person is, in the opinion of the Municipality, adversely affected by that failure, the Municipality may take appropriate action to rectify the failure and recover from the members referred to in subsection (5)(a) the amount of any expenditure incurred by it in respect of those actions.
- (8) The amount of any expenditure so recovered is, for the purposes of subsection (7), considered to be expenditure incurred by the homeowners' association.

**PART A – COMPREHENSIVE APPLICATION FORM**

Applications for land use amendments (give full details in the motivation report)

<b>SECTION 1</b>			
Details of Applicant (See Planning Profession Act, Act 36 of 2002)			
Name:		Contact person:	
Postal address:		Physical address:	
Code:		Code:	
Tel no:		Cell no:	
Fax no:		E-mail address:	
SACPLAN Reg No:			

<b>SECTION 2</b>			
Details of Landowner (If different from Applicant)			
Name:		Contact person:	
Postal address:		Physical address:	
Code:		Code:	
Tel no:		Cell no:	
Fax no:		E-mail address:	
If the applicant is not the registered owner(s), attach a power of attorney from the registered owner(s) to the application. This also applies if the person applying is still busy obtaining the land parcel and if the land parcel is owned by a company or more than one (1) person.			

<b>SECTION 3</b>			
Details of Property (In accordance with Title deed)			
Erf/ Farm No and portion description:		Area (m <sup>2</sup> or ha):	
Physical address of erf/farm:		Existing zoning:	
Location from nearest town:		Existing land use:	
Town/suburb:		Area applicable to application:	
Registration Division:		Title deed no:	

**SECTION 4**

Type of Application being submitted (Mark with an X and give details)

Application for:

(Please mark applicable block with a cross)

Township Establishment

Rezoning/ Zoning

Creation of an overlay zoning

Removal, suspension or amendment of Title Deed Restrictions

Consent use

Subdivision of land

Consolidation of one (1) or more properties

Incorporation of an erf into a general plan

Removal, suspension or amendment of the original approval conditions as provided by the relevant authorities

General Plan Cancellation

Amendment of General Plan by Closure of Park or Public Road

The extension of the approval period

Any other application in terms of provincial legislation or municipal By-law

Please give a short description of the scope of the project

**SECTION 5**

Detail of application (Mark with an X and give detail where applicable)

1.	Is the land parcel currently developed (buildings etc.)?	YES	NO
	If YES, what is the nature & condition of the developments / improvements?		
2.	Is the current zoning of the land used?	YES	NO

	If NO, what is the application / use of land?			
3.	Is the property subjected to a bond?		YES	NO
	If YES, attach the bondholder's consent to the application.			
	Name of bondholder			
4.	Has any application on the property previously been considered?		YES	NO
	If YES, when and provide particulars, including type of application, all authority reference numbers and decisions?			
5.	Does the proposal apply to the entire land parcel?		YES	NO
	If NO, indicate the size of the portion of the land parcel concerned, as well as what it will be used for, including the remaining extent.			
6.	Are there any restrictions, such as servitudes, rights, bonds, etc. with regard to the land parcel in terms of the deed of transfer that should be removed, as it might have an influence on this application?		YES	NO
	If YES, please provide detail description.			
7.	Are there any physical restrictions (e.g. steep inclines, unstable land formations, marshes, etc.) that might influence the intended development?		YES	NO
	If YES, name full particulars and state how the problem will be solved and submit detail layout plan.			
8.	Is any portion of the land parcel in a flood plain of a river beneath the 1:50 / 1:100-year flood-line, or subject to any flooding?		YES	NO
	If YES, please provide detail description.			
9.	Is any other approval that falls outside of this By-law, necessary for the implementing of the intended development?		YES	NO
	If YES, please provide detail description.			
10.	Is the proposed application in line with the approved municipal spatial development frameworks?		YES	NO
	If NO, please provide site specific circumstances in accordance with section 22(2) of SPLUMA.			
11.	What arrangements will be made regarding the following services for the development? (Full Engineering Reports must be supplied, where applicable)			
	Water supply			
	Electricity supply			
	Sewerage and waste- water			
	Stormwater			
	Road Network			

SECTION 6						
List of Attachments and supporting information required/ submitted with checklist for Municipal use (Mark with an X / number of annexure)						
Checklist (for the completion by the Applicant only)				Checklist (for the use of Municipality only)		
YES	NO	ANNEXURE NO	DOCUMENT	YES	NO	N/A
			Completed Comprehensive Application form			
			Complete Motivation Report			
			Board of Directors' / Trustees' resolution / consent			
			Power of Attorney			
			Certified copy of Title Deed(s)			
			Orientating Locality Map			
			Basic Layout Map			
			Land Use Management Scheme Zoning Map Extract			
			Land Use Map			
			Detail Layout Map			
			Ortophoto / Aerial survey map			
			Site Development Plan			
			Extract of Spatial Development Framework			
			Contour map			
			Surveyor General diagrams (cadastral information)			
			Conveyancer's certificate			
			Bondholder's consent			
			Homeowners' Association consent / stamp of approval			
			Special endorsement/proxy			
			Mineral rights certificate (together with mineral holder's consent)			
			Prospecting contract			
			Registered servitudes (deed and map/plan)			
			Status report from Surveyor General – street closure or state-owned land			
			Detail Engineering Services plan (Bulk and internal)			
			Environmental Impact Study/Assessment (EIA – Environmental Authorisation)			
			Archaeological Impact Assessment (AIA) - approval from relevant Department			
			Heritage Impact Assessment - approval from relevant Authority			

			Traffic impact study/assessment (Certified as acceptable by the relevant roads authorities)			
			Geotechnical report (NHBR Standards)			
			Centlec services report			
			Flood line certificate - certificate from relevant Department			
			Subdivision of Agricultural land - permission from relevant Department Agriculture			
			List of sections in Title Deed conditions to be removed /amended			
			Public participation report and minutes of meetings			
			Other (specify):			
			Seven (7) sets of full colour documentation copies			

**SECTION 7**

Declaration

Note:

If application is made by a person other than the owner, a Power of Attorney is compulsory. If the property is owned by more than one (1) person, the signature of each owner is compulsory. Where the property is owned by a company, trust, or other juristic person, a certified copy of the Board of Directors/Trustees' resolution is compulsory

I hereby certify the information supplied in this application form to be complete and correct and that I am properly authorized to make this application.

Applicant's/ Owner's Signature		Date	
Full name (print)			
Professional capacity (Reg. no)			
Applicant's ref			

**SECTION 8**

Prescribed Notice and advertisement procedures (for the completion and use of Municipality only)

Checklist for required advertisement procedure			Checklist for required proof of advertisement		
YES	NO	DOCUMENTATION AND STEPS TO BE TAKEN	YES	NO	DOCUMENTATION TO BE PROVIDED AS PROOF
		Notice to be placed in the Local Newspaper			Proof of Notice in Local Newspaper Note: The original newspaper advertisement or full colour copy, indicating page number and date.
		Notice to be placed in the Provincial Gazette (for 2 consecutive weeks)			Proof of Notice in the Provincial Gazette Note: The original newspaper advertisement or full colour copy, indicating page number and date.
		Notices to neighbours Note: The map indicating the neighbouring erven and list of neighbours will be provided. If the			Proof of Notice to neighbours Note: Option 1: The signed notices of all surrounding neighbours, as identified by the Municipality, must be provided.

		applicant chooses to deliver the notices per hand (Option 1), two (2) copies of the notice must be provided on or before the date of the notice to each neighbour. One copy of the notice must be signed by the respective party (neighbour) to be handed back to the Municipality. Alternatively (Option 2), the notices can be sent via registered post.			Note: Option 2: The proof of the registered mail must be provided to the Municipality
		Notice to be placed on the site Note: The notice provided must be placed on the site in a laminated A3 format (two language formats separate on A3) on or before the date of the notice.			Proof of Notice in site Two colour photos of the notice on site must be provided of which one (1) is close up and the other one (1) is taken from a distance in order to see the placing on the site itself.
		Public Meeting Note: The holding of a public meeting in order to inform the general public of the application.			Proof of Public Meeting The applicant must provide proof of the agenda, the attendance register and minutes of the meeting to the Municipality.
		Any Additional components (please list)			Proof of additional components

## SECTION 9

Power of Attorney / Proxy

I/We, the undersigned,

(FULL NAMES AND ID NUMBER)

nominate, constitute and hereby appoint

(FULL NAMES AND ID NUMBER, AS WELL AS NAME OF FIRM REPRESENTED)

with the power of substitution to be my lawful agent in my name, place and to handle all aspects in my stead, pertaining to the application(s) for

(FULL DETAILS OF THE APPLICATION LODGED)

with regards to

(DESCRIPTION OF PROPERTY)

and in general, to realize the proposed goals and whatever may be necessary, in a fashion as complete and efficient as I/we would have done if I/we were personally representing this matter. I/we ratify, allow and confirm herewith, and promise to ratify, allow and confirm whatever my/our

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agent does lawfully within this matter.				
SIGNED at	_____	on this	_____	day of
	(TOWN)		(DAY)	
			(MONTH)	20
			(YEAR)	
In the presence of the undersigned witnesses				
Witness 1	_____	Signature of Assigner/ Landowner		
Witness 2	_____			

**PART B – ABRIDGED APPLICATION FORM**

Applications for land use amendments (give full details in the attached motivation report, if space provided is not enough)

SECTION 1			
Details of Applicant (See Planning Profession Act, Act 36 of 2002)			
Name:	_____	Contact person:	_____
Postal address:	_____	Physical address:	_____
Code:	_____	Code:	_____
Tel no:	_____	Cell no:	_____
Fax no:	_____	E-mail address:	_____
SACPLAN Reg No:	_____		

SECTION 2			
Details of Landowner (If different from Applicant)			
Name:	_____	Contact person:	_____
Postal address:	_____	Physical address:	_____
Code:	_____	Code:	_____
Tel no:	_____	Cell no:	_____
Fax no:	_____	E-mail address:	_____
If the applicant is not the registered owner(s), attach a power of attorney from the registered owner(s) to the application. This also applies if the person applying is still busy obtaining the land parcel and if the land parcel is owned by a company or more than one (1) person.			



**SECTION 3**

Details of Property (In accordance with Title deed)

Erf/ Farm No and portion description:		Area (m <sup>2</sup> or ha):	
Physical address of erf/farm:		Existing zoning:	
Location from nearest town:		Existing land use:	
Town/suburb:		Area applicable to application:	
Registration Division:		Title deed no:	

**SECTION 4**

Type of Application being submitted (Mark with an X and give details)

Application for: (Please mark applicable block with a cross)	
The removal, amendment or suspension of a restrictive condition, servitude or reservation registered against the title of land which is necessary in order to allow for an application for rezoning and subdivision by the Responsible Authority.	
Temporary departure to allow the use of a building or land for a period of at most five (5) years, for a purpose for which no specific zone has been provided for in these regulations.	
Application for Consent Use, including Occupational Practice, excluding Temporary Housing.	
Application for Subdivision in accordance with the LUS.	
Application for subdivision requiring abridged processes.	
The amendment or cancellation of a general plan of a township.	
The permanent closure of a municipal road (public road) or a public open place.	
The consolidation of any land portion.	
Application for the extension of the approval period of an application before the lapsing thereof.	
Please give a short description of the scope of the project	

**SECTION 5**

Detail of application (Mark with an X and give detail where applicable)

1.	Is the property subjected to a bond?	YES	NO
	If YES, attach the bondholder's consent to the application.		

	Name of bondholder				
2.	Has any application on the property previously been considered?			YES	NO
	If YES, when and provide particulars, including type of application, all authority reference numbers and decisions?				
3.	Does the proposal apply to the entire land parcel?			YES	NO
	If NO, indicate the size of the portion of the land parcel concerned, as well as what it will be used for, including the remaining extent.				
4.	Are there any restrictions, such as servitudes, rights, bonds, etc. with regard to the land parcel in terms of the deed of transfer that should be removed, as it might have an influence on this application?			YES	NO
	If YES, please provide detail description.				
5.	Are there any physical restrictions (e.g. steep inclines, unstable land formations, marshes, etc.) that might influence the intended development?			YES	NO
	If YES, name full particulars and state how the problem will be solved and submit detail layout plan.				
6.	Is any portion of the land parcel in a flood plain of a river beneath the 1:50 / 1:100-year flood-line, or subject to any flooding?			YES	NO
	If YES, please provide detail description.				
7.	Is any other approval that falls outside of this By-law, necessary for the implementing of the intended development?			YES	NO
	If YES, please provide detail description.				
8.	What arrangements will be made regarding the following services for the development? (Full Engineering Reports must be supplied, where applicable)				
	Water supply				
	Electricity supply				
	Sewerage and waste- water				
	Stormwater				
Road Network					

## SECTION 6

List of Attachments and supporting information required/ submitted with checklist for Municipal use  
(Mark with an X / number of annexure)

Checklist (for the completion by the Applicant only)				Checklist (for the use of Municipality only)		
YES	NO	ANNEXURE NO	DOCUMENT	YES	NO	N/A
			Completed Abridged Application form			

			Board of Directors' / Trustees' resolution / consent			
			Power of Attorney			
			Certified copy of Title Deed(s)			
			Bondholder's consent			
			Orientating Locality Map			
			Basic Layout Map			
			Homeowners' Association consent / stamp of approval			
			Special endorsement/proxy			
			Registered servitudes (deed and map/plan)			
			Surveyor general diagrams (cadastral information)			
			Status report from Surveyor General – street closure or state-owned land			
			Traffic impact study/assessment (Certified as acceptable by the relevant roads authorities)			
			Eskom services report			
			Flood line certificate - certificate from relevant Department			
			Subdivision of Agricultural land - permission from relevant Department Agriculture			
			List of sections in Title Deed conditions to be removed /amended			
			Other (specify):			
			Seven (7) sets of full colour documentation copies			

### SECTION 7

#### Declaration

#### Note:

If application is made by a person other than the owner, a Power of Attorney is compulsory. If the property is owned by more than one (1) person, the signature of each owner is compulsory. Where the property is owned by a company, trust, or other juristic person, a certified copy of the Board of Directors/Trustees' resolution is compulsory

I hereby certify the information supplied in this application form to be complete and correct and that I am properly authorized to make this application.

Applicant's/ Owner's Signature		Date	
Full name (print)			
Professional capacity (Reg. no)			
Applicant's ref			

### SECTION 8

Prescribed Notice and advertisement procedures (for the completion and use of Municipality only)

Checklist for required advertisement procedure	Checklist for required proof of advertisement
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YES	NO	DOCUMENTATION AND STEPS TO BE TAKEN	YES	NO	DOCUMENTATION TO BE PROVIDED AS PROOF
		Notice to be placed in the Local Newspaper			Proof of Notice in Local Newspaper Note: The original newspaper advertisement or full colour copy, indicating page number and date.
		Notice to be placed in the Provincial Gazette (for 2 consecutive weeks)			Proof of Notice in the Provincial Gazette Note: The original newspaper advertisement or full colour copy, indicating page number and date.
		Notices to neighbours Note: The map indicating the neighbouring erven and list of neighbours will be provided. If the applicant chooses to deliver the notices per hand (Option 1), two (2) copies of the notice must be provided on or before the date of the notice to each neighbour. One copy of the notice must be signed by the respective party (neighbour) to be handed back to the Municipality. Alternatively (Option 2), the notices can be sent via registered post.			Proof of Notice to neighbours Note: Option 1: The signed notices of all surrounding neighbours, as identified by the Municipality, must be provided. Note: Option 2: The proof of the registered mail must be provided to the Municipality
		Notice to be placed on the site Note: The notice provided must be placed on the site in a laminated A3 format (two language formats separate on A3) on or before the date of the notice.			Proof of Notice in site Two colour photos of the notice on site must be provided of which one (1) is close up and the other one (1) is taken from a distance in order to see the placing on the site itself.
		Public Meeting Note: The holding of a public meeting in order to inform the general public of the application.			Proof of Public Meeting The applicant must provide proof of the agenda, the attendance register and minutes of the meeting to the Municipality.
		Any Additional components (please list)			Proof of additional components

## SECTION 9

Power of Attorney / Proxy

I/We, the undersigned,

-----

(FULL NAMES AND ID NUMBER)				
nominate, constitute and hereby appoint				
(FULL NAMES AND ID NUMBER, AS WELL AS NAME OF FIRM REPRESENTED)				
with the power of substitution to be my lawful agent in my name, place and to handle all aspects in my stead, pertaining to the application(s) for				
(FULL DETAILS OF THE APPLICATION LODGED)				
with regards to				
(DESCRIPTION OF PROPERTY)				
and in general to realize the proposed goals and whatever may be necessary, in a fashion as complete and efficient as I/we would have done if I/we were personally representing this matter. I/we ratify, allow and confirm herewith, and promise to ratify, allow and confirm whatever my/our agent does lawfully within this matter.				
SIGNED at	_____	on this	_____	day of
	(TOWN)		(DAY)	20
			(MONTH)	(YEAR)
In the presence of the undersigned witnesses				
Witness 1	_____	Signature of Assigner/ Landowner		
Witness 2	_____			

#### SCHEDULE 4

#### TERM OF OFFICE AND CONDITIONS OF SERVICE OF MEMBERS OF MUNICIPAL PLANNING TRIBUNAL

(read with section 82)

- (1) A member of the Municipal Planning Tribunal is appointed for a term of five (5) years which may be renewable once.
- (2) The office of a member becomes vacant if—
  - (a) the member is absent from two (2) consecutive meetings of the Municipal Planning Tribunal without the leave of the chairperson of the Municipal Planning Tribunal;
  - (b) the member tenders his resignation in writing to the chairperson of the Municipal Planning Tribunal;
  - (c) the member is removed from the Municipal Planning Tribunal under point (3) below ; or the member dies.
- (3) The Council may, after having given the member an opportunity to be heard, remove a member of the Municipal Planning Tribunal if —

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- (a) sufficient grounds exist for his/her removal;
  - (b) a member contravenes the code of conduct under heading 6) below;
  - (c) a member becomes subject to a disqualification from membership of the Municipal Planning; (d) Tribunal as referred to in section 38(1) of the Spatial Planning and Land Use Management Act.
- (4) A vacancy on the Municipal Planning Tribunal must be filled by Council in terms of a resolution.
- (5) A member who is appointed by virtue of point (4) above, holds office for the unexpired portion of the period for which the member he replaces was appointed.
- (6) Members of the Municipal Planning Tribunal must be appointed on the terms and conditions, and must be paid the remuneration and allowances, and be reimbursed for expenses as determined by the relevant legislation.
- (7) The Municipality must publish a 90 day notice before the expiry of every term of office Municipal Planning Tribunal.

#### **SCHEDULE 5**

#### **CODE OF CONDUCT FOR MEMBERS OF THE MUNICIPAL PLANNING TRIBUNAL**

(read with section 82)

#### **General conduct**

- (1) A member of the Municipal Planning Tribunal must at all times—
- (a) act in accordance with the principles of accountability and transparency;
  - (b) disclose his personal interests in any decision to be made in the planning process in which he serves or has been requested to serve;
  - (c) abstain completely from direct or indirect participation as an adviser or decision-maker in any matter in which he has a personal interest or may constitute a conflict of interest and leave any chamber in which such matter is under deliberation.
  - (d) present a professional and ethical conduct.
- (2) The Municipal Tribunal or a member of the Municipal Planning Tribunal may not—
- (a) use the position or privileges of a Municipal Planning Tribunal member or confidential information obtained as a Municipal Planning Tribunal member for private gain or to improperly benefit another person; and
  - (b) participate in a decision concerning a matter in which that Municipal Planning Tribunal member or that members spouse, partner or business associate, has a direct or indirect personal or private business interest.
  - (c) make any derogatory statements against an official or administration
  - (d) assume the function of council in terms of policy formulation.

#### **Gifts**

- (3) A member of the Municipal Planning Tribunal may not receive or seek gifts, favours or any other offer under circumstances in which it might reasonably be inferred that the gifts, favours or offers were intended or expected to influence a participant's objectivity as an adviser or decision-maker in the planning process.
-

**Undue influence**

- (4) A member of the Municipal Planning Tribunal may not—
- (a) use the power of any office to seek or obtain special advantage for private gain or to improperly benefit another person that is not in the public interest;
  - (b) use confidential information acquired in the course of his duties to further a personal interest;
  - (c) disclose confidential information acquired in the course of his duties, unless required by law to do so or by circumstances to prevent substantial injury to third persons; and
  - (d) commit a deliberately wrongful act that reflects adversely on the Municipal Planning Tribunal, the Municipality, the government or the planning profession by seeking business by stating or implying that he is prepared, willing or able to influence decisions of the Municipal Planning Tribunal by improper means.

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[PROVINCIAL NOTICE NO. 85 OF 2021]

**MANGAUNG METROPOLITAN MUNICIPALITY****PROMULGATION NOTICE****Student Accommodation By-law**

Passed by Council on Thursday, 30 September 2021  
Under Item 179.4 – 30/09/2021

- 1) Notice is hereby given in terms of the provisions of section 13 of the Local Government: Municipal Systems, 2000 (Act No 32 of 2000), as amended, that the Council of Mangaung Metropolitan Municipality passed the new set of Student Accommodation By-law, at the sitting dated 30 September 2021.
- 2) The new Student Accommodation By-law is now applicable and enforceable throughout the jurisdiction of the Mangaung Metropolitan Municipality (MAN).
- 3) The By-law is published for the purpose of general public notification.

**Mr. Sello More**  
**Acting City Manager**

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**BY-LAW RELATING TO STUDENT ACCOMMODATION**

To provide for the regulation and control of activities, processes and procedures for the establishment of student accommodation that will uphold constitutional requirements; to provide for the minimum standards required for student accommodation both on-campus and off-campus and supplied by the tertiary institution or a private accommodation provider; to provide for processes and procedures regulating the land use management application process for student accommodation; to provide for guidelines that will enable the assessment of land use management applications relating to student accommodation; and to provide for matters incidental thereto.

**PREAMBLE**

WHEREAS it is a *fait accompli* that tertiary institutions are experiencing an explosion in student enrolment and it is expected that student numbers will grow at a rate of about 2% per annum; and

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WHEREAS the number of beds available at tertiary institutions equal only about 20% of total enrolment and the lack of sufficient and adequate on-campus accommodation is resulting in overcrowding, jeopardising students' academic endeavours and creating significant health and safety risks; and

WHEREAS the provision of adequate and durable student accommodation has become an urgent priority at virtually all tertiary institutions in South Africa; and

WHEREAS no legislation currently exists in South Africa pertaining to student accommodation, the Department of Higher Education and Training adopted a *Policy on the Minimum Norms and Standards for Student Housing at Public Universities* in 2015 (Government Gazette No. 39238, R897 dated 29 September 2015); and

WHEREAS carefully planned student accommodation has the potential to revitalize neglected areas; and

WHEREAS student rental properties may lead to deteriorating infrastructure, declining property values and potential ghettoisation of an area and can have a negative impact on the surrounding communities; and

WHEREAS the private sector is a significant role player in the provision of student accommodation; and

WHEREAS in accordance with Section 156(1) of the Constitution read with Schedules 4B and 5B, local municipalities are responsible for municipal planning, land management, child-care, health and building regulation; and

WHEREAS Section 24 of the Constitution entrenches the rights of tenants and all residents of municipal area to "an environment that is not harmful" in a manner which is regulated in terms of the law and municipal planning;

WHEREAS municipalities have the right to make and administer by-laws for the effective administration of the matters which it has the right to administer in accordance with section 156(2) of the Constitution; and

NOW THEREFORE the Council of Mangaung Metropolitan Municipality enacts the By-law on Student Accommodation as follows:

## **ARRANGEMENTS OF THE BY-LAW**

### CHAPTER 1 – DEFINITIONS, INTERPRETATION AND APPLICATION

1. Definitions and Interpretations
2. Application of By-law

### CHAPTER 2 – AIM, PRINCIPLES, PURPOSE AND OBJECTS OF THE BY-LAW

3. Aim of the By-law
4. Principles of the By-law
5. Purpose and Objectives of the By-Law

### CHAPTER 3 – MINIMUM NORMS AND STANDARDS APPLICABLE TO STUDENT ACCOMMODATION

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6. Types of Student Accommodation
7. On-campus accommodation
8. Off-campus accommodation
9. Establishment of student accommodation
10. Location of Student Accommodation
11. Design Standards
12. General Terms and Conditions
13. Roles and Responsibilities of Key Role Players
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#### SCHEDULE 1

Compulsory Minimum Design Standards

#### SCHEDULE 2

General Terms and Conditions

### **CHAPTER 1 – DEFINITIONS, INTERPRETATION AND APPLICATION**

1. **Definitions and Interpretations**
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(1) In this By-law unless the context indicates otherwise-

**“accreditation certificate”** means an accreditation certificate issued in terms of section 13(4)(a);

**“Act”** means the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013), as published on 5 August 2013 and as may be amended from time to time;

**“additional information”** means any information that may be requested by the municipality which in its opinion is necessary to consider and decide on a land development application;

**“adjacent property(ies)”** means any property sharing a common boundary with a property(ies) which forms the subject of a land development application or touches any corner of the aforesaid property(ies) and will include a property that may be separated from the aforesaid property by a road or a roadway or a right of way servitude or a railway reserve or similar properties;

**“agent”** means a person authorized by the owner of land to make an application;

**“applicant”** means:

- (a) an owner(s); or
- (b) duly authorized person on behalf of the owner;  
of property(ies) or land within the jurisdiction of the municipality who submits a land development application or combination of land development applications contemplated in section 21 of this By-law;
- (c) a municipality; or
- (d) an organ of state;  
under whose control and management, the property(ies) or land falls;

**“application”** means an application submitted to the municipality referred to in section 17(1) of this By-law;

**“approval”** means a decision to approve a land development application (written permission or consent use) in terms of this By-law and land use management scheme by a decision-making person or body and may include any conditions under which the approval was granted;

**“block of flats”** as defined in terms of the land use management scheme;

**“building”** means a building as contemplated in the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977);

**“By-law”** means the Mangaung By-law on Student Accommodation, 2021;

**“certificate holder”** means a person who is the holder of a valid accreditation certificate issued in terms of section 13(4)(a) and includes in his absence from the premises a responsible person referred to in section 13(2)(c);

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**“commune”** as defined in terms of the land use management scheme;

**“community”** means residents that are living in a particular area within the municipal area;

**“conditions of approval”** means condition(s) imposed by the municipality in the approval of a land development application, including any conditions contained in the annexure(s) and/or plans and/or attachment(s) that form part of the approval and/or are referred to in the approval of the land development application;

**“consent use”** as defined in terms of the land use management scheme;

**“Council”** means the Council of the Mangaung Metropolitan Municipality as established in terms of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) and include any other committee of Council, Councillor or municipal official acting by virtue of powers delegated;

**“heritage resource”** means any place or object of cultural significance. Cultural significance means aesthetic, architectural, historical, scientific, social, spiritual, linguistic or technological value or significance in terms of the National Heritage Resources Act, 1999 (Act 25 of 1999);

**“landlord”** means the owner or operator of a student accommodation establishment that is leased and includes his/her duly authorized agent or a person who is in the lawful possession of the property from where accommodation is provided and has the right to lease or sub-lease it;

**“land use”** means the purpose for which land and/or buildings are/or may be used lawfully in terms of a land use management scheme, existing scheme, or in terms of any other authorization, permit or consent issued by an erstwhile authority or the municipality as its successor in title and includes any conditions related to such land use purposes;

**“land use management scheme”** means the Mangaung Land Use Management Scheme 2021;

**“land use right”** in relation to land, means the right to utilise that land in accordance with the zoning thereof, including any departure;

**“lease”** means an agreement of lease concluded between a tenant and a landlord in respect of a student accommodation establishment for studying purposes;

**“Municipality”** means Mangaung Metropolitan Municipality established by the Provincial Notice No. 155 of 2016 as published in the Provincial Gazette, Free State Province of 22 July 2016, issued in terms of section 12 of the Local Government: Municipal Structures Act 117 of 1998;

**“National Building Regulations”** means the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977) and any amendments thereto;

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“**notice**” means a written notice and “**notify**” means to give notice in writing which notice may include it being sent by electronic means or where the context requires a notice served or published in terms of this By-law in the Provincial Gazette or other media;

“**nuisance**” means any form of interference or encroachment that impacts negatively on a person’s right to the use and enjoyment of their property that may cause a material inconvenience to that person;

“**off-campus accommodation**” means units for accommodation off the premises of the tertiary institution, which can be privately owned and can vary from large blocks of tenement to multiple bedroom houses that house only students through to individual rooms in houses occupied by the homeowner;

“**on-campus accommodation**” means units for accommodation on the premises of the tertiary institution, which vary from large block of tenements to multiple bedroom houses that houses students;

“**owner**” as is defined in the Local Government: Municipal Property Rates Act, 2004 (Act 6 of 2004) and includes the following:-

- (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 whose name the right is registered;
- (c) in relation to a land tenure right referred to in paragraph (c) of the definition of “**property**”, means a person in whose name the right is registered or to whom it was granted in terms of legislation; or
- (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,

provided that a person mentioned below may for the purposes of this By-law be regarded by a municipality as the owner of a property in the following cases:

- (i) A trustee, in the case of a property in a trust excluding state trust land;
- (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 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 name 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 a municipality and is leased by it; or
- (viii) a buyer, in the case of a property that was sold by a municipality and of which possession was given to the buyer pending registration of ownership in the name of the buyer;

In terms of this By-law an “owner” refers to a “landlord”;

“**premises**” means premises in or upon which an accommodation establishment is or is to be conducted together with the land on which the same is situated and includes any outbuildings on such land;

**“private accommodation provider”** means a person/institution/owner/landlord that leases student accommodation and includes his/her duly authorized agent;

**“public-private partnership (PPP)”** means a cooperative arrangement between two or more public and private sectors, typically of a long-term nature, where a developer build a block of tenements and leases it for a fixed period to a tertiary institution;

**“resident”** means any person who lives, resides, inhabits, sleeps, or has an abode in any dwelling unit or residential building of any nature whatsoever which he uses as his fixed residential address;

**“rezoning”** means the change of the zoning or land use of property(ies) or land as contemplated in a land use management scheme;

**“rooms to let”** as defined in terms of the land use management scheme;

**“sectional title scheme”** means a land parcel with a building(s) where individual owners own sections of the building(s) and co-own the common property. A sectional title scheme can be a vertical block of apartments or loose-standing dwelling units which may be attached or detached. A sectional title scheme has a minimum of two (2) sections and can be used for residential or commercial purposes or a mixture of both;

**“site development plan”** as defined in the land use management scheme;

**“student”** means a person who is registered to study with a tertiary institution within the area of jurisdiction of the municipality and stays at an approved and accredited student accommodation establishment;

**“student accommodation establishment”** means an accommodation establishment which is a dwelling place for a student(s) who registered to study with a tertiary institution within the area of jurisdiction of the municipality and it has been approved by the municipality and accredited by the relevant tertiary institution. **“Accommodation establishment”** and **“student accommodation”** have a corresponding meaning;

**“student accommodation manager”** means the property owner, landlord or any person, other than a student, who resides permanently on the property or manage the establishment 24-hours a day and will be responsible for the control, management, administration of the students and student accommodation;

**“tenant”** means a legal occupant of a rented property; may have signed a lease agreeing to pay rent for the property. In terms of this By-law a “tenant” refers to a “student” as defined hereinabove;

**“tertiary institution”** refers to any institution providing further education, after graduating from High/Secondary School;

**“this By-law”** means any Section, Schedule, and/or Form to this By-law;

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**“unrelated persons”** means persons not living as one household;

**“use zone”** means an area of land, indicated by an appropriate colour on the land use management scheme maps, whereon the use is limited in accordance with the appropriate land use schedules;

**“zoning”** means the development rights and controls accorded to the property and its associated buildings in terms of a land use management scheme.

- (2) Any reference to erf or rural land refers to the Land Survey Act, 1997, (Act No 8 of 1997).
- (3) Any reference to the male gender includes the female gender and any reference to the plural will include the singular and vice versa, as the context may require.

## **2. Application of By-law**

- (1) (a) This By-Law applies to all newly established and existing student accommodation establishments throughout the jurisdictions of the municipality.  
(b) It is also applicable to every owner or operator and any student who stays in the approved and accredited student accommodation establishments.
  - (2) This By-Law binds every owner and every user of land, as well as all tertiary institutions and private accommodation providers within the jurisdiction area of the municipality including the state.
  - (3) When considering an apparent conflict between this By-Law and another law, a court must prefer any reasonable interpretation that avoids a conflict over any alternative interpretation that results in a conflict.
  - (4) Should there be any conflict in the interpretation of any provision or definition of this By-law and any other national or provincial legislation, this By-law shall prevail, having regard to Section 146, 147, 156(2), and 155(7) read with Schedule 4, Part B of the Constitution.
  - (5) No person shall operate a student accommodation establishment unless he is in possession of the necessary land use right and accreditation certificate issued to him by the municipality and tertiary institution in terms of section 14.
  - (6) A person who, at the date of commencement of this By-law, operates a student accommodation establishment referred to in subsection (5), shall within six months of that date, or within such extended period as the Council may on application made prior to the expiry of the said period of six months in writing allow, apply for the necessary land use rights and accreditation in terms of section 14 and if he fails to do so or his application is refused, he shall, if he continues to operate the student accommodation establishment after the expiry of that period or after such refusal be deemed to have contravened subsection (5).
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- (7) A person who operates a student accommodation establishment shall comply with all the provisions of this By-law and with the limitations, restrictions, terms and conditions imposed upon the approval or the accreditation of his establishment and if he fails to do so he shall be guilty of an offence for which the penalties referred to in section 25 shall be applicable.

## **CHAPTER 2 – AIM, PRINCIPLES, PURPOSE AND OBJECTS OF THE BY-LAW**

### **3. Aim of the By-law**

- (1) The aim of this By-law is to provide the minimum standards required for student accommodation, both on-campus and off-campus, that is suitable for students where they can live, learn and relax.

### **4. Principles of the By-law**

- (1) The By-law is *inter alia* based on the following principles:
- (a) to establish student accommodation that will uphold the requirements of the *Constitution of the Republic of South Africa* 108 of 1996 viz. the right to dignity, privacy, adequate housing, healthy and secure environment;
  - (b) to approve applications for student accommodation that will create an environment conducive for learning, living and relaxing; and
  - (c) to create a By-law that complies with good governance and compliance with legislation.

### **5. Purpose and Objectives of the By-Law**

- (1) The municipality shall manage the provision of student accommodation so that the land use does not encroach on the rights of existing residential areas and properties.
- (2) The purpose of the By-law is to regulate the establishment of student accommodations within the area of jurisdiction of the municipality by:
- (a) prescribing requirements and standards to be met for premises to be established as student accommodations;
  - (b) providing safe, neat, secure, law-abiding accommodations for students and surrounding neighbourhood; and
  - (c) ensuring good management and conducive environment for students for learning and living;
- (3) The objectives of the By-law are:
- (a) to set the minimum guidelines and standards that need to be complied with on all premises to be used for student accommodation;
  - (b) to set guidelines that will enable the assessment of land use management applications relating to student accommodation;
  - (c) ensure that the residential character of settlements adjacent to tertiary institutions are not materially and negatively affected by uncontrolled student accommodation; and
  - (d) maintain a balance between accommodating students in residential areas without negatively affecting surrounding property owners.
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**CHAPTER 3 – MINIMUM NORMS AND STANDARDS APPLICABLE TO STUDENT ACCOMMODATION****6. Types of Student Accommodation**

- (1) Student accommodation within the jurisdiction area of the municipality consists of on-campus accommodation and off-campus accommodation.

**7. On-campus accommodation**

- (1) On-campus accommodation consists of:
- (a) Student hostels: These are blocks of tenement with large numbers of individual or twin rooms, mainly on-campus and the property of the tertiary institution; and
  - (b) Flats: These are units consisting of single or twin rooms within a block of tenement, and the property of either the tertiary institution or private accommodation provider.

**8. Off-campus accommodation**

- (1) Off-campus accommodation and private student accommodation consist of:
- (a) Home accommodation, where students reside with family members or guardians;
  - (b) Single flat/apartment accommodation, where individual students enter into a lease agreement with a landlord for a studio or one-bedroomed apartment typically within the landlord's own house or garden or within a block of flats;
  - (c) Rooms to let;
  - (d) Communes;
  - (e) Privately owned accommodation, where individual students enter into a lease agreement to rent an individual room in a privately-owned house which is occupied by the homeowner;
  - (f) Privately-owned block of flats, which was purposely built as student accommodation, and where students from several institutions enter into fixed-period lease contracts with a landlord who retains the risk for occupancy levels; and
  - (g) Public-private partnership (PPP) accommodation, where a developer establishes a residence and leases it for a fixed period to a tertiary institution, at the end of which period the residence becomes the property of the university. PPP's are particularly useful when a tertiary institution cannot afford to build its own student accommodation and this By-law will facilitate these initiatives.

**9. Establishment of student accommodation**

- (1) Any type of student accommodation contemplated in sections 7 and 8, can be established within the area identified by the Municipality, provided that the necessary land use application process set out in this By-law has been complied with.

**10. Location of Student Accommodation**

- (1) On-campus accommodation must be situated within the campus security perimeter of a tertiary institution, to enable students to make full use of the academic, social, cultural and sporting programmes.
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- (2) No new off-campus accommodation will be allowed further than distance identified by the Municipality from a relevant tertiary institution.
- (3)
  - (a) Student accommodation shall only be in accordance with the land use management scheme.
  - (b) No student accommodation shall be allowed in an industrial area.

#### **11. Design Standards**

- (1) The Minimum Standards Code for the Accommodation and Housing of Students in South Africa (Government Gazette No. 39238, R897 dated 29 September 2015) shall be applicable to all providers of student accommodation (both public and private).
- (2) All student accommodation establishments anticipated in sections 7 and 8 of this By-law, shall comply with the minimum design standards as contemplated in Schedule 1 attached to this By-law.

#### **12. General Terms and Conditions**

- (1) All student accommodation establishments anticipated in sections 7 and 8 of this By-law, shall comply with the general terms and conditions contemplated in Schedule 2 of this By-law.
- (2) An application to operate a student accommodation establishment in a use zone where a dwelling house is a primary right, shall be submitted when 5 (five) or more unrelated persons are charged rental for accommodation on one property with or without the owner living on the property.
- (3) A rezoning application to operate a student accommodation establishment in any other use zone as is determined by the land use management scheme shall be submitted to the municipality.
- (4) Not more than 20 (twenty) students shall be accommodated in a single dwelling house.
- (5) The maximum number of persons that may be accommodated in any room designated as a bedroom in the accommodation establishment shall not exceed the maximum number of persons referred to in Schedule 2.
- (6) Wendy houses or any other wooden or steel structures may not be used as rentable space for the purposes of student accommodation.

#### **13. Roles and Responsibilities of Key Role Players**

- (1) The municipality shall-
    - (a) approve land use applications for student accommodation establishments;
    - (b) ensure and enforce compliance with the By-law; and
    - (c) close unauthorized and illegally operating student accommodations;
  - (2) The student accommodation owners shall-
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- (a) ensure that the necessary land use rights are in place. If not, submit an application to the municipality;
  - (b) register their student accommodation establishments with the municipality;
  - (c) appoint and ensure a student accommodation manager resides at the establishment or that the establishment is managed 24-hours a day, and provide the contact details to both the municipality and the tertiary institution;
  - (d) register with relevant tertiary institution for accreditation purposes;
  - (e) have a copy of Accreditation Policy and Code of Conduct of the relevant tertiary institution;
  - (f) ensure that the provisions of the By-law are implemented and complied with;
  - (g) keep the premises and buildings of the establishment in clean, hygienic and good conditions at all times; and
  - (h) conclude a lease agreement between himself/herself and every student residing at the accommodation.
- (3) The student accommodation manager shall-
- (a) ensure that the conditions of the accreditation certificate are complied with;
  - (b) ensure that the provisions of the By-law are implemented and complied with;
  - (c) permanently resides at the establishment or if the establishment is managed by an independent management company, that the establishment is managed 24-hours a day;
  - (d) ensure that the tenants of the accommodation establishment behave in an acceptable manner, at all times, and not cause or create any public nuisance, excessive noise, dumping or littering and parking illegally;
  - (e) keep the premises and buildings of the establishment in clean, hygienic and good conditions at all times; and
  - (f) provide his/her contact details to all the adjacent property owners.
- (4) The tertiary institutions shall-
- (a) accredit suitable student accommodation establishments on its Off-campus Accommodation data base and issue an accreditation certificate;
  - (b) keep a database of all accredited student accommodation establishments;
  - (c) provide owners of the student accommodation establishments with its Accreditation Policy and Code of Conduct; and
  - (d) discredit any unsuitable student accommodation establishments and notify the municipality of such discreditation.
- (5) The residing students shall-
- (a) conclude a lease agreement with the approved and accredited student accommodation establishment owners;
  - (b) comply with Code of Conduct of the tertiary institution they enrolled with; and
  - (c) behave in an acceptable manner, at all times, and not cause or create any public nuisance, dumping or littering and parking illegally.
- 14. Applications for land use rights and accreditation**
- (1) A person who is referred to in section 2(6) and a person who intends operating a student accommodation establishment shall apply-
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- (a) for accreditation of the student accommodation establishment or proposed student accommodation establishment to the tertiary institution; and
  - (b) for the necessary land use rights as contemplated in sections 12(2) and 12(3) read with the Land Use Management Scheme to the municipality in writing on the prescribed form referred to in section 17(3).
- (2) A person to whom an accreditation certificate has been issued in terms of subsection (1)(a) shall at all times publicly display such certificate in a conspicuous place in the student accommodation establishment.
- (3) In the event of the transfer of the management of an accommodation establishment to a new manager, the new manager shall, within two months after transfer, notify the tertiary institution of the change in management.
- (4) The accreditation referred to in subsection (1)(a) will be cancelled if the conditions of the certificate are not complied with.

#### **15. Nuisance**

- (1) No activities shall be carried on which are or are likely to be a source of nuisance, disturbance or annoyance to residents of other dwelling-houses, flats or residential buildings or portions thereof.
- (2) Musical sound radiating from the premises may not be audible beyond the boundaries of the premises.

#### **16. Building Plans**

- (1) The safety, security and structure of the building shall be in accordance with the National Building Regulations.
- (2) After approval of the land use application, the owner shall submit a site development plan and building plans in accordance with the National Building Regulations to the municipality for approval.

### **CHAPTER 4 - APPLICATION PROCEDURES**

#### **17. Lodging of Application**

- (1) The owner of land or his agent may apply to the municipality in terms of this Chapter for its approval in relation to the development of the land concerning:
- (a) a rezoning of land; or
  - (b) a consent use provided for in the land use management scheme.
- (2) The applications contemplated in subsection (1) must be lodged in accordance with and must comply with all requirements contained in the Municipal Land Use Planning By-law 2021 of the municipality
- (3) The application must be submitted with a comprehensive application and be accompanied by all the relevant documents as prescribed by the Municipal Land Use Planning By-law 2021.
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- (4) (a) Each application shall be assessed on its own merit and special attention shall be given to-
- (i) the impact of the proposed use to the historical character of the dwelling house;
  - (ii) the impact of the student accommodation in densely developed areas such as group housing schemes; and
  - (iii) the impact of the student accommodation on the surrounding properties and the area it is located in.
- (b) Any development shall be in accordance with the requirements of the Municipal Spatial Development Framework and other Precinct Plans.

- (5) The municipality may request any additional information required to evaluate the application.

#### **18. Relevant Application Documents**

- (1) An application contemplated in section 14(1)(b), must be accompanied by all the relevant documentation and information required in the Municipal Land Use Planning By-law 2021 of the municipality.
- (2) Additional to the information as contemplated in subsection (1)(a) the following documents, must form part of the application:
- (a) A permit or comments issued by the Provincial Heritage Resources Authority pertaining to a heritage resource (if applicable);
  - (b) An affidavit that the owner permanently resides on the property and/ or a full-time manager has been appointed to manage the establishment and/or or that the establishment is managed 24-hours a day;
  - (c) A letter from the tertiary institution that confirms that the property has been registered on the Off-campus Student Accommodation data base to provide accommodation for students;
  - (d) Application motivation report (covering desirability, parking, number of students, room sizes, number of bedrooms, etc); and
  - (e) should any other legislation or authority require any other actions, proof of compliance to such prerequisites.

#### **19. Publication of Application**

- (1) The application for student accommodation shall be advertised in accordance with the prescriptions of the Municipal Land Use Planning By-law 2021 of the municipality.

#### **20. Evaluation Criteria**

- (1) Chapter 7 of the Municipal Land Use Planning By-law 2021 shall apply *mutatis mutandis* to the decision making and evaluation process set out in this By-law.
- (2) The municipality will take the following into account when considering applications for approval:
- (a) The applicable land use management scheme and municipal principles and policies.
  - (b) Principles and policies established for such applications by the National and Provincial spheres of government.
  - (c) Any objection received on or before the closing date in response to a publication of the application, as well as comments received from other organs of the state.
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- (d) Any response received from the applicant to objections or comments made;
  - (e) The impact of the proposed use on the amenity of the surrounding area and the anticipated impact on the character of the area, including but not limited to impact on traffic flow, noise and pollution generation.
- (3) Applications will be evaluated on the basis of the following factors:
- (a) need and desirability of the contemplated utilization of the land concerned;
  - (b) spatial guidelines, such as the municipality's Spatial Development Framework, Local Spatial Development Framework or Precinct Plans.
  - (c) effects on the existing rights (except any alleged right to protect against trade competition).
  - (d) the safety and welfare of the community.
  - (e) the preservation of the heritage, natural and developed environment.

## **21. Conditions of Approval**

- (1) The municipality may approve or refuse an application and may attach any condition that is consistent with any applicable land use management scheme and may include provisions not contained in any applicable land use management scheme or that may be more or less restrictive than the standard provisions applying to the zone concerned.
- (2) An application approved by the municipality will lapse if the land concerned has not been utilized within the time specified by the land use management scheme after the date on which the approval was granted, provided that the municipality may grant an extension of such time if requested to do so in writing before the application has lapsed.
- (3) Conditions of approval imposed by the municipality will have the same force and effect as if they were part of the applicable land use management scheme.
- (4)
- (a) The municipality may terminate any land use right granted or change conditions relating to a consent use granted if any breach of approval or conditions of approval has, in the opinion of the municipality, taken place.
  - (b) The municipality may request the breach to be remedied within a specified period of time.
- (5) In the event that there are objections to the decision made by the municipality with regard to the application, an appeal to review the decision must be submitted within the time specified by the Municipal Land Use Planning By-law 2021.
- (6) The owner or student accommodation manager must reside on the accommodation or be managed 24-hours a day to ensure, *inter alia*, the compliance with this By-law.
- (7) An affidavit to confirm the presence of the owner or student accommodation manager on the property or that the establishment is managed 24-hours a day, as required by subsection (6) above, must accompany the application.

## **22. Non-Compliance with Conditions of Approval**

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- (1) If approval conditions are not complied with, the Planning Department will issue a written notice to the owner and/or student accommodation manager to rectify any irregularities within 7 (seven) days.
- (2) If complaints are received with regard to the approved student accommodation, the Planning Department will evaluate the validity of the complaints and where applicable, notify the owner and/or student accommodation manager about the complaints and further give a written notice to the owner and/or student accommodation manager to comply with the conditions put by the municipality.
- (3) Failure to comply with subsections (1) and (2) above may lead to the municipality declaring the accommodation closed and will notify the relevant tertiary institution(s) to discredit the accommodation.

### **23. Withdrawal and Lapsing of an Approval**

- (1) The consent use approval to establish a student accommodation will be withdrawn under the following circumstances:
  - (a) When the property is alienated.
  - (b) Valid objections have been received and an interdict against the owner has been obtained.
  - (c) Where the accommodation is a cause of nuisance to surrounding neighbourhood.
  - (d) Where the relevant institution has discredited the accommodation.
  - (e) Where the Council has declared the accommodation closed in terms of violation of the approval conditions imposed or any other provisions of this By-law.

### **24. Appeal Against Decision**

- (1) Any person (applicant or objector) who is not satisfied with a decision of the municipality has the right to appeal the decision.
- (2) The affected person must lodge his appeal with the Appeals Authority within the period of twenty-one (21) days upon the receipt of the notice of the decision.
- (3) Any appeal shall comply with section 88 of the Municipal Land Use Planning By-law 2021.
- (4) The Appeals Authority must consider and decide on the appeal within the period of ten (10) working days.
- (5) The decision by the Municipal Appeals Tribunal is final and binding.

## **CHAPTER 5 - OFFENCES AND PENALTIES**

### **25. Offences and Penalties**

- (1) Any person who—
    - (a) commits any act which constitutes a nuisance whilst on the premises, or, being an occupant of the premises, in any public place adjoining the premises;
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- (b) whilst on the premises indecently exposes his person to the public view or in any of the common parts of the premises;
- (c) sleeps in any part of the premises other than a bedroom assigned to him for that purpose or occupies or uses any part of the premises for a purpose other than that for which it was designed;
- (d) throws or discards any object onto adjoining property or urinates in view of the public or a public place;
- (e) creates any disturbance of the peace on the premises;
- (f) refuses to leave the premises when lawfully required to do so in terms of the certificate referred to in section 14(1)(a); and
- (g) fails to comply with the terms of any notice served upon him in terms of these By-laws;

shall be guilty of an offence. The penalties provided for by subsections (2) (3) and (4) shall apply *mutatis mutandis* to any offence stipulated in this subsection.

- (2) Any person who operate a student accommodation establishment without a municipal approval and accreditation at a tertiary institution shall be liable to a fine not exceeding R100 000 (hundred thousand rand).
- (3) In the case of continuous offence, an additional fine of one thousand rand (R1 000) will be imposed for each day on which the offence continues.
- (4) The stipulations of sections 13(1)(c) and 22 shall apply *mutatis mutandis* to any offence set out in as well as the non-compliance with any condition of this By-law.
- (5) Any other offence, in violation of the By-law, will be determined by the Magistrate.

## CHAPTER 6 – MISCELLANEOUS

### 26. Transitional Arrangements

- (1) The municipality shall, by public notice, call all the unregistered student accommodation establishments within the area of jurisdiction of the municipality to apply for approval and accreditation.
  - (2) All the unregistered student accommodation establishments shall apply for accreditation with the tertiary institution within the period of six (6) months upon the promulgation of this By-law in the provincial gazette.
  - (3) Any unregistered student accommodation establishment that have not registered within the period set out in the public notice to be issued by the municipality, prescribing deadline for accreditation of existing student accommodation establishments, shall be operating illegally after such a prescribed date and shall be liable to a fine contemplated in section 25(2).
  - (4) The applications for existing unregistered student accommodation establishments must also comply with the application procedure contemplated in chapter 4 of this By-law.
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- (5) Any new student accommodation establishments after the coming into operation of this By-law must apply, in terms of the application procedure contemplated in chapter 4 of this By-law, before they can operate, failing which the owner shall be liable to a fine contemplated in section 25(2).
- (6) (a) An existing student accommodation establishment that received the land use rights in terms of a previous act, policy or by-law may continue with the allocated land use rights.
- (b) Sections 13, 14, 15, 16, 21, 22, 23 and 25 shall apply *mutatis mutandis* on accommodation establishments contemplated in subsection (a).

## 27. Short Title and Commencement

- (1) This By-law is called Mangaung, By-law on Student Accommodation and comes into effect on the date of promulgation thereof in the Free State Provincial Gazette.

## SCHEDULES

### SCHEDULE 1

#### COMPULSORY MINIMUM DESIGN STANDARDS

(read with section 11)

- (1) All student accommodation establishments shall comply with the minimum design standards set out hereunder:

#### A. Student hostels, Flats, Single flat/apartment accommodation, Privately-owned block of flats, Public-private partnership (PPP) accommodation

Type	Minimum Standard	
	Size	Facilities
Single room	6m <sup>2</sup> for existing structures 8m <sup>2</sup> for new structures	Minimum Standards Code
Double room	14m <sup>2</sup>	
Parking		Parking will be provided at a ratio of 0,4 per bed Parking for tenants and visitors shall be accommodated within the boundaries of the property No parking in front of driveways, in the street and on pedestrian walkways is permitted
Management		Accommodation manager



Type	Minimum Standard	
	Size	Facilities
Accreditation with Tertiary Institution		Yes
Land Use Application		Rezoning on all use zones Site development plan and building plan approval required

**B. Home accommodation, Room in a Residential dwelling**

Type	Minimum Standard	
	Size	Facilities
No requirement		

**C. Communes**

Type	Minimum Standard	
	Size	Facilities
Single room	6m <sup>2</sup> for existing structures 8m <sup>2</sup> for new structures	Minimum Standards Code
Double room	14m <sup>2</sup>	
Parking		Parking will be provided at a ratio of 0,4 per bed Parking for tenants and visitors shall be accommodated within the boundaries of the property No parking in front of driveways, in the street and on pedestrian walkways is permitted
Management		Accommodation manager
Accreditation with Tertiary Institution		Yes
Land Use Application		Consent use on use zone where dwelling house is a primary right with not more than ten (10) rooms or twenty (20) students Rezoning on all other use zones or in the case of more than ten (10) rooms or twenty (20) students Site development plan and building plan approval required

Type	Minimum Standard	
	Size	Facilities
Number of rooms allowed		Ten (10) rooms and not more than twenty (20) students shall be accommodated in a single dwelling house

## SCHEDULE 2

### GENERAL TERMS AND CONDITIONS

(read with section 12)

- (1) All student accommodation establishments (excluding home accommodation) shall comply with the general terms and conditions set out hereunder:
  - (a) Council Approval  
A student accommodation must be approved by the municipality and be established on a properly zoned property.
  - (b) Accreditation  
A student accommodation facility must be accredited by a relevant tertiary institution(s) and the owner must be provided with the accreditation policy and code of conduct of the institution(s), if such exists.
  - (c) Alterations
    - (i) If the accommodation is established in the dwelling house, the residential character of the dwelling house may not be altered in a manner that, in the opinion of the Council, will detract from the character of a dwelling house.
    - (ii) No alterations will be permitted unless approved by the municipality by means of approved building plans.
    - (iii) The rooms in a student accommodation establishment may only be used as indicated in building plans as approved by the municipality.
  - (d) Number of students/rooms
    - (i) Not more than two (2) students may be accommodated in any double bedroom and such double bedroom shall have a floor area of not smaller than fourteen square metres (14 m<sup>2</sup>).
    - (ii) In cases where students are accommodated in a single bedroom, such single bedrooms shall have a floor area of not smaller than six (6) square metres (6 m<sup>2</sup>) for existing structures and eight (8) square metres (8m<sup>2</sup>) for new structures.
    - (iii) No overcrowding is allowed.
  - (e) Parking
    - (i) Parking for tenants and visitors shall be accommodated within the boundaries of the property.
    - (ii) No parking in front of driveways, in the street and on pedestrian walkways is permitted.

- (f) Cooking
- (i) No cooking of meals shall be permitted in individual bedrooms or any common area except in an area designated on an approved building plan as a kitchen or braai area.
  - (ii) Cooking facilities should at least be a stove, a fridge, a sink, lockable cupboards, a microwave oven and a workplace, that can be used by a maximum of 15 (fifteen) students.
- (g) Ablution facilities
- No more than five (5) students must share a bath or shower and toilet.
- (h) Social facilities
- There should be a general social area (common entertainment area/meeting & TV room) at a ratio of at least one and a half square metres (1.5 m<sup>2</sup>) per student.
- (i) Public nuisance
- (i) The accommodation shall not cause or create any nuisance to neighbouring residents.
  - (ii) Nuisance in this regard may include excessive noise, particularly late at night or in regard to regular partying.
  - (iii) A 24 (twenty-four) hour contact number to which residents or anyone can report any nuisance must be provided by the accommodation manager or the owner.
- (j) Screening and Landscaping
- (i) Where the student accommodation adjoins other residential properties a 2m high screen wall shall be erected between the accommodation establishment and the other residential properties.
  - (ii) The municipality may prescribe that any parking area, drying yards and/or entertainment areas be screened from neighbouring residential properties and/or public streets.
  - (iii) In order to uphold the residential character of the student accommodation establishment landscaping in accordance with an approved landscaping plan will be implemented.
  - (vi) The general provisions of the land use management scheme shall apply.
- (k) Lease agreement
- (i) There must be a lease agreement concluded between the owner and all students residing at the student accommodation concerned.
  - (ii) The agreement must, *inter alia*, provide for the management issues regarding the accommodation facility.
- (l) Accommodation manager
- Either the owner or student accommodation manager must permanently reside on the property or that the establishment is managed 24-hours a day for purposes of the management of the accommodation.
- (m) Maintenance
- (i) The accommodation manager or the owner must ensure that the facility is, at all times, well maintained or kept clean and neat.
  - (ii) Dumping or littering is prohibited.
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- (n) Signage  
The accommodation must put up a signage indicating that the accommodation is an approved and accredited student accommodation facility.
- (o) National Building Regulations  
All requirements of the National Building Regulations shall be complied with.

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**[PROVINCIAL NOTICE NO. 86 OF 2021]**

**MANGAUNG METROPOLITAN MUNICIPALITY**

**PROMULGATION NOTICE**

**Discharge of Industrial Effluent By-law**

Passed by Council on Thursday, 30 September 2021  
Under Item 179.3 – 30/09/2021

- 1) Notice is hereby given in terms of the provisions of section 13 of the Local Government: Municipal Systems, 2000 (Act No 32 of 2000), as amended, that the Council of Mangaung Metropolitan Municipality passed the revised set of Discharge of Industrial Effluent By-law, at the sitting dated 30 September 2021.
- 2) The Discharge of Industrial Effluent By-law is, as a result of the rationalization process, now applicable and enforceable throughout the jurisdiction of the Mangaung Metropolitan Municipality (MAN).
- 3) The By-law is published for the purpose of general public notification.

**Mr. Sello More**  
**Acting City Manager**

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**BY-LAW RELATING TO DISCHARGE OF INDUSTRIAL EFFLUENT**

**To provide for the regulation and management of the discharge of industrial effluent, and to provide for matters in connection therewith**

**Preamble**

**WHEREAS** the Constitution established local government as a distinctive sphere of government, interdependent, and interrelated with the national and provincial spheres of government; and

**WHEREAS** there is agreement on the fundamental importance of local government to democracy, development and nation-building in our country; and

**WHEREAS** there is fundamental agreement in our country on a vision of democratic, accountable and developmental local government, in which municipalities must strive within its financial and administrative capacity, to achieve their constitutional objectives by ensuring the provision of sustainable, effective and efficient municipal services to communities, by promoting social and economic development, by promoting a safe and healthy environment, and by encouraging the involvement of communities in the matters of local government; and

**WHEREAS** the Constitution authorizes and empowers municipalities to administer the local government matters listed in Part B of Schedules 4 and 5, which include industrial effluent and any other matter assigned to it by national or provincial legislation, by making and administering by-laws for the effective administration of these matters;

**BE IT THEREFORE ENACTED** by the Municipal Council of the **MANGAUNG** Local Municipality as follows:-

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11. Repeal and Amendment
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**CHAPTER 1****INTERPRETATION**

1. **Definitions**

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

**"Council"** means the Council of the Mangaung Metropolitan Municipality or any political structure, political office bearer, councillor or any staff member acting under council's delegated or sub-delegated power;

**"drain"** means that portion of a drainage installation system which conveys sewerage from a building to a communal drain or any other sewerage disposal system which is situated on the premises concerned or to a sewer;

**"drainage installation"** means an installation which is situated on the premises and which is intended for catchment, conveyance, storage or treatment of sewerage; including sanitary appliances, drains, septic tanks, sewerage treatment works or matching mechanical appliances;

**"employee"** means a person who is either permanently or temporarily employed by the Municipality;

**"industrial effluent"** means any liquid, whether or not containing matter in suspension, which is given off in the course of or as a result of any trade or industrial process;

**"Municipality/City"** means Mangaung Metropolitan Municipality established by the Provincial Notice №. 155 of 2016 as published in the Provincial Gazette, Free State Province of 22 July 2016, issued in terms of section 12 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

**"occupier"** means any person actually in possession or in occupation of a property, without taking into account the right of occupation of such person, and in the case of premises which are subdivided and let to boarders and tenants, includes the person who is lawfully entitled to the rent payable by such boarders and tenants;

**"owner"**, in relation to a building, construction work or land, means:

- (i) the person in whose name the right of ownership of the building, construction work or land is registered, or
- (ii) in the event of such person being deceased, declared insolvent, mentally deranged or defective, a minor or incapable of entering into a contract, the person to whom the administration and control of such person's estate has been given, either as executor, guardian or in any other capacity, or
- (iii) the representative of such person properly authorized thereto by means of power of attorney, or
- (iv) if the property is subject to a hire purchase agreement the registration of which is required by law, the tenant, or
- (v) any person who receives rent or is entitled to receive rent for and on behalf of the owner of such property;

**"person"** includes, but is not limited to an owner or occupier of property, or an employee, agent or contractor of such owner or occupier;

**"premises"** means any building, room, apartment, hut, shed, tent or any other structure above, on or below ground level, together with the land on which it is situated and the adjacent land used jointly therewith or any land without buildings;

**"sewerage"** means waste-water, soil-water, industrial effluent and other liquid waste whether together or in combination, but does not include stormwater;

**"sewer"** means any pipe or conduit owned by the Council and used or intended to be used for the conveyance of sewerage;

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**"soil-water"** means any liquid containing excreta;

**"stormwater"** means any water resulting from natural precipitation or accumulation and includes rain-water, surface-water, ground-water and spring-water;

**"waste-water"** means used water which is not polluted by soil-water or industrial effluent and does not include stormwater.

- (2) In these by-laws, unless the context otherwise indicates, words and expressions denoting the singular shall include the plural and vice versa, words and expressions denoting the male sex shall include the female sex and vice versa and reference to a natural person shall include a legal person and vice versa.

## **CHAPTER 2 INDUSTRIAL EFFLUENT**

### **2. Permission to Discharge Industrial Effluents**

- (1) No person must discharge or allow to be discharged into any sewer any industrial effluent without the written permission of the Municipality in the form of a permit as included in these by-laws as Annexure 4.
- (2) Every person must, before discharging any industrial effluent into a sewer, apply in writing to the Municipality for a permit on the appropriate form, included in these by-laws as Annexure 3, to be completed in duplicate, and must furnish such additional information and submit such samples as the Municipality may require.
- (3) The Municipality may at its discretion, having regard to the capacity of the sewerage system or any mechanical appliance used for sewerage or the sewerage treatment works, whether owned by the Municipality or not, and subject to such conditions as it may deem fit to impose, grant written permission in the form of a permit for the discharge of industrial effluent into a sewer.
- (4) The industrial effluent must at all times comply with the requirements of the permit which has been issued in respect of the premises.
- (5) Owing to any change arising from an amendment in the method of sewerage treatment or the introduction of new or revised or stricter or other standards by the Municipality or in terms of the Water Act, 1997 (Act No. 108 of 1997), as amended, or as a result of any amendment to these by-laws or owing to any other adequate reason, the Municipality may at any time review, amend, modify or revoke any permission given or any conditions imposed and impose new conditions for the discharge of any or all of such effluent into the sewer on giving 4 weeks written notice in advance of its intention to do so.

### **3. Control of Industrial Effluent**

- (1) The owner or occupier of any premises from which industrial effluent is discharged into a sewer, should provide adequate facilities such as overflow level detection devices, standby equipment, overflow catch-pits or other appropriate means effectively to prevent the discharge into any sewer of any substance prohibited or restricted in terms of the by-laws.
- (2) The Municipality may by notice served on the owner or occupier of any premises from which industrial effluent is discharged, require of him, without prejudice to any other provision of these by-laws, to do all or any of the following:
-

- (a) to subject the effluent before it is discharged to the sewer, to such pre-treatment as will ensure that it conforms in all respects to the provisions of section 5(1), or to modify the effluent cycle of the industrial process to an extent and in such a manner as in the opinion of the Municipality is necessary to enable any sewerage treatment works receiving the said effluent, whether under the control of the Municipality or not, to produce treated effluent complying with any standards which may be laid down in respect of such works in terms of the Water Services Act, 1997 (Act No. 108 of 1997), as amended;
- (b) to restrict the discharge of effluents to certain specified hours and the rate of discharge to a specified maximum and to install at his own expense such tanks, appliances and other equipment as in the opinion of the Municipality may be necessary or adequate for compliance with the said restrictions;
- (c) to install a separate drainage installation for the conveyance of industrial effluent and to discharge the same into the sewer through a separate connection as directed by the Municipality, and to refrain from discharging the said effluent through any drainage installation intended or used for the conveyance of domestic soil-water or waste-water or from discharging any domestic soil-water or waste-water through the said separate installation for industrial effluent;
- (d) to construct at his own expense in any drainage installation conveying industrial effluent to the sewer, one or more inspection sampling or metering chambers of such dimensions and materials and in such positions as the Municipality may prescribe;
- (e) to pay in respect of the industrial effluent discharged from the premises such charge as may be assessed in terms of Annexure 2 of these by-laws: Provided that where, owing to the particular circumstances of any specific case, the permanganate value (PV), chemical oxygen demand, (COD) and suspended solids (SS) cannot be determined by the method of assessment prescribed in Annexure 2, the Municipality may take such alternative method of assessment as does reflect the said value and shall assess the charge accordingly;
- (f) to provide all such information as may be required by the Municipality to assess the charges payable in terms of Annexure 2;
- (g) for the purpose of subparagraph (f), to provide and maintain at his own expense a meter measuring the total quantity of water drawn from any borehole, spring or natural source of water and used on the property.

#### **4. Metering and Assessment of Industrial Effluent**

The Municipality may, at the cost of the owner or occupier, install and maintain in such position as it shall determine in any drainage installation conveying industrial effluent to a sewer, any meter or gauge or other device for the purpose of ascertaining the volume or composition of the said effluent and it shall be an offence for any person to by-pass, open, break into or otherwise interfere with, or to damage any such meter, gauge or other device: Provided that the Municipality may at its discretion enter into an agreement with any person discharging industrial effluent into the sewer, establishing an alternative method or assessing the volume or composition of effluent so discharged.

#### **5. Prohibited Discharges**

- (1) No person must discharge or cause or permit the discharge or entry into any sewer of any stormwater, sewerage or substance,
-



- (a) which does not comply with the specifications in Annexure 1: Provided that the Municipality may relax or grant exemption of some or all of such specifications for such a period as it may specify: Provided further that the Municipality can, in spite of compliance with such specifications, restrict the total mass of any substance or impurity which is discharged into a sewer during any fixed period from any premises;
  - (b) which complies with such specifications, but contains a substance of whatever nature which, in the opinion of the Municipality:
    - (i) is not amenable to treatment at the sewerage treatment works, or which causes or may cause a breakdown or inhibition of the normal sewerage treatment processes; or
    - (ii) is of such nature as is or may be amenable to treatment only to such degree as to prevent the final treated effluent from the sewerage treatment works from complying in all respects with the requirements imposed in terms of the Water Services Act, 1997 (Act No. 108 of 1997); or
    - (iii) whether alone or in combination with other matter may
      - (aa) generate or constitute a toxic substance dangerous to the health of persons employed at the sewerage treatment works or entering the Municipality'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 sewerage effluent; or
      - (cc) adversely affect any of the processes whereby sewerage is treated or any re-use of purified sewerage effluent;
  - (c) which in the opinion of the Municipality may be offensive or may cause a nuisance to the public;
  - (d) which is in the form of steam or vapour;
  - (e) which has a temperature exceeding 44°C at the point where it enters the sewer;
  - (f) which contains a substance of whatever nature which, in the opinion of the Municipality, may produce or give off explosive, flammable, poisonous or offensive vapours in the sewer;
  - (g) which contains a substance having an open flashpoint of less than 93°C or which gives off a poisonous vapour at a temperature below 93°C;
  - (h) which contains a material of whatever nature, including oil, grease, fat or detergents capable of causing an obstruction to the flow in sewers or drains or interference with the proper operation of a sewerage treatment works;
  - (i) which shows any visible signs of tar or associated products or distillates, bitumens or asphalts;
  - (j) which contains a substance of such concentration that it may in the opinion of the Municipality cause the final treated effluent from any sewerage treatment works to have an undesirable taste after chlorination or an undesirable odour or colour or which is likely to produce excessive foam;
- (2) (a) If any person in contravention of any provision of these by-laws discharges industrial effluent into a sewer, or causes or permits it to be so discharged or is about to do so, the Municipality may forthwith, after notifying the owner or occupier of the premises concerned of his intention to do so, and in case of emergency, without
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notification, close and seal off the drain conveying such effluent to the sewer for such period as it may deem expedient so as to prevent such effluent from entering the sewer.

- (b) The Municipality shall not be liable for any damage occasioned by any action taken in terms of subparagraph (a).
- (c) No person shall without the written permission of the Municipality open or break the seal of a drain closed and sealed off in terms of subparagraph (a) or cause or permit this to be done.

### **CHAPTER 3 POWERS OF OFFICIALS AND SERVICE OF DOCUMENT**

#### **6. Delegation of Powers**

The Council may, subject to the conditions that it may impose, delegate any power conferred on the Council by these by-laws and may in like manner amend or withdraw such delegation.

#### **7. Entering of Premises**

An authorized official or employee of the Municipality, shall be entitled at all reasonable times and in case of emergency at any time, after properly identifying himself to enter premises or a building in order to determine whether the provisions of these by-laws are complied with.

#### **8. Obstruction of Officials and Employees in the performance of duties**

No person shall hinder or obstruct an official or employee of the Municipality in the performance of his duties in consequence of these by-laws.

#### **9. Service of Notice, Order or Other Document**

- (1) Whenever any notice, order or other document is under these by-laws required or authorised to be served -
  - (a) on any person, it shall be deemed to be duly and sufficiently served if it is sent by registered or certified post to that person at his last-known address, or if it is left thereat with him personally or with some adult inmate thereof;
  - (b) on an owner or occupier of any land or premises and the address of such owner or occupier is unknown, it shall be deemed to be duly and sufficiently served if it is posted up in some conspicuous place on such land or premises.
- (2) It shall not be necessary in any notice, order or other document given under these by-laws to an owner or occupier of land or premises to name him, if the notice, order or document describes him as the owner or occupier of the land or premises in question.

### **CHAPTER 4 MISCELLANEOUS**

#### **10. Offences and Penalties**

- (1) A person who has committed an offence in terms of these by-laws is, on conviction, liable to a fine not exceeding R 60 000, or imprisonment for a period not exceeding three years or in default of payment, to imprisonment, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment, as determined in terms of the
-

stipulations of the Magistrate's Court's Act, (Act No. 32 of 1944) and in the case of a successive or continuing offence, to a fine for every day such offence continues, or in default of payment thereof, to imprisonment.

- (2) Any expense incurred by the Municipality as a result of a contravention of these by-laws or in the doing of anything which a person was directed to do under these by-laws and which he or she failed to do, may be recovered by the Municipality from the person who committed the contravention or who failed to do such thing.

#### 11. Repeal and Amendment

- (1) Any by-laws relating to discharge of industrial effluent adopted by the Council or any municipality now comprising part of the City are repealed from the date of promulgation of these by-laws
- (2) The by-laws relating to Discharge of Industrial Effluent, as promulgated in the Local Government Notice No. 60 of 26 September 2008, and the Local Government Notice No. 34 of 24 June 2016, are hereby further amended.

#### 12. Short title and commencement

This by-law is called the **Mangaung, Discharge of Industrial Effluent By-law** and the amendments effected come into operation on the date of promulgation in the Provincial Gazette.

### ANNEXURE 1

Limits of Permanganate Value (PV), pH and Electrical Conductivity and Maximum Concentration of Certain Substances

Subject to the provisions of section 5(1)(a) of these by-laws the following are

- (a) the limits of the PV, pH and electrical conductivity; and
- (b) the substances and the maximum permissible concentrations thereof, expressed in milligrams per litre (mg/l):
- (i) GENERAL:

PV - not exceeding .....	1000 mg/l
pH - within the range .....	6,0 - 10,0
Electrical conductivity - not greater than .....	500 mS/m
	at 20°C
Caustic alkalinity (expressed as CaCO <sub>3</sub> ) .....	1000 mg/l
Vegetable oils, fats, grease or wax .....	400 mg/l
Oil, grease or wax of mineral origin .....	50 mg/l
Sulphides, hydrosulphides and polysulphides (expressed as S) .....	5 mg/l
Substances from which hydrogen cyanide can be liberated in the drainage	

installation sewer or sewerage treatment plant (expressed as HCN).....	20 mg/l
Formaldehyde (expressed as HCHO) .....	50 mg/l
Non-organic matter in suspension .....	100 mg/l
Chemical oxygen demand (COD) .....	5000 mg/l
All sugars and/or starch (expressed as glucose) .....	1000mg/l
Available chlorine (expressed as CL <sub>2</sub> ) .....	100 mg/l
Sulphate (expressed as SO <sub>3</sub> ) .....	1500 mg/l
Fluorine containing compounds (expressed as F) .....	5 mg/l
Suspended solids SS .....	1000 mg/l
Phosphate and phosphate containing compounds (expressed as P) .....	100 mg/l

(Amended by Notice dated July 6, 1990)

(ii) METALS:

Group 1

Iron (expressed as Fe)  
 Chromium (expressed CrO<sub>3</sub>)  
 Copper (expressed as Cu)  
 Nickel (expressed as Ni)  
 Zinc (expressed as Zn)  
 Silver (expressed as Ag)  
 Cobalt (expressed as Co)  
 Tungsten (expressed as W)  
 Titanium (expressed as Ti)  
 Cadmium (expressed as Cd)

The total collective concentration of all metals in Group 1 (expressed as indicated above) in any sample of the effluent, shall not exceed 20 mg/l, nor shall the concentration of any individual metal exceed 5 mg/l.

Group 2

Lead (expressed as Pb)  
 Selenium (expressed as Se)  
 Mercury (expressed as Hg)

The total collective concentration of all metals in Group 2 (expressed as indicated above) in any sample of the effluent shall not exceed 20 mg/l, nor shall the concentration of any individual metal in any sample exceed 5 mg/l.

(iii) OTHER ELEMENTS :

Arsenic (expressed as As)  
 Boron (expressed as B)

The total collective concentration of all elements (expressed as indicated above) in any sample of the effluent shall not exceed 5 mg/l.

(iv) RADIO-ACTIVE WASTES :

Radio-active wastes or isotopes : Such concentration as may be laid down by the atomic energy Board or any State Department :

NOTE : The method of testing in order to ascertain the concentration of any substance mentioned here shall be the test normally used by the Council for the purpose. Any person discharging any substance referred to in this Annexure shall ascertain the details of the appropriate test from the Council.

**ANNEXURE 2**  
**Industrial Effluent Charges**

1. The owner or occupier of any premises from where industrial effluent is discharged shall, irrespective of the Municipality's permission for the discharge as mentioned in Section 2(2) additional to any other charges which are provided for in these by-laws or any other by-laws, pay an amount to the Municipality which is subject to the following stipulations of this annexure and is calculated according to the following formula:

$$\text{TARIFF} = B \times V \times T$$

Where : B is the fixed as well as the running costs per unit of the treatment of sewerage at the treatment works in cents per cubic metre as determined by the Council from time to time.

V is the measured volume of sewerage which enters the sewer from whatever source, where the strength is determined and is not less than 100 cubic metres per month.

T is the strength of the effluent where:

$$T = 1 + \frac{PV}{240} - \frac{80}{2040} + \frac{\text{COD}}{680} + \frac{\text{SS}}{230} - \frac{690}{230}$$

PV, COD and SS are respectively the oxygen absorbed or the permanganate value, the chemical oxygen demand and the suspended solids, expressed in milligram per litre with respect to samples collected by any duly appointed official of the Municipality, and as required by the Municipality.

The Municipality bases the amount payable on the value of the criteria in such samples. When the value of T is equal to or less than 1, the owner or occupier shall not pay industrial effluent charges according to the strength of the effluent.

All costs involved in the sampling and testing of samples required by the Municipality, will be borne by the Municipality. The cost of any other sampling or testing of samples, is borne by the owner or occupier.

2. The Municipality determines the total amount of industrial effluent which is discharged from the premises during every period, and for the purpose of such determination the Municipality shall -
- (a) in a case where industrial effluent and other sewerage are measured together, consider the total discharge as industrial effluent;
  - (b) in a case where the amount of sewerage or industrial effluent which is discharged from the premises, is not measured directly
-

CONNECTION POSITION	MAXIMUM DISCHARGE RATE PER		
	Month in Kilolitres	Day in Kilolitres	Hour in Kilolitres

- (i) base such determination on the amount of water which is consumed on the premises during the applicable period, after an amount of water, which the Municipality considers reasonable, has been taken into account for irrigation purposes or evaporation or which is present in articles produced on the premises, and
- (ii) if industrial effluent is discharged from more than one point on the premises, allocate such amount of water as accurately as possible to the different points of discharge.
- (c) in any case where it is proved that a metering appliance is defective, take such defect properly into account.
3. The Municipality may determine that the formulae mentioned in this annexure, are not applicable in any case where the method of determining the strength of industrial effluent as specified in such formula does not reflect the true strength of the said effluent in the opinion of the Municipality.

### ANNEXURE 3

#### MANGAUNG METROPOLITAN MUNICIPALITY

#### Application for a permit to Discharge Trade- or Industrial Effluent into the Sewage System (To be completed in block letters)

##### 1. GENERAL INFORMATION

LOCATION OF BUSINESS			
Street Name	Street No.	Erf No.	Tel. No.

Postal Address	Address for Accounts

OWNERSHIP OF THE PREMISES	
Name of Owner	Address of Owner

NATURE OF PROCESSES OR TRADE PERFORMED ON THE PREMISES

NAME OF SIGNATORY	POSITION HELD IN BUSINESS

REGISTERED NAME OF THE BUSINESS TO WHOM THE PERMIT WILL APPLY

## 2. QUANTITY OF EFFLUENT AND DISCHARGE CONDITIONS

NORMAL PLANT OPERATING PERIODS	
Days in Week	Time in Day

EFFLUENT DISCHARGE FACTOR			
Water entering premises	%	Water consumed on premises (not entering the sewage system)	%
From municipal sources		In Boiler use	
From other sources		In Evaporation	
Total entering premises	100	Leaving in product	
Total consumed on premises		In other use	
Effluent discharge factor (K)		Total consumed on premises	

## 3. PRETREATMENT OF EFFLUENT BEFORE DISCHARGE

(Insert sizes, capacities, etc, where pre-treatment is present. Cross where a particular unit does not exist.)

TYPE OF TREATMENT		DISCHARGE POINTS			
		1	2	3	4

Screens (hand raked)	Area m <sup>2</sup>				
Screens (mechanical)	Area m <sup>2</sup>				
Comminutors					
Grit Tanks					
Grease Traps					
Sedimentation Tanks	Area m <sup>2</sup> Vol m <sup>3</sup> ;				
Biological processes					
Type :					

GROUP 1 METALS		GROUP 2 METALS		TOTAL CONCENTRATION	
Silver as Ag					
Cobalt as Co		Arsenic as As			
Tungston as W		Boron as B			
Titanium as Ti					

## 4. PHYSICAL AND CHEMICAL CHARACTERISTICS OF EFFLUENT

(Insert maximum values or cross where absent)

	p.H.	Temp °C	Electro conductivity ms/m at 20°C	PW 4 Hour KM nO <sub>4</sub>
Maximum				
Minimum				
			Settable solids (ml/l)	



Concentration in mg/l of the following

Suspended solids		Sugars/Starch as Glucose	
Caustic Alkalinity as CaCO <sub>3</sub>		Tar Products and Distillates	
Acidity as CaCO <sub>3</sub>		Substances not in solution	
Sulphides etc. as S		Fat, vegetable oil, etc.	
Sulphates as SO <sub>4</sub>		Hydrogen Cyanide as HCN	
Chlorides as Cl		Mineral Oils and Grease	
Fluoride Compounds as F		Dyes	
Available chlorine as Cl <sub>2</sub>		Formaldehydes HCHO	

Concentration in mg/l of the following

GROUP 1 METALS		GROUP 2 METALS		TOTAL CONCENTRATION	
Iron as Fe		Lead as Pb		Group 1 Metals	
Chromium as CrO <sub>3</sub>		Selenium as Se			
Copper as Cu		Mercury as Hg		Group 2 Metals	
Nickel as Ni					
Zinc as Zn				Other Elements	
Cadmium as Cd		OTHER ELEMENTS			

Are Radioactive Wastes or Isotopes Present In the Effluent?	YES	NO
---	-----	----

FOR OFFICIAL USE:

Permit No.		Issued by		Date	
Water allocation factor		Treasury Notified		Date	

**MANGAUNG METROPOLITAN MUNICIPALITY****Special Conditions:**

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Conditions of acceptance of a discharge of a trade or industrial effluent into the sewage plant:

1. A valid permit of the discharge is held and the conditions stated in the permit are observed.
2. Any special conditions requiring the pre-treatment of the effluent before discharge are observed and the work is carried out to the satisfaction of the Head: Engineering Services
3. The applicant shall notify the Head: Engineering Services immediately in writing of any change in the nature, quantity or rate of discharge of effluent which occurs or is proposed and which would exceed any of the limits in the permit.
5. The applicant shall within 30 days from the date of signature of this application, procure an accurately representative sample of not less than 5 litres of the effluent to be discharged. One half of this sample shall be submitted to the City Chemist for analysis and a report submitted to the City Chemist of an analysis of the other half by an analyst appointed by the applicant at his expense.

6. I, (full name) .....  
 the undersigned, duly authorised to act on behalf of .....

.....  
 to be known as the Applicant, declare that the information given on this form is to the best of my knowledge accurate and accept that the said information may be used for the basis of the issue of a permit to discharge a Trade or Industrial Effluent into the Sewage System.

.....  
 DATE

.....  
 SIGNATURE

.....  
 Authority or Capacity of Signatory

**ANNEXURE 4**

Date
/ /20

Permit No.
/ /

MANGAUNG METROPOLITAN MUNICIPALITY  
 HEAD: ENGINEERING SERVICES

**PERMIT**

TO DISCHARGE TRADE OR INDUSTRIAL EFFLUENT  
 INTO THE SEWAGE SYSTEM

Head: Engineering Services  
 PO Box 3704  
 BLOEMFONTEIN

MANGAUNG METROPOLITAN MUNICIPALITY  
 HEAD: ENGINEERING SERVICES

PERMIT TO DISCHARGE TRADE OR INDUSTRIAL EFFLUENT  
 INTO THE SEWAGE SYSTEM

1.

Registered Name of the Business to which the Permit applies			
Street Name	Street No.	Erf No	Tel. No
Authorised Processes for the Premises			Effluent Discharge Factor
			K=

2.

EFFLUENT DISCHARGE CONDITIONS			
Connection Position	Maximum Discharge rate in K1		
	Per Month	Per Day	Per Hour
Authorises Discharge periods	Monday to Friday	Saturday	Sunday

3.

PRETREATMENT REQUIRED BEFORE ACCEPTANCE
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4.

PHYSICAL AND CHEMICAL CONDITIONS REQUIRED BEFORE EFFLUENT ACCEPTANCE	
Substances acceptable in limited concentrations only	Substances to be totally excluded from an effluent

SPECIAL CONDITIONS	

.....  
DATE

.....  
HEAD: ENGINEERING SERVICES

ACCOUNT NO.	Address for Accounts	Previous Permit Number

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### SUBSTANCES ACCEPTED WITHIN THE FOLLOWING LIMITS

A schedule of normal acceptable standards is given below for guidance.

(a)	GENERAL	MAXIMUM	MINIMUM
	Temperature at point of entry	44°C	
	Electrical conductivity	500 (ms/m by 20°C)	
	p.H.	10.0	6.0
	PV strength 4 hr	1 000 mg per litre	
 (b) CHEMICAL SUBSTANCES OTHER THAN METALS (Maximum Concentrations)			
	Caustic Alkalinity as CaCO <sub>3</sub>		1 000 mg/l
	Fats, vegetable oil and lik substances		400 mg/l
	Substances soluble in petroleum ether		50 mg/l
	Sulphides, hydrosulphides and polysulphides (expressed as S)		5 mg/l
	Substances from which hydrogen cyanide can be liberated in the drainage installation, sewer or sewerage purification works (expressed as HCN)		20 mg/l
	Formaldehyde (expressed as HCHO)		50 mg/l
	All sugars and/or starch (expressed as glucose)		1 000 mg/l
	Available chlorine (expressed as Cl <sub>2</sub> )		100 mg/l
	Sulphate (expressed as SO <sub>3</sub> )		1 500 mg/l
	Fluorine containing compounds (expressed as F)		5 mg/l
	Tar products and distillates		50 mg/l
	Chlorides as Cl		1 000 mg/l
 (c) METALS			
Group 1	Not exceed	Group 2	Not exceed
Iron (expressed as Fe)	5 mg/l	Lead (expressed as Pb)	5 mg/l
Chromium (expressed as CrO <sub>3</sub> )	5 mg/l	Selenium (expressed as Se)	5 mg/l
Copper (expressed as Cu)	5 mg/l	Mercury (expressed as Hg)	5 mg/l
Nickel (expressed as Ni)	5 mg/l		

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Zinc (expressed as Zn)	5 mg/l	Total collective concentration of all metals in Group 2	20 mg/l
Silver (expressed as Ag)	5 mg/l		
Titanium (expressed as Ti)	5 mg/l	Other Elements	
Cadmium (expressed as Cd)	5 mg/l		
Total collective concentration of all metals in Group 1	20 mg/l	Arsenic (expressed as As)	5 mg/l
		Boron (expressed as B)	5 mg/l

## (d) RADIO-ACTIVE WASTES

Any radio-active wastes or isotopes: Such concentration as may be laid down by the atomic energy board or any State Department.

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<b>FREE STATE PROVINCIAL GAZETTE</b> <i>(Published every Friday)</i>	<b>VRYSTAAT PROVINSIALE KOERANT</b> <i>(Verskyn elke Vrydag)</i>																								
All correspondence, advertisements, etc. must be addressed to the Officer in charge of the Provincial Gazette, P.O. Box 517, Bloemfontein, Tel.: (051) 403 3139. Free Voucher copies of the Free State Provincial Gazette or cuttings of advertisements are NOT supplied. The <b>cost per copy</b> of the Provincial Gazette is as follows:	Alle korrespondensie, advertensies, ens. moet aan die Beampte Belas met die Provinsiale Koerant, Posbus 517, Bloemfontein, Tel.: No. (051) 403 3139 geadresseer word. Gratis eksemplare van die Vrystaat Provinsiale Koerant of uitknipsels van advertensies word NIE verskaf nie. Die <b>koste per kopie</b> van die Provinsiale Koerant is soos volg:																								
<table border="1"> <tr> <td><b>EMAIL</b></td> <td><b>R 10.00</b></td> </tr> <tr> <td><b>COLLECTION</b></td> <td><b>R 23.00</b></td> </tr> <tr> <td><b>POST</b></td> <td><b>R 35.00</b></td> </tr> </table>	<b>EMAIL</b>	<b>R 10.00</b>	<b>COLLECTION</b>	<b>R 23.00</b>	<b>POST</b>	<b>R 35.00</b>	<table border="1"> <tr> <td><b>E-POS</b></td> <td><b>R 10.00</b></td> </tr> <tr> <td><b>AFHAAL</b></td> <td><b>R 23.00</b></td> </tr> <tr> <td><b>POS</b></td> <td><b>R 35.00</b></td> </tr> </table>	<b>E-POS</b>	<b>R 10.00</b>	<b>AFHAAL</b>	<b>R 23.00</b>	<b>POS</b>	<b>R 35.00</b>												
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<p style="text-align: center;"><b>SUBSCRIPTION RATES (payable in advance)</b></p> <p>The subscription fee for the Provincial Gazette (including all Extraordinary Provincial Gazettes) is as follows:</p> <table border="1"> <tr> <td><b>6 MONTHS, EMAIL</b></td> <td><b>R 280.00</b></td> </tr> <tr> <td><b>12 MONTHS, EMAIL</b></td> <td><b>R 560.00</b></td> </tr> <tr> <td><b>6 MONTHS, COLLECTION</b></td> <td><b>R 500.00</b></td> </tr> <tr> <td><b>12 MONTHS, COLLECTION</b></td> <td><b>R 1 000.00</b></td> </tr> <tr> <td><b>6 MONTHS, POST</b></td> <td><b>R 870.00</b></td> </tr> <tr> <td><b>12 MONTHS, POST</b></td> <td><b>R 1 740.00</b></td> </tr> </table>	<b>6 MONTHS, EMAIL</b>	<b>R 280.00</b>	<b>12 MONTHS, EMAIL</b>	<b>R 560.00</b>	<b>6 MONTHS, COLLECTION</b>	<b>R 500.00</b>	<b>12 MONTHS, COLLECTION</b>	<b>R 1 000.00</b>	<b>6 MONTHS, POST</b>	<b>R 870.00</b>	<b>12 MONTHS, POST</b>	<b>R 1 740.00</b>	<p style="text-align: center;"><b>INTEKENGELD (vooruitbetaalbaar)</b></p> <p>Die intekengeld vir die Provinsiale Koerant (insluitend alle Buitengewone Provinsiale Koerante) is soos volg:</p> <table border="1"> <tr> <td><b>6 MAANDE, E-POS</b></td> <td><b>R 280.00</b></td> </tr> <tr> <td><b>12 MAANDE, E-POS</b></td> <td><b>R 560.00</b></td> </tr> <tr> <td><b>6 MAANDE, AFHAAL</b></td> <td><b>R 500.00</b></td> </tr> <tr> <td><b>12 MAANDE, AFHAAL</b></td> <td><b>R 1 000.00</b></td> </tr> <tr> <td><b>6 MAANDE, POS</b></td> <td><b>R 870.00</b></td> </tr> <tr> <td><b>12 MAANDE, POS</b></td> <td><b>R 1 740.00</b></td> </tr> </table>	<b>6 MAANDE, E-POS</b>	<b>R 280.00</b>	<b>12 MAANDE, E-POS</b>	<b>R 560.00</b>	<b>6 MAANDE, AFHAAL</b>	<b>R 500.00</b>	<b>12 MAANDE, AFHAAL</b>	<b>R 1 000.00</b>	<b>6 MAANDE, POS</b>	<b>R 870.00</b>	<b>12 MAANDE, POS</b>	<b>R 1 740.00</b>
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<p style="text-align: center;"><b>CLOSING TIME FOR ACCEPTANCE OF ADVERTS</b></p> <p>Herewith the amended closure times for all requests for publication in the weekly Provincial Gazette/ Tender Bulletin by Provincial and National Departments, Municipalities and Public Entities. As from 20 August 2021 the date of publication will be as follows:</p> <p>The cut-off for the receipt of advertisements in the Provincial Gazette/ Tender Bulletin will be 16:00 on Fridays. Such advertisements will appear in the Provincial Gazette/ Tender Bulletin on Friday the next week. (For example: The closure date for advertisements in the Provincial Gazette/ Tender Bulletin of 20 August 2021 will be 16:00 on Friday 13 August 2021.) See last page of this document for the approved publication rates for 2021/22.</p> <p>Late submission of advertisements will only be accepted until 16:00 on the Tuesday before the publication of the Provincial Gazette/ Tender Bulletin. However, in such cases double rates will be charged. (For example: Late advertisements received for Friday, 20 August 2021 will be accepted until 16:00 on Tuesday 17 August 2021.) See last page of this document for the approved publication rates for 2020/21.</p> <p>Monthly closure for the advertisements in the Provincial Gazette for liquor or gambling license renewal will remain 16:00 on Fridays two weeks before publication dated. (For example: The closure date for license renewal advertisements to be published on Friday, 3 September 2021 is Friday, 20 August 2021.</p> <p>No request for advertisements will be accepted between Wednesday and Friday for publication in</p>	<p style="text-align: center;"><b>SLUITINGSTYD VIR DIE AANNAME VAN ADVERTENSIES</b></p> <p>Hiermee die veranderde sluitingstye vir advertensies deur Provinsiale en Nasionale Departemente, Munisipaliteite and Openbare entiteite, vir die publikasie in die weeklikse Provinsiale Koerant/ Tender Bulletin. Vanaf 20 Augustus sal die datum van publikasies soos volg wees:</p> <p>Die weeklikse sluiting vir advertensies in the Provinsiale Koerant/ Tender Bulletin is 16:00 op Vrydae. Sodanige advertensies sal in die Provinsiale Koerant/ Tender Bulletin gepubliseer word in die daaropvolgende week. (Byvoorbeeld: Die sluitingsdatum vir advertensies op 20 Augustus 2021 is 16:00 op Vrydag, 13 Augustus 2021.) Sien die laaste bladsy van hierdie dokument vir the goedgekeurde publikasie tariewe vir 2020/21.</p> <p>Laat indiening van advertensies sal slegs aanvaar word tot 16:00 op Dinsdae in dieselfde week van die publikasie. Vir sodanige advertensies sal 'n dubbel publikasietarief gehef word. (Byvoorbeeld: Laat publikasies vir Vrydag 20 Augustus 2021 sal aanvaar word tot 16:00 op Dinsdag, 17 Augustus 2021.) Sien die laaste bladsy van hierdie dokument vir the goedgekeurde publikasie tariewe vir 2020/21.</p> <p>Maandelikse sluiting vir advertensies in the Provinsiale Koerant vir die hernuwing van drank- en dobbel lisensie bly 16:00 op Vrydae, twee weke voor die publikasie datum. (Byvoorbeeld: Die sluitingsdatum vir advertensies vir die hernuwing van lisensies, vir publikasie op 3 September 2021 is Vrydag, 20 Augustus 2021.</p> <p>Geen aansoek vir advertensies sal tussen Woensdae en Vrydae aanvaar word vir publikasie in dieselfde week nie.</p>																								
<p style="text-align: center;"><b>ADVERTISEMENT RATES</b></p> <p>Notices required by Law to be inserted in the Provincial Gazette: <b>R 68.00</b> per centimeter or portion thereof.</p> <p><b>Advertisement fees are payable in advance to the Officer in charge of the Provincial Gazette, P.O. Box 517, Bloemfontein,</b></p>	<p style="text-align: center;"><b>ADVERTENSIETARIEWE</b></p> <p>Kennisgewings wat volgens Wet in die Provinsiale Koerant geplaas moet word: <b>R 68.00</b> per sentimeter of deel daarvan.</p> <p><b>Advertensiegelde is vooruitbetaalbaar aan die Beampte belas met die Provinsiale Koerant, Posbus 517, Bloemfontein 9300,</b></p>																								

9300, Tel.: (051) 403 3139.	Tel.: (051) 403 3139.
<p style="text-align: center;"><b>NUMBERING OF PROVINCIAL GAZETTE</b></p> <p>You are hereby informed that the numbering of the Provincial Gazette /Tender Bulletin and notice numbers will from 2010 coincide with the relevant financial year. In other words, the chronological numbering starting from one will commence on or after 1 April of every year.</p>	<p style="text-align: center;"><b>NOMMERING VAN PROVINSIALE KOERANT</b></p> <p>U word hiermee in kennis gestel dat die nommering van die Provinsiale Koerant / Tender Bulletin en kennisgewingnommers vanaf 2010 met die betrokke boekjaar sal ooreenstem. Met ander woorde, die kronologiese nommering beginnende met een, sal op of na 1 April van elke jaar begin.</p>
<p style="text-align: center;"><b>Printed and published by the Free State Provincial Government</b></p>	<p style="text-align: center;"><b>Gedruk en uitgegee deur die Vrystaatse Provinsiale Regering</b></p>