

7.6.5	WATER SERVICES BY-LAW
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1. PURPOSE OF REPORT

To request approval from Council, in principle, to advertise the proposed Water Services By-Law for public participation.

2. BACKGROUND

The current by-law, Water Supply, Sanitation Services and Industrial Effluent By-Law is not aligned with the Water Services Act 108 of 1997 and its associated regulations.

The proposed Water Supply, Sanitation Services and Industrial Effluent By-Law will in comparison with the existing by-law address a wider spectrum of Water and Sewerage (Sanitation) Management matters thus ensuring that the Municipality conforms to its mandate in terms of the Constitution ensuring for clean and safe water services for its citizens.

3. DISCUSSION

The By-law contains provisions in support of standard procedures relating service connections to consumers, services specifications, compliance regulations and obligation matters relating to the consumers reforms aimed at minimizing the impacts and volumes of waste in addition to the municipality's Constitutional obligation to effective service delivery, to all relevant legislation.

The by-law propose to regulate all activities, infrastructure and entities associated with potable water, waste water generation, the disposal of sewerage effluent by all types of consumers

The proposed by-law is also not in contradiction with any existing policies (e.g., credit control policy).

4. CONSTITUTIONAL AND POLICY IMPLICATIONS

A municipality may make and administer by-laws for the effective administration of matters it has a right to administer in terms of section 156(2) and of the Constitution, Act 108 (as amended). The Council is obliged to ensure the provision of municipal services in terms of Chapter 7 of the Constitution which is also underpinned by the Local Government Municipal Systems Act, Act 32 of 2000 as amended.

Water Services are a local government competence to ensure the provision of proper potable water services, collection of sewage effluent from a full spectrum of consumers according to Schedule 5B of the Constitution. The Council has to consider the promulgation of a new by-law that aligns current and new functions with the national policy and legislation. The Water Supply, Sanitation Services and Industrial Effluent By-Law does not clearly address all requirements of the Water Services Act, Act 108 of 1997 with its associated with relevant regulations.

In terms of Section 160(2) of the Constitution, the passing of by-laws may not be delegated. Section 160(2) of the Constitution of South Africa read with

section 12 of the Systems Act empowers a municipal council to pass by-laws. In terms of section 13 of the Systems Act, a by-law gives effect when published in the Provincial Gazette. Local Government Municipal Systems Act, 2000 (Act 32 of 2000).

Local Government Municipal Systems Act, 2000 (Act 32 of 2000):

Chapter 4 of the Systems Act requires a municipality to develop a culture of participatory governance so as to enhance, encourage and create conditions for the local community to participate in the affairs of the municipality.

Section 11(1) of the Systems Act determines that the executive and legislative authority of a municipality is exercised by a municipal council. The legislative authority, which includes the right to make by-laws cannot be delegated, as this is prohibited by section 160(2) of the Constitution. Section 11(3)(m) of the Systems Act relates to the passing of by-laws as a means for a municipality to exercise its legislative authority. Section 12 of the Systems Act provides the following:

5. Legislative procedures

- (1) Only a member or committee of a municipal council may introduce a draft by-law in the council.
- (2) A by-law must be made by a decision taken by a municipal council-
 - (a) In accordance with the rules and orders of the council; and
 - (b) With a supporting vote of a majority of its members.
- (3) No by-law may be passed by a municipal council unless-
 - (a) All the members of the council have been given reasonable notice; and

The proposed by-law has been published for public comment in a manner that allows the public an opportunity to make representations with regard to the proposed by-law.

In terms of Section 13 of the Systems Act, a by-law gives effect when published in the Provincial Gazette.

As part of the prescribed legislative process for the adoption of the Municipality's by-laws, the following process flow applies:

- (a) serve before Standing Committee and Mayco;
- (b) serve before the Council;
- (c) be advertised in the press for public comments;
- (d) be open for inspection to the public at all municipal offices and libraries;
- (e) re-submit to the Standing Committee, Mayco and the Council for final adoption

4.1 COMMENTS FROM DIRECTORATE: STRATEGIC & CORPORATE SERVICES (LEGAL SERVICES)

Item is compliant with the legislative prescripts and is supported.

4.2 COMMENTS FROM DIRECTORATE: FINANCIAL SERVICES

Finance supports the item.

The Water Service By-law is attached as **APPENDIX 1**.

RECOMMENDED

- (a) that the attached Water Services By-law be supported by Council in principle;
- (b) that the proposed By-law be duly advertised for public comment until the end of February 2017, and be re-submitted together with any comments/objections by the public, for final approval and adoption by the Council; and
- (c) that the By-Law, once approved and adopted by Council, be promulgated by the Directorate: Strategic and Corporate Services' legal team in the Provincial Gazette.

Meeting:	<i>4th Council: 2016-11-23</i>	Submitted by Directorate:	<i>Infrastructure</i>
Ref No:	<i>1/3/1/4</i>	Author:	<i>W Pretorius</i>
		Referred from:	<i>Mayco: 2016-11-16</i>

7.6.5

WATER SERVICES BY-LAW

APPENDIX 1



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**WATER SERVICES
BY-LAWS**

CHAPTER 1: DEFINITIONS

DEFINITIONS

For the purpose of these by-laws, any word or expressions to which a meaning has been assigned in the Water Services Act, 1996 (Act No 108 of 1996), the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000) or the National Building Regulations made in terms of the National Building Regulations and Building Standards Act, 1977 (Act No 103 of 1977) shall bear the same meaning in these by-laws and unless the context indicates otherwise and a word in any one gender shall be read as referring also, to the other two genders -

“**accommodation unit**” in relation to any premises, means a building or Section of a building occupied or used or intended for occupation or use for any purpose;

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

“**Act**” means the Water Services Act, 1997 (Act No 108 of 1997), as amended from time to time;

“**agreement**” means the contractual relation-ship between the municipality and a customer, whether written or deemed as provided for in the Municipality’s By-laws relating to Credit Control and Debt Collection;

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

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

“**authorised agent**” means-

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

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

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

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

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

“charges” means the rate, charge, tariff, flat rate or subsidy determined by the municipality;

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

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

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

“connecting point” means the point at which the drainage installation joins the connecting sewer;

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

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

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

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

“customer” means a person with whom the municipality has concluded an agreement for the provision a municipal service as provided for in the Municipality’s By-laws relating to Credit Control and Debt Collection;

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

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

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

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

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

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

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

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

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

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

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

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

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

“french drain” means a soil soak pit for the disposal of sewage and effluent from a septic tank;

“high strength sewage” means industrial sewage with a strength or quality greater than standard domestic effluent in respect of which a specific charge as calculated in accordance with Schedule C may be charged;

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

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

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

“industrial purposes” in relation to the supply of water means water supplied to any premises which constitutes a factory as defined in the General Administrative Regulations, published in terms of the Occupational Health and Safety Act, 1993 (Act No 85 of 1993);

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

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

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

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

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

“meter” means a water meter as defined by the regulations published in terms of the Trade Metrology Act, 1973 (Act No 77 of 1973) or, in the case of water meters of a size greater than 100 mm, a device that measures the quantity of water passing through it, including a pre-paid water meter;

“municipality” means-

- (a) the ... Municipality, a local / district municipality established in terms of Section 12 of the Structures Act and its successors-in-title; or
- (b) subject to the provisions of any other law and only if expressly or impliedly required or permitted by these by-law the Municipal Manager in respect of the performance of any function, or the exercise of any duty, obligation, or right in terms of these by-laws or any other law; or
- (c) an authorised agent of the Municipal Council;

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

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

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

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

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

“owner” means –

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

lessee or any other person to whom he has ceded his right title and interest under the lease, or any gratuitous successor to the lessee;

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

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

“plumber” means a person who has passed a qualifying Trade Test in Plumbing or has been issued with a certificate of proficiency in terms of the Manpower Training Act, 1981 (Act No 56 of 1981) or such other qualification as may be required under national legislation;

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

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

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

“professional engineer” means a person registered in terms of the Engineering Profession Act, 2000 (Act No 46 of 2000) as a professional engineer;

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

- (a) publication of a notice, in the official languages determined by the municipality:
 1. in any local newspaper or newspapers circulating in the area of supply of the municipality;
 2. in the newspaper or newspapers circulating in the area of supply of the municipality determined by the municipality as a newspaper of record; or
 3. on the official website of the municipality;

4. by means of radio broadcasts covering the area of supply of the municipality;
- (b) displaying a notice in or at any premises, office, library or pay-point of either the municipality, or of its authorised agent, to which the public has reasonable access; and
- (c) communication with customers through public meetings and ward committee meetings; “SANS” means the South African National Standard;

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

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

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

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

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

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

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

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

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

“**storm-water**” means water resulting from natural precipitation or accumulation and includes rain-water, subsoil water or spring water;

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

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

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

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

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

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

“**Water Services**” means water supply services and Sanitation Services;

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

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

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

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

CHAPTER 2: APPLICATION, PAYMENT AND TERMINATION

Part 1: Application

68. Application for Water Services

- (1) No person shall be provided with access to Water Services unless application has been made to, and approved by, the municipality on the form prescribed in terms of the Municipality’s By-laws relating to Credit Control and Debt Collection.
- (2) Water Services rendered to a customer by the municipality are subject to the Municipality’s By-laws relating to Credit Control and Debt Collection, these by-laws and the conditions contained in the relevant agreement.

69. Special Agreements for Water Services

The municipality may enter into a special agreement for the provision of Water Services with an applicant in accordance with the Municipality’s By-laws relating to Credit Control and Debt Collection.

70. Change in purpose for which Water Services are used

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

Part 2: Charges

71. Prescribed charges for Water Services

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

72. Availability charges for Water Services

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

Part 3: Payment

73. Payment for Water Services

The owner, occupier and customer shall be jointly and severally liable and responsible for payment of all Water Services charges and Water Services consumed by a customer, in accordance with the Municipality's By-laws relating to Credit Control and Debt Collection.

Part 4: Termination, Limitation and Disconnection

74. Termination of agreement for the provision of Water Services

A customer may terminate an agreement for the provision of Water Services in accordance with the Municipality's By-laws relating to Credit Control and Debt Collection.

75. Limitation and/or disconnection of Water Services provided

- (1) The engineer may restrict or discontinue water supply services provided in terms of these by-laws -
 - (a) on failure to pay the determined charges on the date specified, in accordance with and after the procedure set out in the Municipality's By-laws relating to Credit Control and Debt Collection has been applied;
 - (b) at the written request of a customer;
 - (c) if the agreement for the provision of services has been terminated in accordance with the Municipality's By-laws relating to Credit Control and Debt Collection;
 - (d) the building on the premises to which services were provided has been demolished;
 - (e) if the customer has interfered with a restricted or discontinued service;

- (f) in an emergency or emergency situation declared in terms of the Municipality's By-laws relating to Credit Control and Debt Collection; or
 - (g) if the customer has interfered, tampered or damaged or caused or permitted interference, tampering or damage to the water supply system of the municipality for the purposes of gaining access to water supply services after notice by the municipality.
- (2) The engineer may disconnect Sanitation Services provided in terms of these by-laws -
- (a) at the written request of a customer;
 - (b) if the agreement for the provision of Sanitation Services has been terminated in accordance with the Municipality's By-laws relating to Credit Control and Debt Collection; or
 - (c) the building on the premises to which services were provided has been demolished.
- (3) The municipality shall not be liable for any damages or claims that may arise from the limitation or disconnection of Water Services provided in terms of subsections (1) and (2), including damages or claims that may arise due to the limitation or disconnection of Water Services by the municipality in the bona fide belief that the provisions of subsections (1) and (2) applied.

CHAPTER 3: SERVICE LEVELS

76. Service levels

- (1) The municipality may, from time to time, and in accordance with national policy, but subject to principles of sustainability and affordability, by public notice, determine the service levels it is able to provide to customers.
- (2) The municipality may in determining service levels differentiate between types of customers, domestic customers, geographical areas and socio-economic areas.
- (3) The following levels of service may, subject to subsection (1), be provided by the municipality on the promulgation of these by-laws:
 - (a) Communal water supply services and on-site Sanitation Services -
 - (i) constituting the minimum level of service provided by the municipality;

- (ii) consisting of reticulated standpipes or stationery water tank serviced either through a network pipe or a water tanker located within a reasonable walking distance from any household with a Ventilated Improved Pit latrine located on each premises with premises meaning the lowest order of visibly demarcated area on which some sort of informal dwelling has been erected;
 - (iii) installed free of charge;
 - (iv) provided free of any charge to consumers; and
 - (v) maintained by the municipality.
- (b) Yard connection not connected to any water installation and an individual connection to the municipality's sanitation system -
- (i) consisting of an un-metered standpipe on a premises not connected to any water installation and a pour-flush toilet pan, wash-trough and suitable toilet top structure connected to the municipality's sanitation system;
 - (ii) installed free of charge;
 - (iii) maintained by the municipality.
- (c) a metered pressured water connection with an individual connection to the Municipality's sanitation system -
- (i) installed against payment of the relevant connection charges;
 - (ii) provided against payment of prescribed charges; and
 - (iii) with the water and drainage installations maintained by the customer.

CHAPTER 4: CONDITIONS FOR WATER SUPPLY SERVICES

Part 1: Connection to water supply system

77. Provision of connection pipe

- (1) If an agreement for water supply services in respect of premises has been concluded and no connection pipe exists in respect of the premises, the owner shall make application on the prescribed form and pay the determined charge for the installation of such a pipe.
- (2) If an application is made for water supply services which are of such an extent or so situated that it is necessary to extend, modify or upgrade the water supply system in order to supply water to the premises, the municipality may agree to the extension provided that the owner shall pay for the cost of the extension, as determined by the engineer.
- (3) Only the engineer may install a connection pipe but the owner or customer may connect the water installation to the connection pipe.

- (4) No person may commence any development on any premises unless the engineer has installed a connection pipe and meter.

78. Location of connection pipe

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

79. Provision of single water connection for supply to several customers on the same premises

- (1) Notwithstanding the provisions of Section 12, only one connection pipe to the water supply system may be provided for the supply of water to any premises, irrespective of the number of accommodation units, business units or customers located on such premises.
- (2) Where the owner, or the person having the charge or management of any premises on which several accommodation units are situated, requires the supply of water to such premises for the purpose of supply to the different accommodation units, the engineer may, in its discretion, provide and install either -
- (a) a single measuring device in respect of the premises as a whole or any number of such accommodation units; or
 - (b) a separate measuring device for each accommodation unit or any number thereof.
- (3) Where the engineer has installed a single measuring device as contemplated in subsection (2) (a), the owner or the person having the charge or management of the premises, as the case may be -
- (a) must install and maintain on each branch pipe extending from the connection pipe to the different accommodation units -
 - (i) a separate measuring device;

- (ii) an isolating valve; and
 - (iii) will be liable to the municipality for the charges for all water supplied to the premises through such a single measuring device, irrespective of the different quantities consumed by the different customers served by such measuring device.
- (4) Where premises are supplied by a number of connection pipes, the engineer may require the owner to reduce the number of connection points and alter his water installation accordingly.

80. Disconnection of water installation from the connection pipe

The engineer may disconnect a water installation from the connection pipe and remove the connection pipe on termination of an agreement for the provision of water supply services in accordance with the Municipality's By-laws relating to Credit Control and Debt Collection.

Part 2: Standards

81. Quantity, quality and pressure

Water supply services provided by the municipality must comply with the minimum standards set for the provision of water supply services in terms of Section 9 of the Act.

82. Testing of pressure in water supply systems

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

83. Pollution of water

An owner must provide and maintain approved measures to prevent the entry of any substance, which might be a danger to health or adversely affect the portability of water or affect its fitness for use, into -

- (a) the water supply system; and
- (b) any part of the water installation on his premises.

84. Water restrictions

- (1) The municipality may for purposes of water conservation or where, in its opinion, drought conditions are imminent, by public notice -
- (a) prohibit or restrict the consumption of water in the whole or part of its area of jurisdiction -
 - (i) in general or for specified purposes;
 - (ii) during specified hours of the day or on specified days; and
 - (iii) in a specified manner; and
 - (b) determine and impose -

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

85. Specific conditions of supply

- (1) Notwithstanding the undertaking in Section 15, the granting of a supply of water by the municipality shall not constitute an undertaking by it to maintain at any time or any point in its water supply system –
- (a) an uninterrupted supply, subject to the provisions of regulations 4 and 14 of Regulation 22355 promulgated in terms of the Act on 8 June 2003; or
 - (b) a specific pressure or rate of flow in such supply other than requires in terms of Regulation 15(2) of Regulation 22355 promulgated in terms of the Act on 8 June 2003.
- (2) The engineer may, subject to the provisions of subsection (1)(b), specify the maximum pressure to which water will be supplied from the water supply system.
- (3) If an owner of customer requires -
- (a) that any of the standards referred to in subsection (1); or

- (b) a higher standard of service than specified in Section 15; be maintained on his premises, he or she shall take the necessary steps to ensure that the proposed water installation is able to meet such standards.
- (4) The engineer may, in an emergency, interrupt the supply of water to any premises without prior notice.
- (5) If in the opinion of the engineer the consumption of water by a customer adversely affects the supply of water to another customer, he may apply such restrictions as he may consider fit, to the supply of water to customer in order to ensure a reasonable supply of water to the other customer and must inform that customer about the restrictions.
- (6) The municipality shall not be liable for any damage to property caused by water flowing from any water installation that is left open by the consumer when the water supply is re-instated, after an interruption in supply.
- (7) Every steam boiler, hospital, industry and any premises which requires, for the purpose of the work undertaken on the premises, a continuous supply of water shall have a storage tank, which must comply with the specification for water storage tanks as stipulated in SANS 0252 Part 1, with a capacity of not less than 24 hours water supply calculated as the quantity required to provide the average daily consumption, where water can be stored when the continuous supply is disrupted.
- (8) No customer shall resell water supplied to him by the municipality except with the written permission of the municipality, which may stipulate the maximum price at which the water may be resold, and may impose such other conditions as the municipality may deem fit.

Part 3: Measurement

86. Measuring of quantity of water supplied

- (1) The engineer must provide a measuring device designed to provide either a controlled volume of water, or an uncontrolled volume of water, to a customer.
- (2) The municipality must, at regular intervals, measure the quantity of water supplied through a measuring device designed to provide an uncontrolled volume of water.
- (3) Any measuring device and its associated apparatus through which water is supplied to a customer by the municipality, shall be provided and installed by the engineer, shall remain its property and may be changed and maintained by the engineer when he consider it necessary to do so.
- (4) The engineer may install a measuring device, and its associated apparatus, at any point on the service pipe.
- (5) If the engineer installs a measuring device on a service pipe in terms of subsection (4), he may install a section of pipe and associated fittings between the end of its connection pipe and the meter, and that section shall form part of the water installation.
- (6) If the engineer installs a measuring device together with its associated apparatus on a service pipe in terms of subsection (4), the owner shall -
 - (a) provide a place satisfactory to the engineer in which to install it;

- (b) ensure that unrestricted access is available to it at all times;
 - (c) be responsible for its protection and be liable for the costs arising from damage to it, excluding damage arising from normal fair wear and tear;
 - (d) ensure that no connection is made to the pipe in which the measuring device is in-stalled between the measuring device and the connection pipe serving the installation;
 - (e) make provision for the drainage of water which may be discharged from the pipe, in which the measuring device is installed, in the course of work done by the engineer on the measuring device; and
 - (f) not use, or permit to be used on any water installation, any fitting, machine or appliance which causes damage or which, in the opinion of the engineer, is likely to cause damage to any meter.
- (7) No person other than the engineer shall:
- (a) disconnect a measuring device and its associated apparatus from the pipe on which they are installed;
 - (b) break a seal which the engineer has placed on a meter; or
 - (c) in any other way interfere with a measuring device and its associated apparatus.
- (8) If the engineer considers that, a measuring device is a meter whose size is unsuitable because of the quantity of water supplied to premises, he may install a meter of a size that he considers necessary, and may recover the determined charge for the installation of the meter from the owner of the premises.
- (9) The municipality may require the installation, at the owner's expense, of a measuring device to each dwelling unit, in separate occupancy, on any premises, for use in ascertaining the quantity of water supplied to each such unit; but where controlled volume water-delivery systems are used, a single measuring device may otherwise be used for more than one unit.

87. Quantity of water supplied to customer

- (1) For the purposes of ascertaining the quantity of water that has been measured by a measuring device that has been installed by the engineer and that has been supplied to a customer over a specific period, it will, for the purposes of these by-laws, be presumed except in any criminal proceedings, unless the contrary is proved, that -
- (a) the quantity, where the measuring device designed to provide an uncontrolled volume of water, is the difference between measurements taken at the beginning and end of that period;
 - (b) the quantity, where the measuring device designed to provide a controlled volume of water, is the volume dispensed by the measuring device;
 - (c) the measuring device was accurate during that period;
 - (d) the entries in the records of the municipality were correctly made; and

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

88. Special measurement

- (1) If the engineer requires, for purposes other than charging for water consumed, to ascertain the quantity of water which is used in a part of a water installation, may, by written notice, advise the owner concerned of his intention to install a measuring device at any point in the water installation that he may specify.

- (2) The installation of a measuring device referred to in subsection (1), its removal, and the restoration of the water installation after such a removal shall be carried out at the expense of the municipality.
- (3) The provisions of Sections 20(5) and 20(6) shall apply, insofar as they may be applicable, in respect of a measuring device that has been installed in terms of subsection (1).

89. No reduction of amount payable for water wasted

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

Part 4: Audit

90. Water audit

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

Part 5: Installation Work

91. Approval of installation work

- (1) If an owner wishes to have installation work done, he or she must first obtain the Municipality's written approval; provided that approval shall not be required in the case of water installations in dwelling units or installations where no fire installation is required in terms of SANS 0400, or in terms of any Municipal

by-laws, or for the repair or replacement of an existing pipe or water fitting other than a fixed water heater and its associated protective devices.

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

92. Persons permitted to do installation and other work

- (1) Only a plumber, a person working under the control of a plumber, or another person authorised in writing by the municipality, shall be permitted to:
 - (a) do installation work other than the replacement or repair of an existing pipe or water fitting;
 - (b) replace a fixed water heater or its associated protective devices;
 - (c) inspect, disinfect and test a water installation, fire installation or storage tank;
 - (d) service, repair or replace a back flow pre-vender; or
 - (e) install, maintain or replace a meter provided by an owner in a water installation.
- (2) No person shall require or engage a person who is not a plumber to do the work referred to in subsection (1).
- (3) Notwithstanding the provisions of subsection (1) the municipality may permit a person who is not a plumber to do installation work on his own behalf on premises owned and occupied solely by himself and his immediate household, provided that such work must be inspected and approved by a plumber at the direction of the engineer.

93. Provision and maintenance of water installations

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

94. Technical requirements for a water installation

Notwithstanding the requirement that a certificate be issued in terms of Section 25, all water installations shall comply with SANS 0252 Part 1 and all fixed electrical storage water heaters shall comply with SANS 0254.

95. Use of pipes and water fittings to be authorised

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

- (7) The municipality may sell copies of the current Schedule at a determined charge.

96. Labeling of terminal water fittings and appliances

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

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

97. Water demand management

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

Part 6: Communal water supply services

98. Provision of water supply to several consumers

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

Part 7: Temporary water supply services

99. Water supplied from a hydrant

- (1) The engineer may authorise a temporary supply of water to be taken from one or more fire hydrants specified by it, subject to such conditions and for any period that may be prescribed by him and payment of such applicable charges, including a deposit, as may be determined by the municipality from time to time.
- (2) A person who wishes to obtain a temporary supply of water referred to in subsection (1) must apply for such a water supply service in terms of Section (2) and must pay a deposit determined by the municipality from time to time.
- (3) The engineer shall provide a portable water meter and all other fittings and apparatus necessary for the temporary supply of water from a hydrant.

- (4) The portable meter and all other fittings and apparatus provided for the temporary supply of water from a hydrant remain the property of the municipality and must be returned to the municipality on termination of the temporary supply. Failure to return the portable meter and all other fittings and apparatus shall result the imposition of penalties determined by the municipality from time to time.

Part 8: Boreholes

100. Notification of boreholes

- (1) No person may sink a borehole on premises situated in a dolomite area, and before sinking a borehole a person must determine if the premises on which the borehole is to be sunk are situated within a dolomite area.
- (2) The municipality may, by public notice, require -
 - (a) the owner of any premises within any area of the municipality upon which a borehole exists or, if the owner is not in occupation of such premises, the occupier to notify it of the existence of a borehole on such premises, and provide it with such information about the borehole that it may require; and
 - (b) the owner or occupier of any premises who intends to sink a borehole on the premises, to notify it on the prescribed form of its intention to do so before any work in connection sinking it is commenced.
- (3) The municipality may require the owner or occupier of any premises who intends to sink a borehole, to undertake an environmental impact assessment of the intended borehole, to the satisfaction of the municipality, before sinking it.
- (4) The municipality may by notice to an owner or occupier or by public notice, require an owner or occupier who has an existing bore-hole that is used for water supply services to -
 - (a) obtain approval from it for the use of a borehole for potable water supply services in accordance with Sections 6, 7 and 22 of the Act; and
 - (b) impose conditions in respect of the use of a borehole for potable Water Services.

Part 9: Fire services connections

101. Connection to be approved by the municipality

- (1) The engineer shall be entitled in his absolute discretion to grant or refuse an application for the connection of a fire extinguishing installation to the Municipality's main.
- (2) No water shall be supplied to any fire extinguishing installation until a certificate that the municipality's approval in terms of Section 25 has been obtained and that the installation complies with the requirements of these and any other by-laws of the municipality, has been submitted.

- (3) If in the engineer's opinion a fire extinguishing installation, which he has allowed to be connected to the municipality's main, is not being kept in proper working order, or is otherwise not being properly maintained, or is being used for purpose other than fire fighting, that shall be entitled either to require the installation to be disconnected from the main or itself to carry out the work of disconnecting it at the customer's expense.

102. Special provisions

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

103. Dual and combined installations

All new buildings erected after the commencement of these by-laws, must comply with the following requirements in relation to the provision of fire extinguishing services:

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

104. Connection pipes for fire extinguishing services

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

105. Valves and meters in connection pipes

Every connection pipe to a fire extinguishing installation must be fitted with valves and a measuring device which shall be:

- (a) supplied by the engineer at the expense of the customer;
- (b) installed between the customer's property and the main; and
- (c) installed in such position as may be determined by the engineer.

106. Meters in fire extinguishing connection pipes

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

107. Sprinkler extinguishing installation

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

108. Header tank or double supply from main

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

109. Sealing of private fire hydrants

- (1) Except where a system is a combined system with a combination meter, all private hydrants and hose-reels must be sealed by the municipality and the seals must not, except for the purposes of opening the hydrant or using the hose when there is a fire, be broken by any person other than by the municipality in the course of servicing and testing.
- (2) The customer must give the municipality at least 48 hours notice prior to a fire extinguishing installation being serviced and tested.
- (3) The cost of resealing hydrants and hose-reels shall be borne by the customer except when the seals are broken by the municipality's officers for testing purposes.
- (4) Any water consumed through a fire installation or sprinkler system shall be paid for by the customer at the charges determined by the municipality.

CHAPTER 5: CONDITIONS FOR SANITATION SERVICES

Part 1: Connection to sanitation system

110. Obligation to connect to sanitation system

- (1) All premises on which sewage is produced must be connected to the Municipality's sanitation system if a connecting sewer is available or if it is reasonably possible or cost effective for the municipality to install a connecting sewer, unless approval for the use of on-site Sanitation Services was obtained in accordance with Section 98.
- (2) The municipality may, by notice, require the owner of premises not connected to the municipality's sanitation system to connect to the sanitation system.
- (3) An owner of premises, who is required to connect those premises to the municipality's sanitation system in accordance with subsection (1), must inform the municipality in writing of any Sanitation Services, provided by the municipality on the site, which will no longer be required as a result of the connection to the sanitation system.
- (4) The owner will be liable for any charge payable in respect of Sanitation Services on the site, until an agreement for rendering those services has been terminated in accordance with the Municipality's By-laws relating to Credit Control and Debt Collection.
- (5) If the owner fails to connect premises to the sanitation system after having had a notice in terms of subsection (2) the municipality, notwithstanding any other action that it may take in terms of these by-laws, may impose a penalty determined by it.

111. Provision of connecting sewer

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

112. Location of connecting sewer

- (1) A connecting sewer that has been provided and installed by the engineer must -
 - (a) be located in a position determined by the engineer and be of a suitable size determined by the engineer; and

- (b) terminate at -
 - (i) the boundary of the premises; or
 - (ii) at the connecting point if it is situated on the premises.

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

113. Provision of one connecting sewer for several consumers on same premises

- (1) Notwithstanding the provisions of Section 46, only one connecting sewer to the sanitation system may be provided for the disposal of sewage from any premises, irrespective of the number of accommodation units of consumers located on such premises.
- (2) Notwithstanding subsection (1), the municipality may authorise that more than one connecting sewer be provided in the sanitation system for the disposal of sewage from any premises comprising sectional title units or if, in the opinion of the municipality, undue hardship or inconvenience would be caused to any consumer on such premises by the provision of only one connecting sewer.
- (3) Where the provision of more than one connecting sewer is authorised by the municipality under subsection (2), the tariffs and charges for the provision of a connecting sewer are payable in respect of each sewage connection so provided.

114. Interconnection between premises

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

115. Disconnection of connecting sewer

The engineer may disconnect a drainage installation from the connection pipe and remove the connection pipe on the termination of an agreement for the provision of water supply services in accordance with the Municipality's By-laws relating to Credit Control and Debt Collection.

Part 2: Standards**116. Standards for Sanitation Services**

Sanitation Services provided by the municipality must comply with the minimum standards set for the provision of Sanitation Services in terms of the Section 9 of the Act.

Part 3: Methods for determining charges**117. Measurement of quantity of domestic effluent discharged**

- (1) As from 1 July 2008, the quantity of domestic effluent discharged shall be determined as a percentage of water supplied by the municipality; provided that where the municipality is of the opinion that such a percentage in respect of specific premises is excessive, having regard to the purposes for which water is consumed on those premises, the municipality may reduce the percentage applicable to those premises to a figure which, in its opinion and in the light of the available information, reflects the proportion between the likely quantity of sewage discharged from the premises and the quantity of water supplied.
- (2) Where premises are supplied with water from a source other than, or in addition to, the municipality's water supply system, including abstraction from a river or borehole, the quantity must be a percentage of the total water used on those premises that is reasonably estimated by the municipality.

118. Measurement of quantity and determination of quality of industrial effluent discharged

- (1) The quantity of industrial effluent discharged into the sanitation system must be determined -
 - (a) where a measuring device is installed, by the quantity of industrial effluent discharged from the premises as measured by that measuring device; or
 - (b) until the time that a measuring device is installed, by a percentage of the water supplied by the municipality to those premises.
- (2) The municipality may require the owner of any premises to incorporate in any drainage installation conveying industrial effluent to a sewer, any control meter or gauge or other device of an approved type and in the control of the municipality for the purpose of ascertaining to the satisfaction of the municipality, the tempo, volume and composition of the effluent.
- (3) The municipality may install and maintain any meter, gauge or device referred to in subsection (2) at the expense of the owner of the premises on which it is installed.
- (4) Where premises are supplied with water from a source other than or in addition to the municipality's water supply system, including abstraction from a river or borehole, the quantity will be a percentage of the total water used on those premises reasonably estimated by the municipality.
- (5) Where a portion of the water supplied to the premises forms part of the end product of any manufacturing process or is lost by reaction or evaporation during the manufacturing process or for any other reason, the municipality may on application by the owner reduce the assessed quantity of industrial effluent.

- (6) The municipality may at its discretion enter into an agreement with any person discharging industrial effluent into the sanitation system, establishing an alternative method of assessing the quantity and tempo of effluent so discharged.
- (7) Charges relating to the quality of industrial effluent will be based on the formula for industrial effluent discharges as prescribed in Schedule C.
- (8) The following conditions apply in respect of the assessment of the quality of industrial effluent discharged:
 - (a) each customer must conduct the prescribed tests, on a regular schedule as provided for in the approval to discharge industrial effluent, and report the results to the municipality;
 - (b) the municipality may conduct random compliance tests to correlate with those used in subsection (a) and, if discrepancies are found, the values of the municipality shall, except for the purpose of criminal proceedings, be presumed to be correct and further tests may be required by the municipality to determine, at the cost of the customer, the values for the formula;
 - (c) the average of the values of the different analysis results of 24 hourly composite or snap samples of the effluent, taken during the period of charge, will be used to determine the quality charges payable;
 - (d) in the absence of a complete daily set of 24 hourly composite or snap samples, the average of not less than two values of the sampled effluent, taken during the period of charge, will be used to determine the charges payable;
 - (e) in order to determine the strength (Chemical oxygen demand, suspended solids concentration, Ammonia concentration, and orthophosphate concentration) in the effluent as well as the concentration of Group 1 and 2 metals, pH value and conductivity, the municipality will use the tests normally used by municipalities for these respective purposes. Details of the appropriate test may be ascertained from the municipality or the SANS. Test results from a laboratory, accredited by the municipality, will have precedence over those of the municipality;
 - (f) the formula is calculated on the basis of the different analysis results of individual snap or composite samples and the period of treatment for calculation shall not be less than one full 24-hour period; unless evidence, is submitted to the municipality that a lesser period is actually applicable;
 - (g) the terms of the disincentive formula cannot assume a negative value;
 - (h) the total system values for quality charges shall remain constant for an initial period of one month, but in any case not longer than twelve months from the date of commencement of these charges, after the expiry of which time they may be amended or revised from time to time depending on such changes in the analysis results or further samples, as may be determined from time to time: provided that the municipality in its discretion in any particular case, may levy the minimum charges prescribed in subsection (7)(l) without taking any samples;
 - (i) whenever the municipality takes a sample, one half of it must be made available to the customer;

- (j) for the purpose of calculating of the quantity of effluent discharged from each point of discharge of effluent, the total quantity of water consumed on the premises shall be allocated to the several points of discharge as accurately as is reasonably practicable;
- (k) the costs of conveying and treating industrial effluent shall be determined by the municipality and shall apply with effect from a date determined by the municipality; and
- (l) in the discretion of the municipality, the charges for industrial effluent may be changed to a fixed monthly charge determined by taking into consideration the effluent strengths, the volume and the economic viability of micro and small industries.

119. Reduction in the measured quantity of effluent discharged

- (1) A person shall be entitled to a reduction in the quantity of effluent discharged, as determined in terms of Sections 51 and 52, where the quantity of water, on which a percentage is calculated, was measured during a period where water was wasted or a leakage went undetected, if the consumer demonstrates to the satisfaction of the municipality that the water was not discharged into the sanitation system.
- (2) The reduction in the quantity shall be based on the quantity of water lost through leakage or wastage during the leak period.
- (3) The leak period shall be either the measuring period immediately prior to the date of repair of the leak, or the measurement period during which the leak is repaired, whichever results in the greater reduction in the quantity.
- (4) The quantity of water lost shall be calculated as the consumption for the leak period less the average consumption, based on the pre-ceding 3 (three) months, for the same length of time. In the event of no previous history of consumption being available, the average water consumption will be determined by the municipality, after taking into account all information that is considered by it to be relevant.
- (5) There shall be no reduction in the quantity if a loss of water, directly or indirectly, resulted from a consumer's failure to comply with these or other by-laws.

120. Charges in respect of "on-site" Sanitation Services

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

Part 4: Drainage installations

121. Installation of drainage installations

An owner must provide and maintain his drainage installation at his own expense, unless the installation constitutes a basic sanitation facility as determined by the municipality, and

except where otherwise approved by the municipality, must ensure that the installation is situated within the boundary of his premises.

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

122. Disconnection of drainage installations

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

123. Maintenance of drainage installations

- (1) An owner must provide and maintain his drainage installation at his own cost.
- (2) Where any part of a drainage installation is used by two or more owners or occupiers, they shall be jointly and separately liable for the maintenance of the installation.
- (3) The owner of any premises must ensure that all manholes and cleaning eyes on the premises are permanently visible and accessible.

124. Technical requirements for drainage installations

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

125. Drains

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

126. Sewer blockages

- (1) No person may cause or permit an accumulation of grease, oil, fat, solid matter, or any other substance in any trap, tank, or fitting that may cause its blockage or ineffective operation.
- (2) When the owner or occupier of premises has reason to believe that a blockage has occurred in any drainage installation in or on it, he shall take immediate steps to have it cleared.
- (3) When the owner or occupier of premises has reason to believe that a blockage has occurred in the sewer system, he shall immediately inform the municipality.
- (4) Where a blockage occurs in a drainage installation, any work necessary for its removal must be done by, or under the supervision of, a plumber.
- (5) Should any drainage installation on any premises overflow as a result of an obstruction in the sewer, and if the municipality is reasonably satisfied that the obstruction was caused by objects emanating from the drainage installation, the owner of the premises served by the drainage installation shall be liable for the cost of clearing the blockage.
- (6) Where a blockage has been removed from a drain or portion of a drain which serves two or more premises, the owners are jointly and severally liable for the cost of clearing the blockage.
- (7) Where a blockage in a sanitation system has been removed by the engineer and the removal necessitated the disturbance of an owners paving, lawn or other artificial surface neither the engineer nor the municipality shall be required to

restore them to their previous condition and shall not be responsible for any damage to them unless caused by the wrongful act or negligence of the engineer.

127. Grease traps

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

128. Industrial grease traps

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

129. Mechanical appliances for lifting sewage

- (1) The owner of any premise must obtain the approval of the engineer before installing any mechanical appliance for the raising or transfer of sewage in terms of the Building Regulations.

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

Part 5: On-site Sanitation Services and associated services**103. Installation of on-site Sanitation Services**

If an agreement for on-site Sanitation Services in respect of premises has been concluded, or if it is not reasonably possible or cost effective for the municipality to install a connecting sewer, the owner must install Sanitation Services specified by the municipality, on the site unless the service is a subsidised service that has been determined by the municipality in accordance with Section 10 of the Municipality's Credit Control and Debt Collection Bylaw.

131. Ventilated improved pit latrines

- (1) The municipality may, on such conditions as it may prescribe, having regard to the nature and permeability of the soil, the depth of the water table, the size of, and access to, the site and the availability of a piped water supply, approve the disposal of human excrement by means of a ventilated improved pit (VIP) latrine
- (2) A ventilated improved pit latrine must have -
 - (a) a pit of 2 m³ capacity;
 - (b) lining as required;
 - (c) a slab designed to support the superimposed loading; and
 - (d) protection preventing children from falling into the pit;
- (3) A ventilated improved pit latrine must conform to the following specifications:
 - (a) the pit must be ventilated by means of a pipe, sealed at the upper end with durable insect proof screening fixed firmly in place;
 - (b) the ventilation pipe must project not less than 0.5 m above the nearest roof, must be of at least 150 mm in diameter, and must be installed vertically with no bend;
 - (c) the interior of the closet must be finished smooth so that it can be kept in a clean and hygienic condition. The superstructure must be well-ventilated in order to allow the free flow of air into the pit to be vented through the pipe;
 - (d) the opening through the slab must be of adequate size as to prevent fouling. The rim must be raised so that liquids used for washing the floor do not flow into the pit. It shall be equipped with a lid to prevent the egress of flies and other insects when the toilet is not in use;
 - (e) must be sited in a position that is independent of the dwelling unit;
 - (f) must be sited in positions that are accessible to road vehicles having a width of 3.0 m in order to facilitate the emptying of the pit;
 - (g) in situations where there is the danger of polluting an aquifer due to the permeability of the soil, the pit must be lined with an impermeable material that is durable and will not crack under stress; and
 - (h) in situations where the ground in which the pit is to be excavated is unstable, suitable support is to be given to prevent the collapse of the soil.

132. Septic tanks and treatment plants

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

133. French drains

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

134. Conservancy tanks

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

135. Operation and maintenance of on-site Sanitation Services

The operation and maintenance of on-site Sanitation Services and all costs pertaining to it remains the responsibility of the owner of the premises, unless the on-site Sanitation Services are subsidised services determined in accordance with the Municipality's By-laws relating to Credit Control and Debt Collection.

136. Disused conservancy and septic tanks

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

Part 6: Industrial effluent**137. Approval to discharge industrial effluent**

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

138. Withdrawal of approval to discharge industrial effluent

- (1) The municipality may withdraw any approval to a commercial customer, who has been authorised to discharge industrial effluent into the sanitation system, upon giving 14 (fourteen) days notice, if the customer -
 - (a) fails to ensure that the industrial effluent discharged conforms to the industrial effluent standards prescribed in Schedule A of these by-laws or the written permission referred to in Section 71;
 - (b) fails or refuses to comply with any notice lawfully served on him in terms of these by-laws, or contravenes any provisions of these by-laws or any condition imposed in terms of any permission granted to him; or
 - (c) fails to pay the charges in respect of any industrial effluent discharged.
- (2) The municipality may on withdrawal of any approval -
 - (a) in addition to any steps required by in these by-laws, and on 14 (fourteen) days' written notice, authorise the closing or sealing of the connecting sewer of the said premises; and(b) refuse to receive any industrial effluent until it is satisfied that adequate steps to ensure that the industrial effluent that is to be discharged conforms to the standards required by these by-laws.

139. Quality standards for disposal of industrial effluent

- (1) A commercial customer, to whom approval has been granted must ensure that no industrial effluent is discharged into the sanitation system of the municipality unless it complies with the standards and criteria set out in Schedule A.
- (2) The municipality may, in giving its approval, relax or vary the standards in Schedule A, provided that it is satisfied that any relaxation represents the best practicable environmental option.
- (3) In determining whether relaxing or varying the standards in Schedule A represents the best practicable environmental option a municipality must consider -
 - (a) whether the commercial customer's undertaking is operated and maintained at optimal levels;
 - (b) whether technology used by the commercial customer represents the best available to the commercial customer's industry and, if not, whether the installation of the best technology would cause the customer unreasonable expense;
 - (c) whether the commercial customer is implementing a programme of waste minimisation that complies with national waste minimisation standards set in accordance with national legislation;
 - (d) the cost to the municipality of granting the relaxation or variation; and
 - (e) the environmental impact or potential impact of the relaxation or variation.
- (4) Test samples may be taken at any time by a duly qualified sampler to ascertain whether the industrial effluent complies with Schedule A or any other standard laid down as a requisition for granting an approval.

140. Conditions for the discharge of industrial effluent

- (1) The municipality may on granting approval for the discharge of industrial effluent, or at any time that it considers appropriate, by notice, require a commercial customer to -
 - (a) subject the industrial effluent to such preliminary treatment as in the opinion of the municipality will ensure that the industrial effluent conforms to the standards prescribed in Schedule A before being discharged into the sanitation system;
 - (b) install equalising tanks, valves, pumps, appliances, meters and other equipment which, in the opinion of the municipality, will be necessary to control the rate and time of discharge into the sanitation system in accordance with the conditions imposed by it;
 - (c) install for the conveyance of the industrial effluent into the sanitation system at a given point, a drainage installation separate from the drainage installation for other sewage and may prohibit a commercial customer from disposing of his industrial effluent at any other point;
 - (d) construct on any pipe conveying his industrial effluent to any sewer, a service access hole or stop-valve in such position and of such dimensions and materials as the municipality may prescribe;

- (e) provide all information that may be required by the municipality to enable it to assess the tariffs or charges due to the municipality;
 - (f) provide adequate facilities including, but not limited to, level or overflow detection devices, standby equipment, overflow catch-pits, or other appropriate means of preventing a discharge into the sanitation system in contravention of these by-laws;
 - (g) cause any meter, gauge or other device installed in terms of this Section to be calibrated by an independent authority at the cost of the commercial customer at such intervals as may be required by the municipality and copies of the calibration must be forwarded to it by the commercial customer; and
 - (h) cause industrial effluent to be analyzed as often, and in whatever manner, may be determined by the municipality and provide it with the results of these tests when they are completed.
- (2) The cost of any treatment, plant, work or analysis, which a person may be required to carry out, construct or install in terms of subsection (1), shall be borne by the commercial customer concerned.
 - (3) If industrial effluent that neither complies with the standards in Schedule A nor has received the approval of the municipality, is discharged into the sanitation system, the municipality must be informed and the reasons for it, within twelve hours of the discharge.

Part 7: Sewage delivered by road haulage

141. Acceptance of sewage delivered by road haulage

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

142. Approval for delivery of sewage by road haulage

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

143. Withdrawal of permission for delivery of sewage by road haulage

The engineer may withdraw any approval, given in terms of Section 75, after giving at least 14 (fourteen) days written notice of his intention to do so, if a person who has been allowed to discharge sewerage by road haulage -

- (a) fails to ensure that the sewage conforms to the standards prescribed either in Schedule A, or as a condition of approval; or

- (b) fails or refuses to comply with any notice served on him in terms of these by-laws or contravenes any provision of these by-laws or any condition has been imposed on him as a condition of approval; and
- (c) fails to pay all the charges applicable to the delivery of sewage.

144. Conditions for delivery of sewage by road haulage

When sewage is to be delivered by road haulage -

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

Part 8: Other Sanitation Services

145. Stables and similar premises

The municipality may approve the connection of a drainage installation to stables, cowsheds, dairies, kennels, other premises for the accommodation of animals, and tanneries, subject to the payment of all applicable charges and the fulfillment of any condition that the municipality may impose; but approval will be given only if -

- (a) the floor of the premises is paved by impervious materials that are approved by the municipality and graded to a silt trap, grease trap or gully of adequate capacity; and
- (b) every part of the floor of the premises is covered by a roof, or another protective device, in a way that adequately prevents the entry of rain or storm water into the drainage installation.

146. Mechanical food-waste or other disposal units

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

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

Part 9: Installation work**147. Approval of installation work**

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

148. Persons permitted to do installation and other work

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

149. Use of pipes and water fittings to be authorised

- (1) No person shall, without the prior written authority of the engineer, install or use a pipe or water fitting in a water installation within the municipality's area of jurisdiction unless it is included in the schedule of approved pipes and fittings compiled by the municipality.
- (2) Application for the inclusion of a pipe or water fitting in the schedule referred to in subsection (1) must be made on the form prescribed by the municipality
- (3) A pipe or water fitting may be included in the schedule referred to in subsection (1) if -
 - (a) it bears the standardisation mark of the South African Bureau of Standards in respect of the relevant SANS specification issued by the Bureau; or
 - (b) it bears a certification mark issued by the SANS to certify that the pipe or water fitting -
 - (i) complies with an SANS Mark specification; or
 - (ii) a provisional specification issued by the SANS;
 - (c) it is included in the list of water and sanitation installations accepted by JASWIC; and
 - (d) no certification marks shall be for a period exceeding two years.
- (4) The municipality may impose any additional condition that it considers necessary as relating to the use, or method of installation, of any pipe or water fitting included in the schedule.
- (5) A pipe or sanitation fitting must be removed from the schedule if it -
 - (a) no longer complies with the criteria upon which its inclusion was based; or
 - (b) is no longer suitable for the purpose for which its use was accepted.
- (6) The current schedule must be available for inspection at the office of the municipality at any time during working hours.
- (7) The municipality may sell copies of the current schedule at a charge determined by it.

150. Testing of drainage installations

- (1) No drainage installation, or any part of one, shall be connected to on-site Sanitation Services nor shall, the municipality's sanitation system be connected to an existing approved installation, unless any one or more of the following tests have been applied in the presence, and to the satisfaction, of the engineer, before the draining installation has been enclosed:
 - (a) the interior of every pipe or series of pipes between two points of access shall be inspected throughout its length by means of a mirror and a source of light, and during the inspection, a full circle of light must appear to the observer, and the pipe or series of pipes must be seen to be unobstructed;

- (b) a smooth ball having a diameter 12 mm less than the nominal diameter of the pipe shall, when inserted at the higher end of the pipe, roll down without assistance or interruption to the lower end;
 - (c) after all openings to the pipe or series of pipes to be tested, after having been plugged or sealed and after all traps associated with them have been filled with water, air shall be pumped into the pipe or pipes until a manometric pressure of 38 mm of water is indicated, after which the pressure must remain greater than 25 mm of water for a period of at least 3 (three) minutes without further pumping; and
 - (d) all parts of the installation are subjected to and required to withstand an internally applied hydraulic test pressure of not less than a 3 m head of water for a period of not less than 10 minutes.
- (2) If the municipality has reason to believe that any drainage installation or any part of it has become defective, it may require the owner of any premises to conduct any or all of the tests prescribed in subsection (1) and, if the installation fails to pass any test, or all the tests, to the satisfaction of the municipality, the municipality may by notice require the owner to take all reasonable measures that may be necessary to enable the installation to satisfy any or all of them.

151. Water demand management

- (1) Notwithstanding the provisions of Sections 92 and 113, no flushing urinal that is not user-activated shall be installed or continue to operate in any water installation. All flushing urinals that are not user-activated installed prior to the commencement of these regulations must be converted to user-activated urinals within two years of the commencement of these by-laws.
- (2) No cistern, and related pan designed to operate with such cistern, shall be installed with a cistern capacity of greater than 9 litres and all cisterns not intended for public use shall be fitted with flushing devices allowing interruptible or multiple flushes, provided that such flushing device shall not be required in cisterns with a capacity of 4,5 litres or less.

CHAPTER 6: WATER SERVICES INTERMEDIARIES

152. Registration

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

153. Provision of Water Services

- (1) Water Services intermediaries must ensure that Water Services, including basic services as determined by the municipality, are provided to such persons it is obliged to provide with Water Services.
- (2) The quality, quantity and sustainability of Water Services provided by a Water Services intermediary must meet any minimum standards prescribed in terms of the Act and must at least be of the same standards as provided by the municipality to customers.

154. Charges for Water Services provided

- (1) A Water Services intermediary may not charge for Water Services at a price which does not comply with any norms and standards prescribed under the Act and any additional norms and standards as may be set by the municipality.
- (2) A Water Services intermediary must provide subsidised Water Services, as determined by the municipality in terms of the Municipality's By-laws relating to Credit Control and Debt Collection from time to time, and provided by the municipality to customers at a price that is the same or less than the charges at which the municipality provides such services.

CHAPTER 7: UNAUTHORISED WATER SERVICES

155. Unauthorised services

- (1) No person may gain access to Water Services unless it is in terms of an agreement entered into with the municipality for the rendering of those services.
- (2) The municipality may, irrespective of any other action it may take against such person in terms of these by-laws by written notice order a person who is using unauthorised services to -
 - (a) apply for such services in terms of Sections 2 and 3; and
 - (b) undertake such work as may be necessary to ensure that the customer installation through which access was gained complies with the provisions of these or any other relevant by-laws.

156. Interference with infrastructure for the provision of Water Services

- (1) No person other than the municipality shall manage, operate or maintain infrastructure through which Water Services are provided.
- (2) No person other than the municipality shall effect a connection to infrastructure through which Water Services are provided.
- (3) The municipality may recover any costs associated with repairing damage caused as a result of a contravention of subsections (1) and (2). The costs recoverable by the municipality is the full cost associated with repairing the damage and includes, but is not restricted to, any exploratory investigation, surveys, plans, specifications, schedules of quantities, supervision, administration charge, the use of tools, the expenditure of labour involved in disturbing or rehabilitation of any part of a street or ground affected by the repairs and the environmental cost.

157. Obstruction of access to infrastructure for the provision of Water Services

- (1) No person shall prevent or restrict the physical access of the municipality to infrastructure through which Water Services are provided.
- (2) If a person contravenes subsection (1), the municipality may -
 - (a) by written notice require such person to restore access at his own expense within a specified period; or

- (b) if it is of the opinion that the situation is a matter of urgency, without prior notice restore access and recover the cost from such person.
- (3) The costs recoverable by the municipality is the full cost associated with restoring access and includes, but is not restricted to, any exploratory investigation, surveys, plans, specifications, schedules of quantities, supervision, administration charge, the use of tools, the expenditure of labour involved in disturbing or rehabilitation of any part of a street or ground affected by restoring access and the environmental cost.

158. Waste of water

- (1) No customer shall permit -
 - (a) the purposeless or wasteful discharge of water from terminal water fittings;
 - (b) pipes or water fittings to leak;
 - (c) the use of maladjusted or defective water fittings; or
 - (d) an overflow of water to persist.
- (2) An owner shall repair or replace any part of his water and sanitation installation which is in such a state of disrepair that it is either causing or is likely to cause an occurrence listed in subsection (1).
- (3) If an owner fails to take measures as contemplated in subsection (2), the municipality shall, by written notice, require the owner to comply with the provisions of subsection (1).
- (4) The municipality may, by written notice, prohibit the use by a customer of any equipment in a water or sanitation installation if, in its opinion, its use of water is inefficient. Such equipment shall not be returned to use until its efficiency has been restored and a written application to do so has been approved by the municipality.

159. Unauthorised and illegal discharges

- (1) No person may discharge or cause or permit any sewage to be discharged directly or indirectly into a storm-water drain, river, stream or other watercourse, whether natural or artificial.
- (2) The owner or occupier of any premises on which steam or any liquid other than potable water, is stored, processed or generated shall provide all facilities necessary to prevent any discharge or leakage of such liquid to any street, storm water drain or watercourse, whether natural or artificial, except where, in the case of steam, the municipality has approved such discharge.
- (3) Where the hosing down or flushing by rainwater of an open area on any premises is in the opinion of the municipality is likely to cause the discharge of objectionable matter into any street, storm water drain, river, stream or other watercourse, whether natural or artificial, or to cause or contribute towards the pollution of any such watercourse, the municipality may, by notice, require the owner of the premises to take reasonable measures to prevent or minimize such discharge or pollution.
- (4) No person may discharge or cause or permit the discharge of -

- (a) any substance, including storm water, other than sewage, to be discharged into a drain-age installation;
- (b) of water from any swimming pool directly or indirectly over any road or into a gutter, storm water drain, watercourse, open ground or private premises other than the premises of the owner of such swimming pool;
- (c) water from artificial fountains, reservoirs or swimming pools situated on premises into a drainage installation, without the approval of the municipality and subject to the payment of relevant charges and such conditions as the municipality may impose;
- (d) any sewage, industrial effluent or other liquid or substance which -
 - (i) in the opinion of the engineer may be offensive to or may cause a nuisance to the public;
 - (ii) is in the form of steam or vapour or has a temperature exceeding 44° C at the point where it enters the sewer;
 - (iii) has a pH value less than 6.0;
 - (iv) contains any substance of whatsoever nature likely to produce or release explosive, flammable, poisonous or offensive gases or vapors in any sewer;
 - (v) contains any substance having an open flashpoint of less than 93°C or which releases a poisonous vapour at a temperature below 93° C;
 - (vi) contains any material of whatsoever nature, including oil, grease, fat or detergents capable of causing obstruction to the flow in sewers or drains or interference with the proper operation of a sewerage treatment works;
 - (vii) shows any visible signs of tar or associated products or distillates, bitumen's or asphalts;
 - (viii) contains any substance in such concentration to produce an undesirable taste after chlorination or an undesirable odor or colour, or excessive foam;
 - (ix) has either a greater PV or COD (Chemical Oxygen Demand) value, a lower pH value, or a higher caustic alkalinity or electrical conductivity than specified in Schedule A, without the prior approval and subject to the payment of relevant charges and such conditions as the municipality may impose;
 - (x) contains any substance which in the opinion of the engineer -
 - (aa) cannot be treated at the sewage treatment work to which it could be discharged;
 - (bb) will negatively affect the treatment processes at the sewage treatment work to which it could be discharged; or
 - (cc) will negatively impact on the ability of the sewage treatment work to produce discharges that meet the

waste water discharge standards set in terms of the National Water Act, 1998 (Act No 36 of 1998), or

- (xi) either alone or in combination with other substance may -
 - (aa) generate or constitute a toxic substance dangerous to the health of persons employed at the sewage treatment works or entering the Council's sewers or manholes in the course of their duties; or
 - (bb) be harmful to sewers, treatment plant or land used for the disposal of treated waste water; or
 - (cc) adversely affect any of the processes whereby sewage is treated or any re-use of sewage effluent.
- (5) No person shall cause or permit the accumulation of grease, oil, fat or solid matter in any drainage installation that will adversely affect its effective functioning.
- (6) The municipality may, notwithstanding any other actions that may be taken in terms of these by-laws, recover from any person who discharges industrial effluent or any substance which is unauthorised or illegal all costs incurred, by the municipality as a result of such discharges, including costs that result from -
 - (a) injury to persons, damage to the sanitation system; or
 - (b) a prosecution in terms of the National Water Act, 1998 (Act No 36 of 1998).

160. Illegal re-connection

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

161. Interference with infrastructure

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

162. Pipes in streets or public places

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

163. Use of water from sources other than the water supply system

- (1) No person shall use or permit the use of water obtained from a source other than the water supply system, other than rain water tanks which are not connected to the water installation, except with the prior approval of the engineer, and in accordance with such conditions as it may impose, for domestic, commercial or industrial purposes.
- (2) Any person desiring the consent referred to in subsection (1) shall provide the engineer with evidence satisfactory to it that the water referred to in subsection (1) complies, whether as a result of treatment or otherwise, with the requirements of SANS 241: Drinking Water, or that the use of such water does not or will not constitute a danger to health.
- (3) Any consent given in terms of subsection (1) may be withdrawn if, in the opinion of the engineer -
 - (a) a condition imposed in terms of subsection (1) is breached; or
 - (b) the water quality no longer conforms to the requirements referred to in subsection (2).
- (4) The engineer may take samples of water obtained from a source, other than the water supply system and cause the samples to be tested for compliance with the requirements referred to in subsection (2).
- (5) The determined charge for the taking and testing of the samples referred to in subsection (4) above shall be paid by the person to whom consent was granted in terms of subsection (1).
- (6) If water obtained from a borehole or other source of supply on any premises is used for a purpose which gives rise to the discharge of such water or a portion thereof into the municipality's sewerage system, the municipality may install a meter in the pipe leading from such borehole or other source of supply to the point or points where it is so used.
- (7) The provisions of Section 20 shall apply insofar as they may be applicable in respect of the meter referred to in subsection (4).

164. Use of on-site Sanitation Services not connected to the sanitation system

- (1) No person shall use or permit the use of onsite Sanitation Services not connected to the municipality's sanitation system except with the prior approval of the engineer, and in accordance with such conditions as it may impose, for domestic, commercial or industrial purposes.
- (2) Any person desiring the consent referred to in subsection (1) shall provide the engineer with evidence satisfactory to it that the sanitation facility is not likely to have a detrimental effect on health or the environment.
- (3) Any consent given in terms of subsection (1) may be withdrawn if, in the opinion of the engineer -
 - (a) a condition imposed in terms of subsection (1) is breached; or
 - (b) the sanitation facility has a detrimental impact on health or the environment.

- (4) The engineer may undertake such investigations as he or she may deem necessary to determine if a sanitation facility has a detrimental impact on health or the environment.
- (5) The person to whom consent was granted in terms of subsection (1) shall be liable for the costs associated with an investigation undertaken in terms of subsection (2) if the result of the investigation indicates that the sanitation facility has a detrimental impact on health or the environment.

CHAPTER 8: NOTICES

165. Power to serve and compliance with notices

- (1) The municipality may, by written notice, order an owner, customer or any other person who fails, by act or omission, to comply with the provisions of these by-laws, or to fulfill any condition imposed in it, to rectify his failure within a period specified in the notice, which period shall not be less than thirty days except where a notice is issued in terms of Section 18, when the period shall not be less than seven days.
- (2) If a person fails to comply with a written notice served on him by the municipality in terms of these by-laws within the specified period, it may take such action that in its opinion is necessary to ensure compliance, including -
 - (a) undertaking the work necessary itself and recovering the cost of such action or work from that owner, consumer or other person;
 - (b) restricting or discontinuing the provision of services; and
 - (c) instituting legal proceedings.
- (3) A notice in terms of subsection (1) must -
 - (a) give details of any provision of the by-laws that has not been complied with;
 - (b) give the owner, consumer or other person a reasonable opportunity to make representations and state his case, in writing, to the municipality within a specified period, unless the owner, consumer or other person was given such an opportunity before the notice was issued;
 - (c) specify the steps that the owner, consumer or other person must take to rectify the failure to comply;
 - (d) specify the period within which the owner, consumer or other person must take the steps specified to rectify such failure; and
 - (e) indicate that the municipality -
 - (i) may undertake any work that is necessary to rectify a failure to comply with a notice and the cost to the municipality of rectification may be recovered from the owner, consumer or other person who has failed to comply with it; and
 - (ii) may take any other action that it considers necessary for ensuring compliance.

- (4) In the event of an emergency the municipality may, without prior notice to anyone, undertake the work required by subsection (3)(e)(i) and recover the costs from a person who, but for the emergency, would have to be notified in terms of subsection (1).
- (5) The costs recoverable by the municipality in terms of subsections (3) and (4) are the full costs associated with that work and includes, but are not restricted to, any exploratory investigation, surveys, plans, specifications, schedules of quantities, supervision, administration charge, the use of tools, the expenditure of labour involved in disturbing or rehabilitation of any part of a street or ground affected by the work and the environmental cost.

CHAPTER 9: APPEALS

166. Appeals against decisions of the municipality

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

CHAPTER 10: OFFENCES

167. Offences

- (1) Subject to subsection (2), any person who -
 - (a) obstructs or hinders the municipality in the exercising of the powers or performance of functions or duties under these by-laws;
 - (b) uses, tampers or interferes with municipal equipment, the water supply system, sanitation system and reticulation network or consumption of services rendered;

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

CHAPTER 11: DOCUMENTATION

168. Signing of notices and documents

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

169. Service of notices

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

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

170. Authentication of documents

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

171. Prima facie evidence

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

CHAPTER 12: GENERAL PROVISIONS

172. Responsibility for compliance with these by-laws

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

173. Provision of information

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

174. Power of entry and inspection

- (1) The municipality may enter and inspect any premises for any purpose connected with the implementation or enforcement of these by-laws, at all reasonable times, after having given reasonable written notice to the occupier of the premises of the intention to do so.

- (2) Any entry and inspection must be conducted in conformity with the requirements of the Constitution of South Africa, 1996, and any other law and, in particular, with strict regard to decency and order, respect for a person's dignity, freedom and security, and personal privacy.
- (3) The municipality may be accompanied by an interpreter and any other person reasonably required to assist the authorised official in conducting the inspection.
- (4) A person representing the municipality must, on request, provide his identification.

175. Indemnification from liability

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

176. Exemption

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

177. Conflict of law

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

178. Transitional arrangements

- (1) Installation work authorised by the municipality prior to the commencement date of these by-laws or authorised installation work in progress on that date shall be deemed to have been authorised in terms of these by-laws; and the municipality may, for a period of 90 (ninety) days after the commencement of these by-laws, authorise installation work in accordance with the by-laws that regulated that work immediately prior to the promulgation of these by-laws.
- (2) Any reference in these by-laws to a charge determined by the municipality shall be deemed to be a reference to a charge determined by the municipality under the laws repealed by Section 114, until the effective date of any applicable charges that may be determined by the municipality in terms of these by-laws, or by-laws relating to Credit Control and Debt Collection, and any reference to a provision in the laws repealed by Section 114 shall be deemed to be a reference to a corresponding provision in these by-laws.

- (3) Any approval, consent or exemption granted under the laws repealed by Section 114 shall, save for the provisions of subsection (3), remain valid.
- (4) No customer shall be required to comply with these by-laws by altering a water installation or part of it which was installed in conformity with any laws applicable immediately prior to the commencement of these by-laws; provided that if, in the opinion of the engineer, the installation, or part, is so defective or in a condition or position that could cause waste or undue consumption of water, pollution of the water supply or a health hazard, the engineer may by notice require the customer to comply with the provisions of these by-laws.

179. Repeal of existing municipal Water Services by-laws

The provisions of any by-laws relating to water supply and Sanitation Services by the municipality are hereby repealed insofar as they relate to matters provided for in these by-laws.

180. Short title and commencement

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

SCHEDULE A

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

Parameter	Allowed Specification
PV-not exceed	1400 mg/l
pH within range	6,0 – 10,0
Electrical conductivity— not greater than	500 m S / m at 20 °C
Caustic alkalinity (expressed as CaCO ₃)	2 000 mg / l
Substance not in solution (including fat, oil, grease waxes and like substances)	2 000 mg / l
Substances soluble in petroleum ether	500 mg / l
Sulphides, hydro-sulphides and polysulphides (expressed as S)	50 mg / l
Substances from which hydrogen cyanide can be liberated in the drainage installation, sewer or sewage treatment works (expressed as HCN)	20 mg / l
Formaldehyde (expressed as HCHO)	50 mg / l
Non— organic solids in suspension	100 mg / l
Chemical oxygen demand (CO)	5 000 mg / l
All sugars and / or starch (expressed as glucose)	1 500 mg / l
Available chlorine (expressed as Cl)	100 mg / l
Sulphates (expressed as SO ₄)	1 800 mg / l
Fluorine— containing compounds (expressed as F)	5 mg / l
Anionic surface active agents	500 mg / l

METALS:

Group 1:

Metal	Expressed as
Manganese	Mn
Chromium	Cr
Copper	Cu
Nickel	Ni
Zinc	Zn
Iron	Fe
Silver	Ag
Cobalt	Co
Tungsten	W
Titanium	Ti
Cadmium	Cd

The total collective concentration of all metals in Group 1 (expressed as indicated above) in any sample of the effluent, shall not exceed 50 mg / l, nor shall the concentration of any individual metal in a sample exceed 20 mg / l.

Group 2:

Metal	Expressed as
Lead	Pb
Selenium	Se
Mercury	Hg

The total collective concentration of all metals in Group 2 (expressed as indicated above) in any sample of the effluent shall not exceed 10 mg / l, nor shall the concentration of any individual metal in any sample exceed 5 mg / l.

OTHER ELEMENTS

Element	Expressed as
Arsenic	As
Boron	B

The total collective concentration of all elements (expressed as indicated above) in any sample of the effluent shall not exceed 20 mg / l.

RADIO-ACTIVE WASTES

Radio-active wastes or isotopes: Such concentration as may be laid down by the Atomic Energy Board or any National Department:

Provided that, notwithstanding the requirements set out in this Part, the municipality reserves the right to limit the total mass of any substance or impurity discharged per 24 hours into the sanitation system from any premises.

METHOD OF TESTING

The method of testing in order to ascertain the concentration of any substance in this schedule shall be the test normally used by the municipality for these purposes. Any person discharging any substance referred to in this Schedule shall ascertain the details of the appropriate test from the municipality.

SCHEDULE B

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

(Please complete application in block capitals)

I (name): _____

the undersigned, duly authorised to set on behalf of

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

PART I

1. NATURE OF THE BUSINESS OR INDUSTRY CONCERNED:

2. NAME OR STYLE UNDER WHICH THE BUSINESS OR INDUSTRY IS CONDUCTED:

3. POSTAL ADDRESS OF THE BUSINESS OR INDUSTRY:

4. PHYSICAL STREET ADDRESS:

ERF NO OR FARM PTN: _____ TOWNSHIP OR FARM: _____

5. If the business or industry is conducted by a company or closed corporation, state the name of the secretary, and if it is a partnership state the names of the partners:

6. IS THIS A NEW OR ESTABLISHED BUSINESS: _____

7. DESCRIPTION OF INDUSTRIAL OR TRADE PROCESS BY WHICH THE EFFLUENT WILL BE PRODUCED:

8. INFORMATION RELATING TO EMPLOYEES:

	Office	Factory
1. Total number of daily employees (not included in (4)):
2. Number of shifts worked per day
3. Number days worked per week
4. Number of persons resident on the premises
5. Is a canteen provided?

PART II**INFORMATION RELATING TO THE CONSUMPTION OF WATER**

1. TOTAL NUMBER OF LITRES OF WATER CONSUMED IN SIX MONTHS:

	Meter No	Meter No	Meter No	Total
Water purchased from the municipality				
Water from borehole or other source				
Water entering with raw materials				
Section of plant served by meter				
Total A				

2. WATER CONSUMPTION

(1) Industrial	kl/Month
(i) Quantity of water in product
(ii) Quantity of water lost by evaporation
(iii) Quantity of water used as boiler make-up
(iv) Quantity of water for other uses (e.g. cooling, gardens, etc)
TOTAL B	_____

- | | | |
|------|---|----------|
| (2) | Domestic use | kl/Month |
| (i) | Total number of employees (Allow 1 kilolitre/person/month) | |
| (ii) | Total number of employees permanently resident on the premises
e.g. hostels (Allow 1 kilolitre/person/month) | |
| | TOTAL C | _____ |

3. EFFLUENT DISCHARGE INTO SANITATION SYSTEM

- | | | |
|-----|---|----------------|
| (1) | Metered volume (if known) |kl/ Month |
| (2) | Estimated un-metered volume (see below*) |kl/ Month |
| (3) | Estimated rate of discharge | |
| (4) | Period of maximum discharge (e.g. 07:00 to 08:00) | |

* In the event that no effluent meter is installed on the premises, the estimated volume of un-metered effluent discharge to sewer is calculated as follows:

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

PART III

INFORMATION REGARDING THE COMPOSITION OF INDUSTRIAL EFFLUENT

Information relating to the chemical and physical characteristics of the effluent to be discharged:

- (1) Maximum temperature of effluent °C
- (2) pH value Ph
- (3) Nature and amount of settle able solids
- (4) Organic Content (Expressed as Chemical Oxygen Demand)
- (5) Maximum total daily discharge (kilolitres)
- (6) Maximum rate of discharge (kilolitres / hr)
- (7) Periods of maximum discharge, (e.g. 7:00 am to 8:00 am)
- (8) If any of the substances or their salts, specified in the table, are formed on the premises, a cross must be placed in the space in which the substance appears, and, if possible, the average concentration of this substance likely to be present in any effluent must also be stated.

TABLE

ELEMENTS		COMPOUNDS		OTHER SUBSTANCES	
Arsenic	mg/l	Ammonium	mg/l	Grease and / or oil	mg/l
Boron	mg/l	Nitrate	mg/l	Starch and / or sugars	mg/l
Cadmium	mg/l	Sulphide	mg/l	Synthetic detergents	mg/l
Chromium	mg/l	Sulphate	mg/l	Tar and / or tar oils	mg/l
Cobalt	mg/l	Others (Specify)	mg/l	Volatile Solvents	mg/l
Copper	mg/l	Others (Specify)	mg/l		
Cyanide	mg/l				
Iron	mg/l				
Lead	mg/l				
Manganese	mg/l				
Mercury	mg/l				
Nickel	mg/l				
Selenium	mg/l				
Tungsten	mg/l				
Titanium	mg/l				
Zinc	mg/l				
Other (Specify)	mg/l				

- (9) Any further information as to kind or character, chemical compositions, concentrations or other properties peculiar to the industrial effluent to be furnished on a separate sheet and attached hereto.

PART IV

CONDITIONS RELATING TO THE ACCEPTANCE OF INDUSTRIAL EFFLUENT

1. The applicant shall attach descriptions and a statement of the dimensions of grease and oil traps, screens, dilution and neutralizing tanks and any other provision made for the treatment of the effluent prior to discharge to the sanitation system.
2. The applicant shall submit to the municipality, if requested, plans showing the reticulation systems on his premises for water and industrial effluent.
3. The applicant shall, in addition to complying with the provisions of the Municipality's Water Services By-laws aimed at the protection of its employees, sewers and treatment plant from damage, comply with any direction concerned with such protection given by the engineer verbally or in writing for the purpose of ensuring the applicant's compliance with the said by-laws.
4. The applicant shall notify the municipality, as soon as possible after he becomes aware thereof, or at least 14 days before anything is done to cause material alteration in the nature or quantity of the industrial effluent specified in this application or in any of the facts stated by him therein.
5. The applicant shall, within 30 days from the date of signature of this application, procure an accurately representative sample of not less than 5 liter of the industrial effluent to be discharged into the sewer, which sample shall be free of domestic sewage, and shall submit one half thereof to the municipality for analysis and also submit to the engineer a report on the sample made by an analyst appointed by him: Provided that in the case of a newly established industry the period specified may be extended by the municipality for a period not exceeding six months or such further extended periods as the municipality in its discretion may approve.
6. The applicant hereby declares and warrants that the information given by him in this form, or otherwise, in connection with this application is, to the best of his knowledge and belief, in all respects correct.
7. The applicant agrees that the said information, being in all respects correct, shall form the basis on which this application is granted by the municipality.

Thus done at by the applicant this day of20

.....

SIGNATURE AND CAPACITY OF THE APPLICANT

SCHEDULE C

FORMULA FOR THE CALCULATION OF EFFLUENT DISCHARGE CHARGES

A **SCHEDULE C** calculation for tariffs will be submitted to Council annually for approval.

Where T_c	=	Extraordinary Treatment Cost to Consumer
Q_c	=	Waste water Volume discharged by consumer in kl
T	=	Unit Treatment cost of waste water in R/kl
COD_c	=	Total COD of waste water discharged by consumer in milligrams/liter and is inclusive of both the biodegradable and non-biodegradable portion of the COD
COD_d	=	Total COD of domestic waste water in milligrams per liter
P_c	=	Ortho-phosphate concentration of waste water discharged by consumer in milligrams phosphorus per liter
P_d	=	Ortho-phosphate concentration of domestic waste water in milligrams phosphorus per liter
N_c	=	Ammonia concentration of waste water discharged by consumer in milligrams of nitrogen per liter
N_d	=	Ammonia concentration of domestic waste water in milligrams of nitrogen per liter
a	=	Portion of the costs directly related to COD
b	=	Portion of the costs directly related to the removal of phosphates
c	=	Portion of the costs directly related to the removal of nitrates

Different terms	Value
T	R0.82/kl
COD_d	600 mg/l
?????	10 mg/l
N_d	25 mg/l
A	0.6
B	0.25
C	0.15

ANNEXURE A

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

The Water Services Act

Section 21 of the Water Services Act provides as follows:

“21. By-laws

- (4) *Every Water Services authority must make by-laws which contain conditions for the provision of Water Services, and which must provide for at least -*
- (a) *the standard of the services;²*
 - (b) *the technical conditions of supply, including quality standards, units or standards of measurement, the verification of meters, acceptable limits of error and procedures for the arbitration of disputes relating to the measurement of Water Services provided;³*
 - (c) *the installation, alteration, operation, protection and inspection of Water Services works and consumer installations;*
 - (d) *the determination and structure of tariffs in accordance with Section 10;⁴*
 - (e) *the payment and collection of money due for the Water Services;*
 - (f) *the circumstances under which Water Services may be limited or discontinued and the procedure for such limitation or discontinuation;⁵ and*
 - (g) *the prevention of unlawful connections to Water Services works and the unlawful or wasteful use of water.*

² See Regulations relating to compulsory national standards and measures to conserve water promulgated in terms of Sections 9(1) and 73(1) of the Water Services Act – Government Notice R509, 8 June 2001.

³ See Regulations relating to compulsory national standards and measures to conserve water promulgated in terms of Sections 9(1) and 73(1) of the Water Services Act – Government Notice R509, 8 June 2001.

⁴ See Regulations relating to norms and standards in respect of tariffs for Water Services promulgated in terms of Section 10(1) of the Water Services Act – Government Notice R652, 20 July 2001.

⁵ See Section 4(3) of the Water Services Act states that “procedures for the limitation or discontinuation of Water Services must-

- (a) be fair and equitable;
- (b) provide for reasonable notice of intention to limit or discontinue Water Services and for an opportunity to make representations, unless-
 - (i) other consumers would be prejudiced;
 - (ii) there is an emergency situation; or
 - (iii) the consumer has interfered with a limited or discontinued service; and
- (c) not result in a person being denied access to basic Water Services for non-payment, where that person proves, to the satisfaction of the relevant Water Services authority, that he or she is unable to pay for basic services.

- (5) *Conditions under which Water Services are provided -*
- (a) *may place limits on the areas to which Water Services will be provided according to the nature, topography, zoning and situation of the land in question;*
 - (b) *may provide for the limitation or discontinuation of Water Services where a consumer fails to meet his or her obligations to the Water Services provider, including -*
 - (i) *a failure to pay for services; or*
 - (ii) *a failure to meet other conditions for the provision of services;*
 - (c) *may place an obligation on a payment defaulter -*
 - (i) *to pay a higher deposit; or*
 - (ii) *to pay a reconnection fee after disconnection of Water Services;*
 - (d) *may require a payment defaulter to pay a higher tariff for Water Services, where that defaulter gains access to Water Services through a communal Water Services work and the provision thereof cannot be disconnected or limited without other consumers being prejudiced;*
 - (e) *may provide for the general limitation or discontinuation of Water Services where -*
 - (i) *national disasters cause disruptions in the provision of services; or*
 - (ii) *sufficient water is not available for any other reason;*
 - (f) *may include an option to retain limited access to at least basic water supply or basic sanitation for a consumer whose Water Services are to be discontinued; and*
 - (g) *must be accessible to consumers and potential consumers.*
- (6) *A Water Services authority which -*
- (a) *provides water for industrial use; or*
 - (b) *controls a system through which industrial effluent is disposed of, must make by-laws providing for at least-*
 - (i) *the standards of service;*
 - (ii) *the technical conditions of provision and disposal;*
 - (iii) *the determination and structure of tariffs;*
 - (iv) *the payment and collection of money due; and*
 - (v) *the circumstances under which the provision and disposal may be limited or prohibited.”*

THE MUNICIPAL SYSTEMS ACT

Tariffs

Section 75 of the Municipal Systems Act provides as follows -

“75. By-laws to give effect to policy

- (7) *A municipality must adopt by-laws to give effect to the implementation and enforcement of its Tariff Policy.*
- (8) *By-laws in terms of subsection (1) may differentiate between different categories of users, debtors, service providers, services, service standards and geographical areas as long as such differentiation does not amount to unfair discrimination.”*

When making by-laws relating to tariffs it is important that a Tariff Policy must be drafted by the municipality prior to making such by-laws. The policy must precede the by-laws.

The by-laws must give effect to the Tariff Policy. The Municipal Systems Act provides the following in respect of a Tariff Policy -

“74. Tariff Policy

- (9) *A municipality must adopt and implement a Tariff Policy on the levying of fees for municipal services provided by the municipality itself or by way of service delivery agreements, and which complies with the provisions of this Act and with any other applicable legislation.*
- (10) *A Tariff Policy must reflect at least the following principles, namely that -*
 - (a) *users of municipal services should be treated equitably in the application of tariffs;*
 - (b) *the amount individual users pay for services should generally be in proportion to their use of that service;*
 - (c) *poor households must have access to at least basic services through –*
 - (i) *tariffs that cover only operating and maintenance costs;*
 - (ii) *special tariffs or life line tariffs for low levels of use or consumption of services or for basic levels of service; or*
 - (iii) *any other direct or indirect method of subsidization of tariffs for poor households;*
 - (d) *tariffs must reflect the costs reasonably associated with rendering the service, including capital, operating, maintenance, administration and replacement costs, and interest charges;*
 - (e) *tariffs must be set at levels that facilitate the financial sustainability of the service, taking into account subsidization from sources other than the service concerned;*
 - (f) *provision may be made in appropriate circumstances for a surcharge on the tariff for a service;*

- (g) *provision may be made for the promotion of local economic development through special tariffs for categories of commercial and industrial users;*
- (h) *the economical, efficient and effective use of resources, the recycling of waste, and other appropriate environmental objectives must be encouraged:*
 - (i) *the extent of subsidization of tariffs for poor households and other categories of users should be fully disclosed.*
- (11) *A Tariff Policy may differentiate between different categories of users, debtors, service providers, services, service standards, geographical areas and other matters as long as the differentiation does not amount to unfair discrimination.”*

Credit Control

Section 75 of the Municipal Systems Act provides as follows -

“98. By-laws to give effect to policy

- (1) *A municipality must adopt by-laws to give effect to the Municipality’s Credit Control and Debt Collection policy, its implementation and enforcement.*
- (2) *By-laws in terms of subsection (1) may differentiate between different categories of ratepayers, users of services, debtors, taxes, services, service standards and other matters as long as the differentiation does not amount to unfair discrimination.”*

When making by-laws relating to Credit Control and Debt Collection it is important that a Credit Control and Debt Collection policy must be drafted by the municipality prior to making such by-laws. The policy must precede the by-laws.

The by-laws must give effect to the Credit Control and Debt Collection policy. The Municipal Systems Act provides the following in respect of a Credit Control and Debt Collection Policy -

“96. Debt collection responsibility of municipalities

A municipality -

- (a) *must collect all money that is due and payable to it, subject to this Act and any other applicable legislation; and*
- (b) *for this purpose, must adopt, maintain and implement a Credit Control and Debt Collection policy which is consistent with its rates and tariff policies and complies with the provisions of this Act.*

97. Contents of policy

- (13) *A Credit Control and Debt Collection policy must provide for -*
 - (a) *credit control procedures and mechanisms;*
 - (b) *debt collection procedures and mechanisms;*
 - (c) *provision for indigent debtors that is consistent with its rates and tariff policies and any national policy on indigents;*
 - (d) *realistic targets consistent with -*

- (i) *general recognized accounting practices and collection ratios, and*
 - (ii) *the estimates of income set in the budget it less an acceptable provision for bad debts;*
 - (e) *interest on arrears, where appropriate;*
 - (f) *extensions of time for payment of accounts;*
 - (g) *termination of services or the restriction of the provision of services when payments are in arrears;*
 - (h) *matters relating to unauthorised consumption of services, theft and damages; and*
 - (i) *any other matters that may be prescribed by regulation in terms of Section 104.*
- (14) *A Credit Control and Debt Collection policy may differentiate between different categories of ratepayers, users of services, debtors, taxes, services, service standards and other matters as long as the differentiation does not amount to unfair discrimination.”*

Other relevant Sections

The Municipal Systems Act further contains a number of additional Sections relating to Credit Control and Debt Collection that are relevant to by-laws in respect thereof. These are -

“95. Customer care and management

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

- (h) *provide mechanisms to monitor the response time and efficiency in complying with paragraph; and*
- (i) *provide accessible pay points and other mechanisms for settling accounts or for making prepayments for services.*

101. Municipality's Right of Access to Premises

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

102. Accounts

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

103. Agreements with Employers

A municipality may -

- (a) *with the consent of a person liable to the municipality for the payment of rates or other taxes, or fees for municipal services, enter into an agreement with that person's employer to deduct from the salary or wages of that person -*
 - (i) *any outstanding amounts due by that person to the municipality; or*
 - (ii) *regular monthly amounts as may be agreed; and*
- (b) *provide special incentives for -*
 - (i) *employers to enter into such agreements; and*
 - (ii) *employees to consent to such agreements."*

118. Restraint on Transfer of Property⁶

- (1) *A registrar of deeds may not register the transfer of property except on production to that registrar of deeds of a prescribed certificate -*
 - (a) *issued by the municipality or municipalities in which that property is situated; and*
 - (b) *which certifies that all amounts that became due in connection with that property for municipal service fees, surcharges on fees, property rates and other municipal taxes, levies and duties during the two years preceding the date of application for the certificate have been fully paid.*

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

It is important to remember that the Minister may make regulations or issue guidelines to provide for or regulate the following matters relating to Credit Control and Debt Collection in terms of the Municipal Systems Act. No regulations have been promulgated to date.

⁶ The Constitutional Court is currently considering the constitutionality of this Section - *Mkontwana v Nelson Mandela Metropolitan municipality and Others*; *Bisset and Others v Buffalo City municipality* 2003 unreported Case Numbers 1238/02 and 903/2002.

ANNEXURE B

EXTRACTS FROM THE STRATEGIC FRAMEWORK FOR WATER SERVICES, 2003

Tariffs

Retail tariff policies must be based on the following tariff principles:⁷

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

Retail Water and Sanitation Tariff Policies – Water Services Authorities

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

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

⁷ These tariff principles are consistent with those set out in the Municipal Systems Act and the Water Services Act.

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

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

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

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

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

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

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

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

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

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

Subsidies: Where subsidies for Water Services are applied, these shall be prioritized for the provision of basic water supply and Sanitation Services in terms of the free basic water and free basic sanitation policies.

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

CREDIT CONTROL

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

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

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

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

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

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

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

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

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

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

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

Disconnecting Water Supplies: A Water Services provider has the right to disconnect Water Services of domestic water consumers only where all of the above provisions have been followed. A Water Services provider has the right to disconnect Water Services of non-domestic water consumers whenever a non-domestic consumer has breached its contract with the Water Services provider, provided a fair process is followed.

In addition to the above, various alternative or complementary credit control mechanisms could be considered where appropriate.

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

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

7.7

**PROTECTION
SERVICES**

CLLR Q SMIT

7.7	PROTECTION SERVICES: [PC: CLLR Q SMIT]
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7.7.1	IMPOUNDMENT OF ANIMALS BY-LAW
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1. PURPOSE OF REPORT

To submit the Impoundment of Animals By-Law to Council for approval.

2. BACKGROUND

Currently, a need exist for the proper control and management of stray animals within the WC024 area of Stellenbosch. Many of these animals are grazing without any supervision, and in some instances creates a health risk due to the locality and conditions these animals are found.

The municipality is in the process of erecting a pound for the safekeeping of impounded animals and has purchased the necessary equipment to transport impounded animals.

3. CONSTITUTIONAL AND POLICY IMPLICATIONS

3.1 Section 156(2) and (5) of the Constitution provides that a municipality may make and administer by-laws for the effective administration of the matters which it has the right to administer, and to exercise any power concerning a matter reasonably necessary for, or incidental to, the effective performance of its schedule 4B and 5B functions. Schedule 5B of the Constitution lists Pounds as a local government function.

3.2 In terms of Section 160(2) of the Constitution, the passing of By-laws may not be delegated. Section 160(2) of the Constitution of South Africa as read with section 12 of the Systems Act empowers a municipal council to pass by-laws. In terms of section 13 of the Systems Act a by-law takes effect when published in the Provincial Gazette.

3.3. As part of the prescribed legislative process the adoption of the Municipality's by-laws, the following process flow applies:-

- (a) serve before Portfolio Committee;
- (b) serve before MAYCO;
- (c) serve before the Council;
- (d) be advertised in the press for public comments;
- (e) be open for inspection to the public at all municipal offices and libraries;
- (f) re-submit to Mayco and the Council for final adoption.

4. DISCUSSION

The draft Impoundment of Animals By-Law is attached as **APPENDIX 1**.

The Draft Impoundment of Animals By-law makes provision for the following:

- a) Any animal found straying or wandering unattended upon any public road or public place may be seized for impounding by: —
 - (i) a member of the South African Police Services;
 - (ii) a member of the municipal or provincial road traffic inspectorate;
 - (iii) an authorised municipal official or official of an animal welfare society.

The Department has already made provision for the applicable tariffs in the 2015/2016 financial year for the impoundment and safekeeping of animals.

5. LEGAL IMPLICATION

In terms of section 11(3)(m) of the Local Government Municipal Systems Act 32 of 2000 a municipality exercise its executive and legislative authority by developing and passing bylaws. The proposed By-Law is within the context of statutory prescripts.

The content of the report and its recommendations are thus supported.

6. FINANCIAL IMPLICATION

Provision has been made for operational expenses to operate the pound.

7. COMMENTS FROM OTHER RELEVANT DEPARTMENTS**FINANCE DEPARTMENT**

Finance supports the item.

RECOMMENDED

- (a) that Council considers the adoption and approval of the draft Impoundment of Animals By- Law; and
- (b) that the proposed By-Law be duly advertised for public comment until the end of February 2017; and be re-submitted together with any comment/objections by the public, for final approval and adoption by Council.

Meeting: Ref No:	4 th Council: 2016-11-23 1/3/17	Submitted by Directorate: Author: Referred from:	Protection Services Acting Manager: Law Enforcement Mayco: 2016-11-16
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7.7.1

IMPOUNDMENT OF ANIMALS BY-LAW

APPENDIX 1



Stellenbosch Municipality, by virtue of the powers vested in it by section 156 (2) of the Constitution of the Republic of South Africa as amended, read with section 13 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), has made the By-law set out below:

BY-LAW ON IMPOUNDMENT OF ANIMALS BY-LAW

PREAMBLE

The purpose of this by-law is–

- i) to provide for facilities for the accommodation and care of animals which are astray, at large or lost; and
- ii) to provide for procedures, methods and practices to manage the impoundment of animals.

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1. DEFINITIONS

In this by-law, the English text prevails in the event of any conflict with the Afrikaans text, and unless the context otherwise indicates—

“**animal**”, means any equine, bovine, donkey, mule, camel, sheep, goat, pig, fowl or other bird, poultry, ostrich, hare, rabbit, dog, cat or other domestic animal or bird, or a wild animal, wild bird or reptile which is in captivity or kept in captivity or under the control of somebody.

“**authorized official**”, means an official, authorized in terms of section 8 of the Animal Protection Act, 1962 (Act No 71 of 1962), as amended, or any peace officer authorized in terms of section 334 of the Criminal Procedures Act, 1977 (Act No 51 of 1977), as amended, or any employee of the Stellenbosch Municipality, who is authorized by the Stellenbosch Municipality to enforce the provisions of this by-law;

“**cattle**”, means an adult bull or cow, an ox or young ox, or a heifer or bull calve;

“**Court**”, means a Magistrates Court, as referred to in subsection 166(d) of the Constitution of the Republic of South Africa, 1996, whose area of jurisdiction the transgression occurred in;

“**goat**”, means an adult ram or she-goat, castrated goat or a wether or a kid;

“**horse**”, means a stallion, mare gelding, colt, filly, male or female donkey or mule;

“**identification mark**”, means a prescribed mark on an animal, as required by the Animal Identification Act, 2002 (Act No 6 of 2002), as amended;

“**land**”, means any premises or property or public place, within the area of jurisdiction of the Stellenbosch Municipality;

“**microchip**”, means an electronic mechanism which is affixed to an animal, on which data of the animal and the owner of the animal are stored;

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

“**Municipality**”, means the Stellenbosch Municipality, and includes reference to any duly delegated and / or appointed officials and / or service providers in terms of service level agreements of the Stellenbosch Municipality;

“**newspaper**”, means any newspaper registered as a newspaper, and “**newspapers**” has a similar meaning;

“**occupant**”, means a person who occupies and control land or a premises, and includes a resident of a premises;

“owner”, means with regard to the ownership of an animal, any person who lawfully owns or who is the agent of such an owner, and is responsible for the care, custody or control of an animal

“owner of property”, means in relation to the ownership of any property, any person, who as owner, legal lessee or occupant resides on a premises or a portion of land, or use or utilize it for whatever purpose, or who as agent of the owner exercise control over it;

“person”, means and includes for purpose of this by-law, a natural person or a juristic person or any agricultural, industrial or commercial undertaking or and an organ of State;

“pig”, means a boar, sow, or any sucking pig or pet pig;

“poultry”, means a chicken, goose, duck, turkey or muscovy duck, either tame or wild;

“pound”, means any fenced-off area consisting of one or more buildings, structures, cages or camps, which is provided by the Stellenbosch Municipality or a service provider to be used as a pound, and which is under the control of a pound master or a service provider in terms of a service delivery agreement, and which functions as a pound where stray, lost or animals at large can be temporarily accommodated;

“Pound Master”, means a person:

- (a) who is a temporary or fulltime employee of the Stellenbosch Municipality, and who has been tasked and / or authorized to fulfill the functions and responsibilities of a pound master; or
- (b) who in terms of a service delivery agreement with the Stellenbosch Municipality has been appointed to fulfill the functions and responsibilities of a pound master;

“private property”, means all properties not in possession of an organ of state or another municipality or the Stellenbosch Municipality;

“property”, means–

- (a) immovable property registered in the name of a person, including in the case of a sectional title scheme, a sectional title unit registered in the name of a person;
- (b) a right registered against immovable property in the name of a person, excluding a mortgage bond registered against the property;
- (c) a land tenure right or land right registered in the name of a person or granted to a person in terms of legislation;
- (d) a public place registered in the name of the Stellenbosch Municipality or any other organ of state or entity; and
- (e) public service infrastructure, including any public road;

“public road”, means any public road as referred to in section 1 of the National Road Traffic Act, 1996 (Act No 93 of 1996), as amended, and includes any municipal road, alley or road reserve;

“public place”, means any premises or property or land, under the control of the Stellenbosch Municipality, to which the public have access, and includes, but are not restricted to: any square; building; park; recreational

area; sports grounds; open space; nature reserve; municipal street, alley or road reserve; public road; parking area, municipal commonage; unused, used, build-up or vacant municipal land; or a cemetery;

“**public property**”, means all properties in possession of an organ of state or another municipality or the Stellenbosch Municipality;

“**sheep**”, means an adult ram or ewe, a wether or a lamb;

“**stallion**”, means a male horse, donkey or mule, not castrated or partially castrated;

“**services level agreement**”, means a service level agreement as contemplated in section 1 of the Local Government: Municipal Systems Act’ 2000(Act No 32 of 2000), as amended; and

“**veterinary surgeon**”, means a person who is qualified and registered in accordance with the provisions of the Veterinary and Para-Veterinary Professions Act, 1982 (Act No 19 of 1982), as amended, to practice as veterinary surgeon.

2. PURPOSE OF BY-LAW

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

3. ESTABLISHMENT OF A POUND

- (1) The Municipality may establish a pound and any places of safe-keeping at any chosen or convenient place within the area of jurisdiction of the Municipality, as required, provided that the Municipality also may enter into a service delivery agreement with an Animal Welfare Organisation or an institution or person, as contemplated in section 76(b) of the Municipal Systems Act, to provide for the establishment and operation of a pound and places of safe-keeping to service the area of jurisdiction of the Municipality as a whole or partially.
- (2) The Municipality shall give notice of the establishment of a pound, by publishing a notice in at least one (1) newspaper circulating in the area of jurisdiction of the Municipality.
- (3) The Municipality may close any pound under its control.

4. IMPOUNDING OF ANIMALS

- (1) Any owner of private property, may detain any animal which has trespassed or strayed on his or her property for purpose of impounding the animal concerned or moving an animal to a place of safe-keeping, on condition that before such animal may be removed, the following conditions shall be complied with–
 - (a) The owner of the property on which the animal is found, may detain the animal concerned, and when a property owner does

not have the resources or ability to detain such an animal himself or herself, such person may request the assistance of the Municipality to detain such animal, on condition that such animal may not be removed to a pound, before a written notice to remove the animal from the property concerned within twenty four (24) hours has been served on the owner of the animal by the property owner, when the particulars of the owner of the animal is known or when ownership can be determined by

means of an identification mark on the animal or a microchip affixed to the animal

- (b) The owner of the property on which the animal is detained shall in instances where the owner of the animal concerned is unknown, make a reasonable attempt to identify the owner of the animal, and when unsuccessful, the owner of the property or the Municipality may remove the animal to a place of safe-keeping or a pound for impoundment.
 - (c) The owner of the animal that was detained, may on submission of proof of ownership, petition the owner of the property where the animal was found and detained, for the release of such animal.
 - (d) The person who detained the animal concerned, may release the animal, after consideration of the petition of the owner of the animal and after the penalties payable in terms of the provisions of this by-law and the Public Nuisances and Nuisances resulting from the Keeping of Animal's By-law of the Stellenbosch Municipality, have been imposed by the Municipality on the owner of the animal, and have been paid by the owner of the animal, but shall retain the right to submit a claim to the Court for damages in relation to the incident.
 - (e) When the owner of the property on which an animal was detained, refuse to release the animal to the owner after consideration of the petition for release of the animal, the animal concerned shall within a period of forty eight (48) hours be handed over to an authorized official or the Pound master to be removed to a pound, and the authorized official or the Pound master may only release such animal when such release comply to the provisions of section 5 of this by-law.
 - (f) The owner of the property shall have the right to apply to the Court to claim any damages he or she may have suffered, in which event the Court may make any order, including an order as to costs that the Court deems just and equitable.
- (2) Any person may request an authorized official, or an authorized official may at his or her discretion decide, to detain or impound, as applicable, an animal which is found grazing unauthorized or at large or straying unattended in or on any public place or public road.
- (3) Any animal found at large, grazing or straying unattended upon any

public road, municipal street or road reserve or alley, which is a danger for road traffic and / or vehicles, shall be detained for impounding by–

- (a) a member of the South African Police Services;
 - (b) a member of the South African National Defence Force;
 - (c) a member of the Provincial Traffic;
 - (d) a member of any animal protection organization; or
 - (e) an authorized municipal official.
- (4) The owner of any property through or alongside which a public road passes or which abuts a public road, may if a valid reason exist for it, request an authorized official to detain and remove any animal for impoundment, when an animal is found at large, grazing or straying unattended upon the public road concerned.
- (5) A person may not keep an animal, detained for any purpose, or for purpose of impounding the animal in terms of in subsections 3(1), 3(2), 3(3) and 3(4) of this by-law, for a period longer than six (6) hours without supplying such animal with adequate food and water.
- (6) Any person who has detained an animal for any purpose, or for purpose of impounding the animal, shall comply with the provisions of the Code of Good Practice on the Handling and Transportation of Impounded Animals contained in Schedule 1 of this by-law.

5. APPOINTMENT OF A POUND MASTER

The Municipality shall, in terms of the appointment policy of the institution, appoint a suitably skilled and experienced person as a Pound Master.

6. INFORMATION THAT SHALL BE PROVIDED TO THE POUND MASTER

A person who send or take animals to a pound, shall provide the Pound master in writing with the following information–

- (a) the number and description of the animal or animals to be impounded;
- (b) the property or land upon which the animal or animals were found trespassing;
- (c) the distance in kilometres, by the shortest and most practical road route, between the place where the animal or animals were seized and the pound;
- (d) where an animal or animals have been detained on private property, proof of the required written notice of removal to the owner of the animals concerned and other processes as contemplated in subsection 3(1) of this by-law, as applicable;
- (e) where the owner of the animal or animals which have been seized on a private property, could not be traced, an affidavit stating that the identity of the owner of the animal and / or animals is unknown and

- that a reasonable attempt has been made by the owner of the property to identify the owner of the animal or animals; and
- (f) the condition of the animal impounded and the circumstances under which an animal has been impounded.

7. RECEIPT FOR IMPOUNDED ANIMALS

The Pound master shall provide every person who left an animal or animals in the care of the Pound master with a written receipt, and the receipt shall indicate the number and description of the animals impounded and the particulars of the person leaving the animal for impoundment.

8. THE PROVISION OF PADDOCKS AND / OR CAGES IN A POUND

The Municipality shall for purpose of a pound, provide and properly maintain separate paddocks and / or cages, free from all infectious diseases, for–

- (a) ostriches and equine;
- (b) bovine;
- (c) sheep, goats and pigs;
- (d) dogs;
- (e) cats; and
- (f) any other type of animal, as determined from time to time,

on condition that the Municipality may grant permission to the Pound master to provide and maintain less paddocks and / or cages for any pound in the area of jurisdiction of the Municipality.

9. DESTRUCTION OF DANGEROUS AND INJURED ANIMALS AND ANIMALS WITH CONTAGIOUS DISEASES

- (1) Whenever a Pound master is of the opinion that an impounded animal is so diseased or so severely injured or in such a poor physical condition or a

danger to people or other animals in the pound, that it ought to be destroyed, the Pound master shall request a veterinary surgeon to examine the animal concerned, to determine in collaboration with the Pound master the necessity for the humane destruction of the animal, on condition that before such animal is destroyed–

- (a) a written notice be served on the owner of the animal, informing him or her of the intention to destroy the animal concerned and the reasons for the intended action, when the particulars of such an owner is known and / or when ownership can be determined by means of an identification mark on the animal or a microchip affixed to the animal;

- (b) when it is impractical or impossible to inform the owner of the animal concerned of the intended action, a verbal notification or any other practical method of notification, shall be considered as sufficient; and
 - (c) when an emergency situation exist, and it is impractical or impossible to give the owner of an animal concerned any form of notice of the intended action to destroy an animal, a veterinary surgeon may authorize the humane destruction of the animal concerned, on condition that the owner of such animal, be notified as soon as possible about the destruction of the animal and the reasons for the action.
- (2) When any animal or animals suffering from a contagious disease as contemplated in the Animal Diseases Act, 1984 (Act No 35 of 1984), as amended, is impounded at a pound or becomes infected while impounded in a pound–
- (a) such animal or animals shall be kept separate from other impounded animals, as long as it is needed, if the animal is not immediately destroyed;
 - (b) such animal or animals shall be isolated from other impounded animals and the presence of the infected animal or animals shall be reported to the nearest State Veterinarian; and
 - (c) the owner or owners of the animal or animals shall immediately be notified in writing of the impoundment of the infected animal or animals and the actions taken to curtail the infectious disease, where the particulars of the owner or owners are known and / or can be determined by the Pound master.

10. NOTICES TO OWNERS OF IMPOUNDED ANIMALS

- (1) When the particulars of an owner of an impounded animal are known to the Pound master or can be determined by means of o an identification mark on the animal or a microchip affixed to the animal, the Pound master shall notify the owner of the animal concerned immediately that the animal has been impounded.
- (2) When the impounded animal has an identification mark, as required by the Animal Identification Act, 2002 (Act No 6 of 2002), as amended, the Pound master shall follow the procedures for the confirmation of ownership, as contemplated in section 14 of the Regulations for Animal Identification, as amended, and promulgated in terms of GN R1683 of 21 November 2003.
- (3) When the details of the owner of an animal are unknown to the Pound master and / or cannot be determined, the Pound master shall on receipt of the animal at the pound report the impoundment of the animal concerned at the nearest office of the South African Police Service, and post a notice of the impoundment of the animal on a notice board in the immediate vicinity where the animal was seized.

11. RECEIVING AND TREATMENT OF ANIMALS BY POUND MASTER

- (1) It is the duty of every pound master to receive into his or her charge, for impoundment, all animals brought to his or her pound, during such hours as the municipality may determine.
- (2) any pound master who unreasonably refuses or fails to receive animals brought to his or her pound as aforesaid commits an offence and is, in addition, liable for any damage caused to the owner of the said animals, or to any other person, by reason of such refusal or failure.
- (3) The pound master -
 - (a) is responsible for the proper care of all impounded animals;
 - (b) must ensure that fresh water and sufficient food is available to impounded animals at all times; and
 - (c) is liable to the owner of an impounded animal for any damage caused by his or her wilful or negligent acts or omissions.
 - (d) A person who catches an animal for the purpose of impounding it under subsections (1) and (2) may not keep the animal for more than six continuous hours without adequate food and water.
- (4) Any pound master who fails to comply with the requirements of subsection
- (3) commits an offence.

12. IMPOUNDED ANIMALS THAT DIE OR ARE STOLEN OR INJURED

When an impounded animal is injured or dies or is stolen, the Pound master shall—

- (a) record the cause of death or injury or theft in the pound register as referred to in section 16 of this by-law;
- (b) notify the owner of the animal in writing of the injury, death or theft of the animal concerned, where the particulars are known to or obtainable by to the Pound master; and
- (c) in the case of the theft of an animal from the pound, report the theft to the nearest office of the South African Police Service.

13. COPY OF BY-LAW

The Pound master shall ensure that a copy of this by-law is available at all times for information at a pound.

14. FEES, TARIFFS AND COSTS PAYABLE

- (1) The Municipality shall annually determine fees and tariffs in terms of the Tariff By-law of the Stellenbosch Municipality, for the keeping, transport and / or care of impounded animals, and may levy different fees and tariffs for different types of animals.

- (2) The Pound master shall–
- (a) charge the owner of an impounded animal the fees and tariffs as determined by the Municipality annually; and
 - (b) recover the costs for any dipping, medical treatment, inoculation or other treatment that may be necessary or required in terms of the Animal Diseases Act, 1984 (Act No 35 of 1984), as amended, from the owner of an impounded animal.
- (3) If the pound master is an official of the municipality, he must pay the fees received by him or her in terms of this by-law into the revenue of the municipality, the frequency of which will be determined by the department responsible for finance.
- (4) No pound master may release any impounded animal until the prescribed fees have been paid to him or her.

15. PAYMENTS

- (1) The tariffs and fees that are determined in terms of subsection 17(1) of this by-law, and all other costs incurred, shall be paid to the Municipality by the owners of the animals that have been impounded and the Municipality shall issue a receipt for all monies received; and
- (2) The owner of an animal shall supply the Pound master with a valid receipt, before an impounded animal may be released.
- (3) The animals which have been impounded, may be kept by the Municipality as surety for the payment of the applicable pound fees and tariffs, and any other costs incurred by the Municipality in relation to the impounding of an animal, provided that when the value of the impounded animals are in excess of the total amount owed for fees, tariffs and costs, and when the owner of an animals is unable to pay the amount owed, the Pound master may only retain the number of animals that are sufficient to cover the amount owed, and shall release the remainder of the animals to the owner concerned.
- (4) A Pound master who unlawfully retain animals after the required payments for the release of animals have been received or for purpose of surety for unpaid amounts, as contemplated in subsection 18 (1) and 18(3) of this by- law, shall be liable towards the owner and / or owners of the animals for any injury to such animals or any damage caused as result of the retention of the animals.
- (5) The fees, tariffs and costs paid in terms of this by-law, shall be deposited in terms of the instructions and procedures dictated by the Municipality, as income of the Municipality.
- (6) No pound keeper may release an animal impounded in terms of the provisions of this by-law, without the required fees, tariffs and costs being paid.

16. COMPULSORY POUND REGISTER

- (1) Every Pound master shall keep a pound register, containing the following information–
- (a) the date when every animal was impounded and the reasons

for the impoundment of the animal concerned;

- (b) the number and description of each animal impounded;
- (c) the name and address of the person who impounded an animal, and the name and address of the owner or presumed owner of an animal, if the information is known to the Pound master;
- (d) the date and particulars of the release and / or sale of impounded animals;
- (e) the fees, tariffs and costs paid in cases where animals have been released and the receipts numbers for each individual payment received; and
- (f) any other matter determined by the Municipality to be recorded.

(2) The entries referred to in subsections 19(1)(a), 19(1)(b) and 19(1)(c) of this by-law shall be done when an animal is impounded, and the entries referred to in subsections 19(1)(d), and 19(1)(e) of this by-law, shall be entered into the pound register when the information is obtained by the Pound Keeper, provided that no entry shall be done when a dispute exist with regard to the impoundment of an animal.

(3) When an animal die or is stolen or is injured while impounded, the Pound master shall enter a description of such animal in the pound register, and the reasons for the death, injury or theft of the animal concerned.

17. INSPECTION OF POUND REGISTER

The pound register of a pound shall be kept at the pound or any other designated place, and shall be available free of charge for inspection at all reasonable times, by any authorized official of the Municipality, any veterinary surgeon, any livestock inspector, any member of the South African Police Service or any member of the public.

18. RELEASE OF IMPOUNDED ANIMAL

(1) The Pound master shall immediately release an impounded animal, subject to the provisions of subsection 21(2) of this by-law and give the owner a receipt of release, provided that the owner—

- (a) provides proof of ownership of such animal; and
- (b) pays the fees, tariffs and costs as contemplated in section 14 of this by-law and provide the Pound master with a receipt of such payment.

(2) The Pound master shall provide to the owner of an impounded animal a calculation of costs, when the particulars of the owner of an animal are known to the Pound master, which shall include—

- (a) the tariffs, fees and costs due in terms of this by-law, for the impoundment of an animal or animals;
- (b) the amount of any damages that the owner of the land on

which the impounded animal or animals trespassed, may have suffered; and

- (c) all estimated costs associated with the publication of notices and the auctioning of the animal or animals, as applicable.
- (3) When an impounded animal is an animal that is required to bear an identification mark as set out in the Animal Identification Act, 2002 (Act No 6 of 2002), as amended, and if such animal does not display such mark, the Municipality shall report the matter to the South African Police Services and shall refuse the release of such animal upon receipt of a written instruction by the South African Police Services that the animal should remain impounded.
- (4) When the owner of an impounded animal is unable to pay the fees, tariffs or costs as contemplated in section 14 of this by-law, the Pound master may retain such animal in order to recover such fees, tariffs or costs as may be due and payable to the Municipality.
- (5) All risks attached to ownership of an animal shall pass to the person who provided proof of ownership, as soon as the Pound master can confirm that sufficient proof of ownership has been provided.

19. SALE OF IMPOUNDED ANIMALS

- (1) The Pound master shall—
 - (a) whenever any impounded animal has not been released on payment of the applicable fees, tariffs and costs, as contemplated in subsection 17(2) (a), subsection 17(2) (b) and subsection 21(2) of this by-law by its owner, within seven (7) days from the date of its impoundment, or when the owner of an animal cannot be traced, apply to the Court to sell such animal to recover costs; and
 - (b) in the application contemplated in subsection 22(1)(a) of this by-law, submit to the Court evidence, when the particulars of the owner of an animal are known to the Pound master, that a calculation of costs as contemplated in subsection 21(2) of this by-law, has been provided to the owner
- (2) An application to the Court to sell an animal in terms of the provisions of this by-law, shall comply to the procedures contained in Rule 55 of the Magistrate's Court Act, 1944 (Act No 32 of 1944), as amended, on condition that the application concerned may be brought *ex parte*, when the Municipality can provide proof that in spite of all reasonable efforts, the owner of the involved animal could not be found.
- (3) When the Court is satisfied that the provision of this by-law with regard to the impoundment of the animal concerned, has been complied with, the Court may order the sale of the involved animal per auction, as provided for in this by-law.
- (4) The Court shall, irrespective whether the calculation of costs as contemplated in subsection 21(2) of this by-law, is in dispute or not—

- (a) summarily investigate the matter;
 - (b) where the particulars of the owner of the animal or animals concerned are known, determine whether the Pound master has given the owner concerned proper notice of the costs associated with the impoundment and release; and
 - (c) make an order as it considers just and equitable, including an order–
 - (i) as to costs; and
 - (ii) on the process to be followed by the Pound master in the sale of the animal concerned.
- (5) At such authorized auctions of impounded animals–
- (a) only animals ordered by the Court to be sold, may be offered for sale; (b) all animals shall be sold one by one, except for sheep and goats;
 - (c) sheep and goats shall be offered for sale in lots of maximum ten (10), and sheep and goats with different identification marks shall under no circumstance be sold together in the same lot;
 - (d) animals shall be sold for cash;
 - (e) the total proceeds of the fees, tariffs and costs contemplated in section 17 of this by-law, shall be deposited in the municipal revenue fund, on provision that when an animal is sold for a higher amount at an auction–
 - (i) as the pound fees and tariffs payable and the costs of the impounding of an animal; and
 - (ii) as any compensation for damages as ordered by the Court in terms of subsection 21(2) of this by-law, the surplus of the amount received shall be paid out to the owner of the animal or animals concerned within thirty (30) days after the auction, except when the identity of such owner cannot be determined;
 - (f) the Municipality may determine a reserve price for any animal to be sold; and
 - (g) any animal may be withdrawn from the auction by the auctioneer, if the highest bid received is considered not to be fair or reasonable, irrespective whether a reserve price has been determined by the Municipality or not.
- (6) The auction of impounded animals shall–
- (a) be attended to by the Pound Keeper or a person properly authorized thereto by the Municipality; and
 - (b) begin at a time and be held on a day as determined by the Pound master in terms of section 23(1) (a) of this by-law.
- (7) The Pound master or any municipal official or any other person

designated to handle an auction, or a close associate or a family member or a fellow employee or a municipal employee, or a family member of any of aforesaid persons, may not purchase an animal offered for sale at an auction as contemplated in subsection 22(6) of this by-law, either personally or through any other person, directly or indirectly.

- (8) The owner of an animal shall remain liable for any costs to the Municipality, not covered by the proceeds from the sale of an animal or animals.

20. NOTICE OF AN AUCTION

- (1) The Pound master shall—
- (a) when an order has been granted by the Court for the sale of an impounded animal or animals, give notice that such animal or animals shall be sold at a public auction at a specified date, time and place;
 - (b) provide particulars in the notice with regard to the specie, breed, identification marks and distinguishing marks of the animal or animals to be sold;
 - (c) provide such notice to the Municipality, and post a notice on the official notice board of the Municipality, and at or near a pound, until the day of the auction;
 - (d) publish a notice in a registered newspaper that is distributed in the area of jurisdiction of the Municipality, that an animal and / or animals shall be sold;
- (2) The costs of a notice as contemplated in subsection 23(1) of this by-law, shall be recovered from the owner of the impounded animal, and such costs shall be considered to form part of the costs that shall be recovered from the proceeds of the sale of the animal concerned.

21. ANIMALS UNSUCCESSFULLY OFFERED FOR SALE

- (1) In the event that any animal is not sold—
- (a) the Pound master shall immediately advise the Court and the owner, where the particulars of such owner are known, of the situation and the estimated value of the animal concerned, and the fees, tariff and costs incurred with regard to the impounding of the animal concerned; and
 - (b) the Court may based on the information provided, make any such order as it may deem just and equitable to address the situation, including the humane destruction of the animal concerned.
- (2) When a dog or cat or any similar animal, which normally cannot be sold at an auction, are not claimed within seven (7) days after a notice, as contemplated in section 13 of this by-law, has been served on the owner of such animal informing the owner that the animal has been impounded, or within seven (7) days after a notice has been published in a local newspaper with regard to the impounding of the animal concerned, when the particulars of the

owner of the animal concerned are unknown, such animal may be destroyed and the costs incurred for the care and destruction of such animal, may be recovered from the owner of the animal, if the particulars of the owner are known.

- (3) When an animal which is normally sold at an auction, is not sold, the Municipality may arrange a further auction in the prescribed manner, including notices and advertisements, or may approach the Court for an order for the humane destruction of the animal concerned, in terms of the provisions of Rule 55 of the Magistrate's Court Act, 1944 (Act No 32 of 1944), as amended, on condition that the application concerned may be brought *ex parte*, when the Municipality can provide proof that in spite of all reasonable efforts, the owner of the involved animal could not be found.

22. SUBMISSION OF POUND REGISTER AFTER AUCTIONS

The Pound master shall within fourteen (14) days after the date of each auction submit to the Municipality a copy of all entries in the pound register, made since the date of the preceding submission of the pound register to the Municipality, and the Municipality must properly keep such copies for inspection by any person desirous to see the records.

23. INSPECTION OF POUND REGISTER AT PLACE OF AUCTION

Whenever an auction of impounded animals is to take place, the Pound master or a person authorized to conduct the auction, shall make the pound register available for inspection free of charge to any person desirous to see the pound register.

24. ARRANGEMENTS FOR SERVICE DELIVERY

- (1) The Municipality may enter into a service delivery agreement with another municipality or any other entity, for optimal service delivery in terms of this by-law, and any other municipalities or entity shall be allowed per agreement, to utilize a pound or similar facility of Stellenbosch Municipality.
- (2) The fees and tariffs payable for services rendered as contemplated in subsection 27(1) of this by-law, shall be determined by the service level agreement involved.

25. LIABILITY

The Municipality, the Pound master or any authorized official shall not be liable for the death or theft of, or injury to any animal, as a result of the seizure, transport, impoundment or release of any such animal during the impounding process or as a result of impoundment.

26. OFFENCES AND PENALTIES

A person who—

- (a) releases an animal that was lawfully detained for safe-keeping or

for the purpose of being impounded or which has been lawfully impounded;

- (b) unlawfully seizes an animal for the purpose of impounding it;
- (c) unlawfully impounds an animal;
- (d) intervenes with the Pound master in the execution of his or her duties;
- (e) releases any animal from his property onto a public road or municipal street or road reserve or alley;
- (f) allows an animal to unlawfully roam around or graze on or in a public place;
- (g) unlawfully opens gates, cut fences or wantonly release animals;
- (h) ignores an instruction of an authorized official or an instruction on a notice board;
- (i) who contravenes or fails to comply with the provisions of this by-law, or fails to comply with a notice served in terms of this by-law, is guilty of an offence and is liable on conviction, for–
 - (i) a fine or imprisonment, or to such imprisonment without the option of a fine, or to both such fine and such imprisonment;
 - (ii) in the case of a successive or continuing offence, to an additional fine or additional period of imprisonment, or such additional imprisonment without the option of a fine, or to both such additional fine and such additional imprisonment, for every day such offence continues; and
 - (iii) any further amount as an order of court for costs, equal to any costs and expenses, deemed by the Court, to have been incurred by the Municipality as a result of such contraventions.

27. MALTREATMENT OF ANIMALS

No person may chase or tease or maltreat any animal found trespassing and / or seized for impoundment.

28. APPEALS

A person whose rights are affected by a decision of the Municipality in terms of any delegated powers, may appeal against such a decision in terms of Section 62 of the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000), as amended, by giving written notice of the appeal against the decision and the reasons for the appeal to the Municipal Manager, within twenty-one (21) days of the date of the notification of the decision.

29. CONFLICT BETWEEN LEGISLATION

When any stipulation of this by-law, is in conflict with national and provincial legislation or regulations, the national and provincial legislation or regulations shall prevail.

30. SERVING OF NOTICES AND OTHER DOCUMENTS

- (1) A notice, instruction, letter of demand, or other document issued by the Municipality in terms of this by-law, is deemed to be duly issued when a duly delegated official of the Municipality has signed it.
- (2) Any notice, instruction, letter of demand, or other document that is served on a person in terms of this by-law, is regarded as having been duly and effectively served—
 - (a) when it has been delivered to that person personally;
 - (b) when it has been left at that person's place of residence or business in the Republic of South Africa, with a person apparently older than sixteen years;
 - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic of South Africa, and proof of the posting thereof is provided;
 - (d) if that person's address in the Republic of South Africa is unknown, when it has been served on that person's agent or representative in the Republic of South Africa, in a manner as provided in subsections 33(2) (a), 33(2) (b) or 33(2) (c) of this by-law;
 - (e) if that person's address and agent or representative in the country of South Africa is unknown, when it has been posted in a conspicuous place on the property or premises to which it relates; or
 - (f) in the event of a body corporate, when it has been delivered at the registered office or the business premises of the body corporate.
- (3) When any notice, instruction, letter of demand, or other document is served on a person in terms of this by-law, it is sufficient for purpose of the serving of the notice, instruction, letter of demand, or other document, to describe the person in the notice, instruction, letter of demand or other document, as the owner, occupier, or holder of the property or rights in question, and it is not a requirement to name that person.
- (4) A notice, instruction, letter of demand, or other document shall for purpose of authentication, be properly signed by the Municipality.

31 PROCEDURES TO BE FOLLOWED IN APPLICATION TO COURT

An application to Court for-

- (a) The impoundment of an animal in terms of this by-law, must comply with the procedure contemplated in Rule 55 of the Rules of Court; and
- (b) the sale of an impounded animal in terms of this by-law, must comply with the procedure contemplated in section 66 of the Magistrate Court Act, 1944 (Act No. 32 of 1944), and Rule 41 of the Rules of Court,

Made by the Rules of Board for Courts of Law in terms of section 6 of the Rules for Courts Act, 1985 (Act No. 107 of 1985), and published under the Government Notice No. R.1108 in Regulation Gazette No.980 of 21 June 1968, as amended from time to time, read with the necessary changes.

32. SCHEDULES 1 AND 2 FORM PART OF THE BY-LAW

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

33. SHORT TITLE

This by-law is called the Impoundment of Animals By-law of Stellenbosch Municipality.

34. OPERATIVE DATE

This by-law shall take effect on the date of publication.



SCHEDULE 1

Code of Good Practice on the Handling, Transportation and Care of

Impounded Animals

PART I: Paddock requirements

1. For purpose of this schedule kraal, paddock and cage have a similar meaning, and any reference to a kraal is also a reference to a paddock or a cage or similar structure, where animals can be kept.
2. Different species of animals shall be kept in separate paddocks.
3. Animals may not be penned in overcrowded paddocks, and the space provided in any paddock shall be sufficient to permit all animals to lie down at the same time and the space provided shall not be less than one point five (1.5) square meters floor area available for each animal.
4. Fractious animals may not be kept with other animals.
5. Young, weaned or juvenile animals, may not be penned together with adult animals in a paddock, except in the case of a mother and her offspring.
6. Provision shall be made in paddocks for–
 - (a) facilities such as racks, mangers or other suitable feed containers that are easy to clean, which shall allow the feeding of an animal off the floor, and which can be serviced without disturbing the animals;
 - (b) water troughs which can provided an adequate supply of suitable fresh water at all times;
 - (c) sufficient facilities for the adequate cleaning of paddocks; and
 - (d) facilities for the safe handling of animals.
7. (a) Paddocks shall at all times be maintained in a good state of repair.
 - (b) Sharp points of wire ends, broken boards, jagged ends and protruding hinges or bolts, which could cause injury to animals shall be removed or otherwise suitably covered.
8. The floor of each paddock, including the off-loading banks, races, and passages of the off-loading facility at a pound, shall be constructed in such a way as to provide for non-slip surfaces that can be efficiently and suitably cleaned, and kept dry and in a proper condition for the holding and / or handling of animals.

PART II: Handling of animals

9. Animals shall always be handled humanely, and with patience and tolerance
10. The following shall be kept in mind when handling animals—
 - (a) animals respond more readily to being driven, when the person driving them stands behind the animal, but within the field of vision of the animal; and
 - (b) animals in a herd respond more readily to being driven, than alone.
11. Animals may not be dragged by their legs, or be carried by their heads, ears or tails.
12. Young calves shall be carried if they cannot walk themselves with ease, by lifting the calf around the chest and hindquarters. Alternatively they shall be guided with one hand on the hindquarters and the other near the shoulder or neck, and be steered in the required direction at an appropriate and comfortable pace.
13. Only sticks with canvas or belting flaps may be used when driving animals, and it is preferable to strike the ground behind the animals, rather than to hit the animals themselves.
14. Electric prodders, sticks or goads may not be used on young animals.
15. Electric prodders may not be used excessively or indiscriminately or applied to the face, anal or genital areas of animals.

PART III: Movement of animals

16. Animals driven on the hoof shall always be under proper and competent supervision.
17. Animals shall be moved along in a calm manner, at a gait which is relaxed, comfortable and natural for such animal, and the gait shall never be faster than that of the slowest animal in the herd or flock.
18. Animals may not be driven continuously for periods in excess of ten (10) hours, without being given rest of at least one (1) hour. Sufficient and suitable fresh water shall be made available to all the animals during the drive.
19. No animal on the hoof may be moved in excess of the following distances—
 - (a) during a journey of not more than one day's duration—
 - (i) twenty (20) kilometres for sheep and goats; and
 - (ii) thirty (30) kilometres for cattle; and
 - (b) during a journey of more than one day's duration—
 - (i) twenty (20) kilometres during the first day and fifteen (15) kilometres during each subsequent day for sheep and goats; and
 - (ii) twenty five (25) kilometres during the first day and twenty (20) kilometres during each subsequent day for cattle.
20. On reaching their night camp or final destination, animals shall

immediately be watered and fed with sufficient food of a quality and of a type compatible with each species concerned.

21. Animals may not be moved in the dark.
22. No sick, injured or disabled animal may be moved on the hoof.

PART IV: Vehicles used in transporting animals

23. Vehicles and all trailers used in the transport of hoofed animals shall be suitable for the transport of such animals and in a roadworthy condition.
24. All vehicles and trailers referred to in paragraph 23 shall have—
 - (a) a suitable non-slip floor, which may not impede the cleaning of the floor of the vehicle, and which may be fastened with hinged or removable battens or steel grids;
 - (b) adequate ventilation and light whilst in motion, as well as when stationary, and no vehicle shall be totally enclosed;
 - (c) adequate protection against exhaust fumes, as exposure to exhaust fumes could interfere with the respiration of animals or cause distress;
 - (d) sidewalls high enough to prevent animals from escaping or falling out of the vehicle, provided that the sides and / or partitions—
 - (i) the sides and partitions, when used in a vehicle to separate animals transported therein, shall be of a height not lower than the shoulder joint of the largest animal being transported;
 - (ii) in the case of cattle other than calves, the minimum height shall be one thousand eight hundred (1 800) millimetres; and
 - (iii) the minimum height shall be seven hundred and fifty (750) millimetres in the case of any smaller animals;
 - (e) in multi-tier vehicles, heights between decks shall be adequate, and in case of sheep and pigs not less than one thousand (1 000) millimetres, to enable the largest animals to stand naturally, freely and fully erect and to allow adequate space for free flow of air above the animals;
 - (f) floors that are solid and impervious;
 - (g) openings for the loading and off-loading of animals at the rear of the vehicle that are the full width of the vehicle, or if at the side of a vehicles, with a width not less than two thousand four hundred (2 400) millimetres; and
 - (h) gates, with or without partitions—
 - (i) of a design and construction strong enough and suitable for the intended conveyance of the consignment of animals; and
 - (ii) that are able well-secured, and can open and close freely.

25. The amount of animals packed into any given space to be transported, shall be as such, to ensure the safety and comfort of the animals during transport, and the recommended floor space to be provided per animal is–
- (a) one point four (1.4) square meters surface area per large animal; and
 - (b) zero point five (0.5) square meters surface area per small animal.

PART V: Watering and feeding of live animals prior to loading

26. Animals shall be provided with sufficient and suitable food and fresh water until the commencement of the journey.

PART VI: Loading and off-loading procedures

27. The loading and off-loading of animals into or out of a vehicle shall be done as quietly and calmly as possible, with patience and tolerance, and without harassing, terrifying, bruising, and injuring the animals, or suffering and undue stress to the animals.
28. No animal may be loaded or off-loaded by lifting of the animal by the head, fleece, skin, ears, tails, horns or legs.
29. No animals may be loaded or off-loaded otherwise than–
- (a) by means of a ramp with a non-slip surface, sturdy enough to support the weight of the species of animals being handled, with side panels or bars adequate to prevent animals escaping or falling off the ramp and of an incline not steeper than twenty five (25) degrees; or
 - (b) at a loading bank equal to the height of the floor of the vehicle or, at off- loading, not more than three hundred and ten (310) millimetres below the level of the off-loading vehicle and with an incline not exceeding twenty five (25) degrees.
30. Where a vehicle is equipped with an onboard removable loading ramp it shall have a non-slip surface and be of such a sufficient length when lowered, that the inclination is not steeper than twenty five (25) degrees, with the distance from the ground to the heel of the ramp not exceeding one hundred and twenty (120) millimetres.
31. Loading ramps shall be correctly adjusted for each loading or off-loading, to the exact height of the floor of a vehicle.
32. Journeys must commence as soon as possible after the animals have been loaded and the animals shall be promptly off-loaded upon arrival at the destination.
33. Unless adequate provision has been made for the effective separation of different species of animals, different species of animals may not be loaded and transported in the same vehicle.

34. Animals of different ages, sizes and sexes may not be loaded and transported in the same vehicle, unless adequate provision has been made for the effective separation of such animals.
35. Adult horned cattle may not be transported with polled cattle and they shall always be penned separately.
36. When there is reason to believe that an animal is likely to give birth in the course of a planned journey, such an animal may not be loaded onto a vehicle to be transported.
37. In the case of an animal giving birth during transport, the necessary precautionary measures shall be implemented, to ensure the protection of the mother and offspring from being trampled or otherwise injured or harassed by other animals.
38. In the event of—
- (a) a breakdown of the transport vehicle;
 - (b) an accident or collision in which the transport vehicle is involved; or
 - (c) injury to, or death of, any animal in transit,
- the cartage contractor shall immediately report the details to, and request assistance from—
- (i) in the case of paragraph (a), a breakdown service;
 - (ii) in the case of paragraph (b), the South African Police Service and the involved traffic authorities; or
 - (iii) in the case of paragraph (c), a veterinarian surgeon.
39. Where the transport of any animal may cause injury to itself or any other animal, such animal shall be restrained in such a manner, as to prevent any such injury.
40. No animals may be restrained for more than four (4) hours in any twenty four (24) hour period.
41. No wire or bailing twine may be used for tying the legs or feet of an animal.
42. To avoid strangulation or a neck-break, a slipknot may not be used where animals are secured to the vehicle by horns or neck, and the rope shall be attached to the vehicle at the level of the animal's knees so that in the event of the animal falling, the possibility of serious injury or death is reduced, with the rope being long enough to allow the animal to lie comfortably in a natural position with its head upright.



SCHEDULE 2

Pound register information

A pound register shall at least, contain the following

information– (a) Name of the pound.

(b) The date of receipt of the animal.

(c) The number and description of animals impounded.

(d) The brands or markings on animals.

(e) The ear tag number assigned by the Pound Keeper to each animal impounded.

(f) Name and address of person who seized the animal.

(g) Name and address of the owner of the land where the animal was seized.

(h) Name and address of owner of the animal.

(i) The reason why the animal has been impounded.

(j) Address or description of place where animal was found.

(k) Distance between the place where the animal was seized and the pound.

(l) Particulars of the damage caused by the animal.

(m) Transport fees payable.

(n) Details of the destruction or disposal of an animal.

(o) Cause of death, theft of or injury to an impounded animal.

(p) Description and amount of pound fees payable.

(q) Damages awarded by the Court.

(r) Date of release of an animal.

(s) Date of sale of an animal.

(t) Proceeds of the sale of an animal.

(u) Name and address of purchaser of an animal.

(v) Excess amount of the proceeds of the sale of an animal, if any, paid to the owner of the animal.

(w) Receipt number of monies received.

(x) Details of the court order, with regard to the future disposal of the animal concerned, if not sold at an auction.

DRAFT



Stellenbosch Munisipaliteit uit hoofde van die gesag aan hom verleen deur Artikel 156 (2) van die Grondwet van die Republiek van Suid- Afrika, soos gewysig, saamgelees met Artikel 13 van die Wet op Plaaslike Regering: Munisipale Stelsels Wet, 2000 (Wet 32 van 2000), die volgende verordening aanvaar, soos aangedui hieronder

AANHEE

Die doel van die verordening is om–

- i) voorsiening te maak vir geriewe vir die huisvesting en versorging van diere wat afgedwaal het, los rondloop of verlore is; en
- ii) om voorsiening te maak vir prosedures, metodes en praktyke om die skut van diere te bestuur.

INHOUDSOPGAWE

1. Definisies
2. Toepassing
3. Vestiging van 'n skut
4. Skut van diere
5. Aanstelling van 'n Skutmeester
6. Inligting wat aan 'n Skutmeester verstrek moet word
7. Ontvangsbewyse vir diere wat geskut word
8. Die voorsiening van kampe en / of hokke in 'n skut
9. Afmaak van gevaarlike en beseerde diere of diere met aansteeklike siektes
10. Kennisgewings aan eienaars oor diere wat geskut is
11. Versorging van geskutte diere
12. Diere wat geskut word wat vrek of beseer raak of gesteel word
13. Verordening ter insae
14. Fooie, tariewe en kostes betaalbaar
15. Betalings
16. Verpligte skutregister
17. Insae in skutregister
18. Vrylating van diere wat geskut is
19. Verkoping van diere wat geskut is
20. Kennisgewing van verkoping
21. Diere wat nie verkoop kan word nie
22. Voorlegging van skutregisterinskrywings na verkoping van diere
23. Insae in skutregister tydens verkopings
24. Reëlins vir dienslewering
25. Vrywaring
26. Strafbepalings
27. Mishandeling van diere
28. Appèlle
29. Teenstrydighede met ander wetgewing
30. Bediening van kennisgewings en ander dokumente
31. Prosedures wat gevolg moet word in aansoek by die Hof
32. Bylaes 1 en 2 vorm deel van die verordening
33. Kort titel
34. Inwerkingtreding

1. INTERPRETASIE

In hierdie verordening, geld die Engelse teks in die geval van enige teenstrydigheid met die Afrikaanse teks, en tensy dit uit die konteks anders aandui, beteken—

“**diensleweringsooreenkoms**”, ‘n diensleweringsooreenkoms soos omskryf in artikel 1 van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet No 32 van 2000), soos gewysig;

"**bees**", 'n volwasse bul of koei, 'n os of tollie, of 'n vers of bulkalf;

"**bok**", 'n volwasse ram of ooi, 'n kapater of hammel, of 'n boklam;

"**dier**", wat die begrip “**diere**” insluit, enige perd, bees, donkie, muil, kameel, skaap, bok, vark, hoender of ander voël, pluimvee, volstruis, haas, konyn, hond, kat of ander huisdier of voël, of 'n wilde dier, wilde voël of reptiel wat in gevangenisskap verkeer of aangehou word of onder iemand se beheer is;

"**eienaar**", met betrekking tot die eienaarskap van 'n dier, enige persoon wat wetlik besit het van of wat as agent van of met die instemming van die eienaar, wetlik belas is met die sorg, bewaring of beheer van 'n dier;

"**eienaar van grond**", met betrekking tot die eienaarskap van enige grond, enige persoon, wat as eienaar, wettige huurder of okkupeerder 'n perseel of gedeelte grond bewoon, of gebruik en / of benut vir watter doeleindes ook al, of as agent namens die eienaar daarvoor beheer uitoefen;

"**eiendom**", is:

- (a) onroerende eiendom geregistreer in die naam van 'n persoon, insluitend in die geval van 'n deeltitelskema, 'n deeltiteleenheid wat in die naam van 'n persoon geregistreer is;
- (b) 'n reg geregistreer teen onroerende eiendom in die naam van 'n persoon, met uitsluiting van 'n verbandkening wat teen die eiendom geregistreer is;
- (c) 'n grondbesitreg of grondbrief geregistreer in die naam van 'n persoon ingevolge wetgewing;
- (d) 'n openbare plek geregistreer in die naam van Stellenbosch Munisipaliteit of enige ander staatsinstelling of -entiteit; of
- (e) openbare dienste infrastruktuur, wat insluit enige openbare pad;

"**gemagtigde beampte**", 'n beampte, gemagtig ingevolge artikel 8 van die Wet op Dierbeskerming, 1962 (Wet No 71 van 1962), soos gewysig, of enige vredesbeampte gemagtig ingevolge artikel 334 van die Strafproseswet, 1977 (Wet No 51 van 1977), soos gewysig of enige beampte van die Stellenbosch Munisipaliteit wat gemagtig is deur die Stellenbosch Munisipaliteit om die bepalings van hierdie verordening af te dwing;

"**grond**", enige perseel of eiendom of openbare plek binne die regsgebied van Stellenbosch Munisipaliteit;

"**grondeienaar**", met betrekking tot die eienaarskap van enige grond,

enige persoon, wat as eienaar, wettige huurder of okkupeerder 'n perseel of gedeelte grond bewoon, of gebruik en / of benut vir watter doeleindes ook al, of as agent namens die eienaar daarvoor beheer uitoefen;

"hings", 'n manlike perd, donkie of muil, wat nie gekastreer is nie of wat gedeeltelik gekastreer is;

"Hof", 'n Landdroshof soos verwys na in subartikel 166(d) van die Grondwet van die Republiek van Suid-Afrika, 1996, met jurisdiksie in die gebied waarbinne die skut geleë is;

"identifikasiemerk", 'n voorgeskrewe merk op 'n dier, soos vereis deur die Wet op die Identifisering van Diere, 2002 (Wet No 6 van 2002), soos gewysig;

"mikroskyfie", 'n elektroniese meganisme wat op 'n dier aangebring of aan 'n dier geheg is, waarop data oor die dier en / of die gegewens van die eienaar gestoor word;

"Munisipale Stelselwet", die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet No 32 van 2000), soos gewysig;

"Munisipaliteit", die Stellenbosch Munisipaliteit, wat insluit enige verwysing na behoorlike gemagtigde en / of aangestelde beamptes en / of diensverskaffers in terme van diensleweringsooreenkomste van Stellenbosch Munisipaliteit;

"nuusblad", wat insluit **"nuusblaai"**, enige koerant wat as nuusblad geregistreer is;

"okkupeerder", 'n persoon wat grond of 'n perseel okkupeer en beheer daarvoor het, wat insluit 'n bewoner van 'n perseel;

"openbare pad", wat insluit enige munisipale straat of steeg of padreserwe, of enige openbare pad, soos bedoel in artikel 1 van die Nasionale Padverkeerswet, 1996 (Wet No 93 van 1996), soos gewysig;

"openbare plek", enige perseel of eiendom of grond waartoe die publiek toegang het, wat insluit, maar nie beperk is tot, enige plein; gebou; park; ontspanningsgebied; sportgronde; oop ruimte; reservaat; munisipale straat of steeg of straatreserwe; openbare pad; parkeerarea; munisipale meent; ongebruikte, gebruikte, beboude of onbeboude munisipale grond; of 'n begraafplaas, waaroor Stellenbosch Munisipaliteit jurisdiksie het;

"perd", 'n hings, merrie, reunperd, hingsvul, merrievul, manlike of vroulike donkie of muil;

"persoon", vir doeleindes van hierdie verordening, 'n natuurlike persoon, 'n regspersoon, enige landbou, industriële of handelonderneming, of 'n staatsinstelling;

"pluimvee", 'n hoender, gans, eend, kalkoen of makou, hetsy mak of wild;

"privaat grond", alle grond wat nie in besit is van 'n staatsinstelling of

‘n ander munisipaliteit of Stellenbosch Munisipaliteit nie;

“**publieke grond**”, alle grond wat in besit is van ‘n staatsinstelling of ‘n ander munisipaliteit of Stellenbosch Munisipaliteit;

"**skaap**", ‘n volwasse ram of ooi, ‘n hamel of ‘n lam;

"**skut**", enige omheinde fasiliteit bestaande uit een of meer geboue, strukture, hokke of kampe, wat deur Stellenbosch Munisipaliteit of ‘n diensverskaffer, voorsien word vir gebruik as skut, en wat onder die beheer van ‘n skutmeester of ‘n diensverskaffer, ingevolge ‘n diensleweringsooreenkoms met Stellenbosch Munisipaliteit, funksioneer, en wat geskep is om afgedwaalde, verdwaalde, verlore of loslopende diere tydelik te huisves en te versorg;

"**Skutmeester**", ‘n persoon wat:

- (a) ‘n deeltydse of permanente werknemer van Stellenbosch Munisipaliteit is, en wie getaak en / of gemagtig is om die funksies en bevoegdhede van ‘n skutmeester vervul; of
- (b) kragtens ‘n diensleweringsooreenkoms met Stellenbosch Munisipaliteit, aangestel is deur ‘n diensverskaffer, om die funksies en bevoegdhede van ‘n skutmeester te vervul

“**vark**”, ‘n beer of sog, of enige speenvark of enige troetelvark;

"**veearts**", ‘n persoon wat ooreenkomstig die bepalings van die Wet op Veterinêre en Para-Veterinêre Beroepe, 1982 (Wet No 19 van 1982), soos gewysig, as sodanig gekwalifiseer is en as sulks praktiseer; en

2. TOEPASSING

Hierdie verordening is van toepassing binne die regsgebied van die Munisipaliteit met dien verstande dat niks sal verhoed dat enige dier wat ingevolge hierdie verordening in aanhouding is, geskut word in ‘n skut of soortgelyke plek, wat deur ‘n ander Munisipaliteit of ander wetting owerheid opgerig is nie.

3. VESTIGING VAN ‘N SKUT

- (1) Die Munisipaliteit mag ‘n skut en enige plekke van bewaring, op enige gekose en gerieflike plek binne die regsgebied van die Munisipaliteit vestig soos benodig, met dien verstande dat die Munisipaliteit ook ‘n diensleweringsooreenkoms mag aangaan met ‘n diere welsynsorganisasie of enige instelling of persoon soos bedoel in artikel 76(b) van die Munisipale Stelselwet, ten einde vir die vestiging en bestuur van ‘n skut en plekke van bewaring, wat die hele of gedeeltes van die regsgebied van die Munisipaliteit bedien, voorsiening te maak.
- (2) Die Munisipaliteit moet in ten minstens een (1) geregistreerde nuusblad wat binne die regsgebied van die Munisipaliteit versprei word, kennis gee van die voorneme om ‘n skut te vestig.
- (3) Die Munisipaliteit mag ‘n skut onder sy beheer sluit.

4. SKUT VAN DIERE

- (1) Enige eienaar van privaat eiendom, kan 'n dier wat ongemagtig op sy of haar eiendom is of ronddwaal, laat aanhou met die doel om dit te laat skut of na 'n plek van veilige bewaring te laat verwyder, met dien verstande dat alvorens sodanige diere verwyder mag word, daar aan die volgende vereistes voldoen moet word—
- (a) die eienaar van die eiendom waarop 'n dier oortree, mag sodanige dier aanhou, en wanneer 'n eiendomseienaar nie oor die hulpbronne of vermoë beskik om sodanige dier aan te hou nie, die Munisipaliteit versoek om te assisteer met die aanhou van sodanige dier, met dien verstande dat die dier nie na 'n skut afgevoer mag word, alvorens die persoon wat op die dier beslag gelê het om dit aan te hou, skriftelike kennis van minstens vier-en-twintig (24) uur, in gevalle waar die besonderhede van die eienaar van die dier bekend is of eienaarskap bepaal kan word deur middel van 'n identifikasiemerk en / of 'n mikro skyfie, aan die eienaar van die dier verskaf het om die dier te kom verwyder.
 - (b) Die eienaar van die eiendom waarop 'n dier oortree het, moet in die geval waar die eienaar van die dier onbekend is, 'n redelike poging aanwend om vas te stel wie die eienaar van die dier is, maar indien die eienaar van die dier onopspoorbaar bly, kan die eienaar van die eiendom of die Munisipaliteit die dier na 'n plek van veilige bewaring of 'n skut laat afvoer om geskut te word .
 - (c) Die eienaar van 'n dier wat aangehou word om geskut te word, mag met bewys van eienaarskap, verhoë rig tot die eienaar van die eiendom waarop die dier gevind was en wie op die dier beslag gelê het, vir die vrylating van die dier aldus aangehou
 - (d) Die persoon wat die dier aanhou, mag die betrokke dier vrylaat, nadat oorweging verleen is aan die verhoë van die eienaar van die betrokke dier en nadat die toepaslike boetes in terme van die bepalinge van hierdie verordening en die Verordening insake Openbare Oorlaste en Oorlaste wat Spruit uit die Aanhou van Diere van Stellenbosch Munisipaliteit, gehef en deur die eienaar van die betrokke dier betaal is, met dien verstande dat die eienaar van eiendom die reg het om by die Hof aansoek te doen vir skadevergoeding na aanleiding van die betrokke voorval.
 - (e) Indien die eienaar van die eiendom wat die betrokke dier aanhou, na die oorweging van die verhoë van die eienaar van die dier, die vrylating van 'n dier weier, moet die eienaar van die eiendom die betrokke dier binne 'n periode van agt-en-veertig (48) uur aan 'n gemagtigde beampte of die Skutmeester oorhandig, om na die skut af te voer, met dien verstande dat die gemagtigde beampte of die Skutmeester die dier slegs kan vrylaat indien sodanige vrylating aan die bepalinge van artikel 5 van hierdie verordening voldoen.
 - (f) Die eienaar van die eiendom sal geregtig wees om enige dispuut oor die skut van sodanige dier en / of eise vir skadevergoeding, binne die agt-en-veertig (48) uur periode na

die Hof te verwys vir beslegting, in welke geval die Hof 'n bevel vir die skut van die betrokke dier mag uitreik, insluitend 'n koste- en skadevergoeding bevel wat die Hof as billik en regverdig beskou.

- (g) Die eienaar van die eiendom sal geregtig wees om enige dispuut oor die skut van sodanige dier en / of eise vir skadevergoeding, na die Hof te verwys vir beslegting, insluitend 'n koste- en skadevergoeding bevel wat die Hof as billik en regverdig beskou.
- (2) Enige persoon kan 'n gemagtigde beampte versoek om, of 'n gemagtigde beampte, kan self volgens sy of haar eie diskresie, 'n dier wat ongemagtig in of op 'n openbare plek of openbare pad is, of wei, of rondloop, en wat nie in die sorg van 'n persoon is nie, aankeer met die doel om dit aan te hou of te skut, wat ook al die geval mag wees.
- (3) Enige dier wat met of sonder toesig op 'n openbare pad, munisipale straat of padreserwe of steeg is of wei of rondloop, en 'n gevaar vir padverkeer en / of voertuie inhou, moet aangehou word met die doel om dit te skut, deur–
- (a) 'n lid van die Suid-Afrikaanse Polisie; of
 - (b) 'n lid van die Suid-Afrikaanse Weermag; of
 - (c) 'n lid van die Provinsiale Verkeer; of
 - (d) 'n lid van enige dierebeskermingsorganisasie; of
 - (e) 'n gemagtigde munisipale beampte.
- (4) Die eienaar van enige eiendom waardeur of waarlangs 'n openbare pad loop of wat aan sodanige openbare pad grens, mag indien 'n grondige rede daarvoor bestaan, 'n gemagtigde beampte versoek om enige dier wat met of sonder toesig op sodanige openbare pad aangrensend tot die betrokke eiendom rondloop of wei, te laat aanhou met die doel om dit te skut.
- (5) 'n Persoon wat 'n dier aanhou vir enige doel of met die doel om dit te laat skut, ingevolge sub-artikels 3(1), 3(2), 3(3) en 3(4) van hierdie verordening, mag nie die dier langer as ses (6) uur aanhou, sonder om dit van genoemte voedsel en water te voorsien nie.
- (6) Enige persoon wat 'n dier aanhou met die doel om dit te skut, moet voldoen aan die bepalings van die Kode van Goeie Praktyk insake die Hantering en Vervoer van Geskutte Diere, soos vervat in Bylae 1 van hierdie verordening.

5. AANSTELLING VAN SKUTMEESTER

Die Munisipaliteit moet in ooreenstemming met die aanstellingsbeleid van die instelling, 'n geskikte gekwalifiseerde en ervare persoon as Skutmeester aanstel.

6. INLIGTING WAT AAN 'n SKUTMEESTER VERSTREK MOET WORD

'n Persoon wat diere na 'n skut stuur of neem, moet die Skutmeester skriftelik van die volgende inligting voorsien–

- (a) die getal en beskrywing van die dier of diere wat geskut moet word;
- (b) die eiendom of grond waarop die dier of diere gevang was;
- (c) die afstand in kilometer, langs die kortste en mees praktiese padroete, tussen die plek waar die dier of diere gevang is en die skut;
- (d) in die geval van 'n dier of diere wat op privaat eiendom oortree het en aangehou was, bewys van die vereiste skriftelike kennisgewing van verwyderig gerig aan die eienaar van die diere betrokke, en ander prosesse soos voorsien in subartikel 3(1) van hierdie verordening, soos toepaslik;
- (e) in die geval waar die eienaar van 'n dier of diere wat op die privaat eiendom gevang was nie opgespoor kon word nie, 'n verklaring wat bevestig dat die identiteit van die eienaar van die dier of diere nie bekend is nie en dat die eienaar van die grond 'n redelike poging aangewend het om die eienaar van die dier of diere op te spoor; en
- (f) die toestand van die dier en omstandighede waaronder die dier geskut is.

7. ONTVANGSBEWYSE VIR DIERE WAT GESKUT WORD

Die Skutmeester moet aan elke persoon wat 'n dier of diere onder die sorg van die Skutmeester laat, 'n geskrewe ontvangsbewys gee, waarin die getal en beskrywing van die diere uiteengesit word, asook die besonderhede van die persoon wat 'n dier of diere in die sorg van die Skutmeester laat.

8. DIE VOORSIENING VAN KAMPE EN / OF HOKKE IN 'N SKUT

Die Munisipaliteit moet vir doeleindes van 'n skut, afsonderlike kampe en / of hokke voorsien en in stand hou, wat deurlopend in 'n goeie toestand, en sover moontlik vry van alle besmetting sal wees, vir–

- (a) volstruise en perde;
- (b) beeste;
- (c) skape, bokke en varke;
- (d) honde;
- (e) katte; en
- (f) enige ander tipe dier, soos van tyd tot tyd bepaal,

met dien verstande dat die Munisipaliteit ten opsigte van enige skut in sy gebied, verlot aan die Skutmeester kan verleen om 'n kleiner

aantal kampe of hokke, aldaar te voorsien en in stand te hou.

9. AFMAAK VAN GEVAARLIKE EN BESEERDE DIERE OF DIERE MET AANSTEEKLIKE SIKTES

- (1) 'n Skutmeester mag enige dier wat geskut is, wat aan 'n aansteeklike siekte ly of beseer is of in 'n baie swak fisiese kondisie is of wat moontlik gevaarlik vir mense of vir ander diere in die skut is, op 'n menslike wyse laat afmaak, met dien verstande dat geen sodanige dier afgemaak mag word nie, alvorens 'n veearts dit ondersoek het en met die Skutmeester ooreengekom het oor die noodsaaklikheid om die dier van kant te maak, aldan nie, en op voorwaarde dat alvorens 'n dier afgemaak word:
- (a) 'n skriftelike kennisgewing oor die voorgenome afmaak van die betrokke dier, met verstrekking van redes vir die beoogde aksies, op die eenaar van die dier bestel word, in die geval waar die besonderhede van sodanige eenaar bekend is en / of die eenaar opgespoor kan word deur middel van die identifikasiemerke op of 'n mikroskyfie aan die dier;
 - (b) indien dit onprakties of onmoontlik is om die eenaar van die dier skriftelik kennisgewing te gee, sal 'n mondelingse kennisgewing of 'n ander praktiese wyse van kennisgewing, as voldoende beskou word; en
 - (c) indien daar 'n noodsituasie bestaan en dit onprakties of onmoontlik sal wees om die eenaar van 'n dier enige vorm van kennisgewing te gee, mag 'n veearts toestemming gee, dat die betrokke dier op menslike wyse van kant gemaak word, met dien verstande dat die eenaar van die betrokke dier so gou doenlik van die gebeurlikheid in kennis gestel word, met 'n opgaaf van redes vir die aksie geneem.
- (2) Indien enige dier of diere wat aan 'n aansteeklike siekte ly, soos bepaal ingevolge die Wet op Dieresiektes, 1984 (Act No. 35 van 1984), soos gewysig, na 'n skut gebring word, of infekteer raak terwyl dit in 'n skut is—
- (a) moet sodanige infekteerde dier of diere afsonderlik van ander diere aangehou word, solank dit nodig is, indien dit nie onmiddelik van kant gemaak word nie;
 - (b) moet sodanige infekteerde dier of diere in isolasie weg van ander geskutte diere aangehou word en moet die teenwoordigheid van die geïnfecteerde dier of diere aan die naaste Staatsveearts rapporteer word; en
 - (c) moet die eenaar of eenaars van sodanige infekteerde dier of diere onmiddelik skriftelike kennis gegee word oor die skut van die geïnfecteerde dier of diere, en die aksies onderneem om die aansteeklike siekte te beperk, waar die besonderhede van die eenaar of eenaars van sodanige infekteerde dier of diere bekend is aan of bepaal kan word deur die Skutmeester.

10. KENNISGEWINGS AAN EIENAARS OOR DIERE WAT GESKUT IS

- (1) Indien die Skutmeester bekend is met die besonderhede van die eienaar van 'n dier of eienaarskap kan bepaal deur middel van identifikasiemerke of 'n mikro skyfie aan 'n dier wat geskut is, moet die Skutmeester sonder versuim skriftelike kennis aan sodanige eienaar gee, dat die betrokke dier geskut is.
- (2) Indien enige dier wat geskut word 'n identifikasiemerke het, soos omskryf in die Wet op die Identifisering van Diere, 2002 (Wet No 6 van 2002), soos gewysig, moet die Skutmeester die prosedure volg vir die bevestiging van eienaarskap van 'n dier, soos voorgeskryf in artikel 14 van die Regulasies op die Identifisering van Diere, soos gewysig, en afgekondig ingevolge GK R1683 gedateer 21 November 2003.
- (3) Waar die gegewens van die eienaar van 'n geskutte dier nie aan die Skutmeester bekend is nie en / of nie bepaal kan word nie, moet die Skutmeester by ontvangs van sodanige dier by 'n skut, die skut van die betrokke dier by die naaste kantoor van die Suid-Afrikaanse Polisie diens aanmeld, en 'n kennisgewing met betrekking tot die skut van die betrokke dier, op 'n kennisgewingbord in die onmiddellike omgewing waar die dier gevang was, plaas.

11. VERSORGING VAN GESKUTTE DIERE

Die Skutmeester—

- (a) is verantwoordelik vir die behoorlike versorging van alle geskutte diere;
 - (b) moet verseker dat water en voldoende voedsel te alle tye vir geskutte diere beskikbaar is; en
 - (c) is aanspreeklik teenoor die eienaars van die geskutte diere vir enige skade aan diere berokken as gevolg van sy of haar opsetlike of nalatige optrede of versuim.
- (2) Indien die skutmeester van mening is dat 'n geskutte dier gevaarlik, boosaardig, permanent gebrekkig of dodelik siek, beseer of in so 'n fisiese toestand is dat dit vernietig behoort te word, moet hy 'n polisiebeampte in kennis stel en hom versoek om ingevolge artikel 5 van die Wet op Dierebeskerming, 1962 (Wet van 1962) op te tree.

12. DIERE WAT GESKUT WORD WAT VREK OF BESEER RAAK OF GESTEEL WORD

Indien 'n dier wat geskut is vrek of beseer of gesteel word, moet die Skutmeester—

- (a) die oorsaak van die vrek of besering of die feit dat die dier gesteel is, in die skutregister bedoel in artikel 16 van hierdie verordening aanteken;
- (b) indien die besonderhede van die eienaar beskikbaar of bekombaar is, die eienaar verwittig van die dier wat aldus gevrek het of wat beseer of gesteel is; en

- (c) in die geval van die diefstal van 'n dier uit die skut, die diefstal by die naaste kantoor van die Suid Afrikaanse Polisie diens aanmeld.

13. VERORDENING TER INSAE

Die Skutmeester moet toesien dat 'n afskrif van hierdie verordening ten alle tye by 'n skut ter insae beskikbaar is.

14. FOOIE, TARIWE EN GELDE BETAALBAAR

- (1) Die Munisipaliteit sal jaarliks in terme van die Tariewe Verordening van Stellenbosch Munisipaliteit, fooie en tariewe vasstel vir die aanhou, vervoer en / of bewaring van diere in 'n skut, en mag verskillende fooie en tariewe hef vir verskillende soorte diere.
- (2) Die Skutmeester moet–
- (a) die vereiste fooie en tariewe wat jaarliks deur die Munisipaliteit vasgestel word, van die eienaar van 'n dier wat geskut is, verhaal; en
- (b) die kostes vir dip, dosering, mediese behandeling, inenting of ander behandeling wat nodig geag word vir die behandeling van 'n siek of beseerde dier, of wat vereis word ingevolge die Wet op Dieresiektes, 1984 (Wet No 35 van 1984), soos gewysig, van die eienaar van 'n dier wat geskut is, verhaal.

15. BETALINGS

- (1) Die fooie en tariewe wat ingevolge subartikel 17(1) van hierdie verordening vasgestel word, en alle ander kostes aangegaan, moet aan die Munisipaliteit deur die eienaars van die diere wat geskut is, betaal word, en die Munisipaliteit moet 'n kwitansie uitreik vir alle gelde aldus ontvang.
- (2) Die eienaar van 'n dier moet die Skutmeester van 'n geldige kwitansie voorsien, alvorens die Skutmeester 'n dier wat geskut is kan vrylaat.
- (3) Die diere wat geskut is, mag deur die Skutmeester gehou word as sekuriteit vir die betaling van die toepaslike skutfooie en-tariewe, en enige ander kostes deur die Munisipaliteit aangegaan verbandhoudend tot die skut van die diere, met dien verstande dat indien die waarde van die diere wat aldus geskut is, meer is as die totale bedrag wat verskuldig is, en indien die eienaar van 'n dier nie in staat is om die verskuldigde bedrag te betaal nie, mag die Skutmeester slegs daardie aantal diere terughou as betaling, as wat voldoende is om die totale verskuldigde bedrag te vereffen, en die res van die diere moet aan die betrokke eienaar terug besorg word.
- (4) 'n Skutmeester wat onwettig diere terughou na ontvangs van betalings vir die vrylating van diere, of meer diere terughou as betaling as wat redelik nodig mag wees om die verskuldigde bedrae soos bedoel in subartikels 18(1) en 18(3) van hierdie verordening te verhaal, is teenoor die eienaar en / of eienaars van die betrokke diere

aanspreeklik vir enige skade gely, weens die weerhouding van die vrylating van die diere.

- (5) Die fooie, tariewe en / of gelde wat ingevolge hierdie verordening ontvang en of gevorder word, moet gedeponeer word as inkomste van die Munisipaliteit, ingevolge die voorskrifte en prosedures soos voorgeskryf deur die Munisipaliteit.
- (6) Geen Skutmeester mag 'n dier wat geskut is in terme van die bepalings van hierdie verordening, loslaat nie tensy die voorgeskrewe fooie, tariewe en gelde betaal is nie.

16. VERPLIGTE SKUTREGISTER

- (1) Elke Skutmeester moet 'n skutregister byhou waarin die volgende besonderhede aangeteken word–
 - (a) die datum waarop en die rede waarom elke dier geskut is;
 - (b) die getal en beskrywing van diere wat geskut is;
 - (c) die naam en adres van die persoon wat 'n dier geskut het, en die naam en adres van die eienaar of vermoedelike eienaar van 'n dier, indien dit aan die Skutmeester bekend is;
 - (d) die datum en besonderhede van die loslating en / of verkoping van diere;
 - (e) fooie, tariewe en gelde betaal in die gevalle waar diere vrygelaat was en die betrokke kwitansienommers van betalings; en,
 - (f) alle ander sake wat die Munisipaliteit bepaal het, wat aangeteken moet word.
- (2) Die inskrywings onder subartikel 19(1)(d), 19(1)(b) en 19(1)(c) van hierdie verordening moet gedoen word wanneer die diere geskut word, en die inskrywings onder subartikel 19(1)(d) en 19(1)(e) van hierdie verordening moet gedoen word in die skutregister, sodra die Skutmeester in besit kom van die nodige besonderhede, met dien verstande dat geen inskrywing gedoen mag word, indien 'n dispuut oor die skut van 'n dier ontstaan het nie.
- (3) In geval van die dood of diefstal of besering van 'n dier wat geskut is, moet die Skutmeester 'n beskrywing van sodanige dier en die oorsaak van die dood, besering of diefstal daarvan, in die skutregister aanteken.

17. INSAE IN SKUTREGISTER

Die skutregister van 'n skut moet by die betrokke skut of 'n ander aangewysde plek gehou word en moet op alle redelike tye kosteloos ter insae wees vir enige gemagtigde beampte van die Munisipaliteit, enige veearts, enige vee-inspekteur, en enige lid van die Suid Afrikaanse Polisie of enige lid van die publiek.

18. VRYLATING VAN DIERE WAT GESKUT IS

- (1) Onderworpe aan die bepalinge van subartikel 21(2) van hierdie verordening moet die Skutmeester 'n dier wat geskut is, onmiddellik vrylaat en aan die eienaar 'n vrylatingsbewys voorsien, indien die eienaar–
- (a) bewys van eienaarskap van sodanige dier kan verskaf; en
 - (b) die fooie, tariewe en gelde soos beoog in artikel 14 van hierdie verordening betaal het en aan die Skutmeester 'n kwitansie van sodanige betaling voorsien.
- (2) Die Skutmeester moet aan die eienaar van 'n dier wat geskut is, waar die gegewens en adresbesonderhede van sodanige eienaar bekend is, 'n kosteberekening verskaf, wat moet aantoon–
- (a) die fooie, tariewe en gelde betaalbaar met betrekking tot die skut van 'n dier of diere, ingevolge hierdie verordening;
 - (b) die bedrag van enige skade wat die eienaar van grond, waarop die betrokke dier of diere oortree het, gely het; en
 - (c) alle beraamde kostes verbonde aan die advertering en die opveil van die betrokke dier of diere, soos toepaslik.
- (3) Indien 'n dier wat geskut is, 'n dier is wat 'n identifikasiemerk moet dra soos bedoel in die Wet op Identifikasie van Diere, 2002 (Wet No 6 van 2002), soos gewysig, en indien sodanige dier nie die vereiste merk dra nie, moet die Munisipaliteit die aangeleentheid by die Suid-Afrikaanse Polisie diens aanmeld en moet die Munisipaliteit weier om sodanige dier vry te laat, indien die Suid-Afrikaanse Polisie diens die Munisipaliteit aldus skriftelik opdrag gee om die dier verder aan te hou.
- (4) Indien die eienaar van 'n dier wat geskut is nie die fooie, tariewe en gelde soos bedoel in artikel 14 van hierdie verordening kan betaal nie, mag die Skutmeester die vrylating van sodanige dier terughou, totdat die uitstaande fooie, tariewe en gelde verskuldig aan die Munisipaliteit betaal is of andersyds verhaal kan word.
- (5) Alle risiko's verbonde aan die eienaarskap van 'n dier, gaan oor na die persoon wat bewys van eienaarskap lewer, sodra die Skutmeester kan bevestig dat voldoende bewys van eienaarskap verskaf is.

19. VERKOPING VAN DIERE WAT GESKUT IS

- (1) Die Skutmeester moet–
- (a) wanneer enige dier wat geskut is, nie binne sewe (7) dae na betaling van die toepaslike fooie, tariewe en gelde, soos voorsien in subartikel 17(2)(a), subartikel 17(2)(b) en subartikel 21(2) van hierdie verordening, opgeëis word deur die eienaar daarvan nie, of in die geval waar sodanige dier se eienaar nie opgespoor kan word nie, by die Hof aansoek doen om sodanige dier te mag verkoop om kostes te verhaal; en

- (b) in die aansoek soos beoog in subartikel 22(1)(a) van hierdie verordening, bewys lewer aan die Hof dat 'n kosteberekening soos beoog in subartikel 21(2) van hierdie verordening, aan die eienaar van die dier gelewer was, in die geval waar die besonderhede van sodanige eienaar bekend was.
- (2) 'n Aansoek aan die Hof om 'n dier ingevolge hierdie verordening te verkoop, moet voldoen aan die prosedures soos vervat in Reël 55 van die Wet op Landdroshowe, 1944 (Wet No 32 van 1944), soos gewysig, met dien verstande dat die betrokke aansoek *ex parte* gebring mag word, waar die Munisipaliteit kan bewys dat ondanks redelike pogings, die eienaar van die dier nie oopgespoor kan word nie.
- (3) Indien die Hof tevrede is dat daar aan die bepalinge van die verordening met betrekking tot die skut van die betrokke diere voldoen is, kan die Hof gelas dat die betrokke dier of diere per veiling, soos voorsien in die verordening, verkoop word.
- (4) Die Hof moet, ongeag of die bedrae in die kosteberekening soos voorsien in subartikel 21(2) van die verordening, betwis word al dan nie—
- (a) onmiddellik die saak ondersoek;
- (b) waar die gegewens van die eienaar van die betrokke dier of diere bekend is, ondersoek instel of die Skutmeester wel die betrokke eienaar van die dier en / of diere behoorlik kennis gegee het van die kostes verbonde aan die skut en vrylating van die dier en / of diere; en
- (c) 'n bevel maak wat as billik en regverdig beskou word, wat sal insluit 'n bevel, aangaande:
- (i) kostes; en
- (ii) prosedures wat gevolg moet word deur die Skutmeester om die betrokke dier te verkoop.
- (5) By elke sodanige gemagtigde verkoping van diere wat geskut is—
- (a) mag geen dier te koop aangebied word nie tensy dit deur die Hof gelas is nie;
- (b) moet alle diere, uitgesonder skape en bokke, stuksgewys verkoop word;
- (c) moet skape en bokke in troppe van hoogstens tien (10) verkoop word en ag skape en bokke, of skape of bokke met verskillende identifikasiemerke, onder geen omstandighede saam in dieselfde trop verkoop word nie;
- (d) moet diere vir kontant verkoop word;
- (e) moet die totale opbrengs van die fooie, tariewe en kostes soos bedoel in artikel 17 van hierdie verordening, in die munisipale

inkomstefonds gestort word, met dien verstande dat indien 'n dier teen 'n hoër prys verkoop word op 'n verkoping–

- (i) as die skutfooie en -tariewe betaalbaar en kostes aangegaan vir die skut van 'n dier; en
 - (ii) as enige skadevergoeding toegeken deur die Hof, ingevolge artikel 21(2) van hierdie verordening, moet sodanige oorskot, binne dertig (30) dae na die verkoping, aan dieeienaar van die diere uitbetaal word, behalwe as die identiteit van die eienaar nie vasgestel kan word nie.
 - (f) mag die Munisipaliteit 'n reserweprys vasstel vir enige dier wat te koop aangebied word; en
 - (g) mag die afslaer enige dier aan die verkoping onttrek, as die hoogste bod wat aangebied word, nie billik en redelik is nie, ongeag of 'n reserweprys deur die Munisipaliteit vasgestel is of nie.
- (6) Alle verkoping van diere wat geskut is moet–
- (a) behartig word deur die Skutmeester of 'n persoon wat behoorlik deur die Munisipaliteit daartoe gemagtig is, en
 - (b) begin op 'n tyd en gehou word op 'n dag wat deur die Skutmeester vasgestel is ingevolge artikel 23(1)(a) van hierdie verordening.
- (7) Die Skutmeester of 'n munisipale beampte of enige ander ander persoon aldus aangewys om 'n verkoping te behartig, of enige deelgenoot of enige medewerkers of 'n munisipale werknemer, of enige familielid van die betrokkenes voorvermeld, mag nie regstreeks of onregstreeks deur 'n ander persoon, belang hê by die koop van enige dier by 'n veiling soos voorsien in subartikel 22(6) van hierdie verordening.
- (8) Die eienaar van 'n dier bly aanspreeklik teenoor die Munisipaliteit vir enige koste, wat nie gedek word uit die verkoop van sodanige dier of diere nie.

20. KENNISGEWING VAN VERKOPING

- (1) Die Skutmeester moet–
- (a) wanneer magtiging deur 'n Hof verleen is vir die verkoping van 'n dier of diere wat geskut is, kennis gee dat sodanige dier op 'n openbare veiling verkoop sal word en die datum, tyd en plek van die verkoping bekend maak;
 - (b) in die kennisgewing besonderhede voorsien aangaande die spesie, ras, identifikasiemerke en onderskeidende kenmerke van sodanige dier of diere, wat verkoop moet word;
 - (c) sodanige kennisgewing aan die Munisipaliteit verskaf, en 'n afskrif daarvan op die amptelike munisipale kennisgewingbord en by of naby die skut vertoon tot die dag van die verkoping; en

- (d) 'n kennisgewing dat 'n dier of diere verkoop gaan word, publiseer in 'n geregistreerde nuusblad wat versprei word in die gebied van jurisdiksie van die Munisipaliteit.
- (2) Die koste van 'n kennisgewing soos bedoel in subartikel 23(1) van hierdie verordening, moet van die eienaar van die dier wat geskut word, verhaal word, en word geag om deel uit te maak van die kostes wat afgetrek moet word van die opbrengs van die verkoop van 'n dier.

21. DIERE WAT NIE VERKOOP KAN WORD NIE

- (1) In die geval waar 'n dier nie verkoop kan word nie—
- (a) moet die Skutmeester die Hof en die eienaar, indien die besonderhede van die eienaar aldus bekend is, in kennis stel van die situasie, en die geskatte waarde van die betrokke dier, asook die fooie, tariewe en kostes betaalbaar ten opsigte van die skut van die betrokke dier verskaf;
- (b) mag die Hof op grond van die inligting verskaf, enige bevel maak wat as billik en regverdig beskou word om die situasie aan te spreek, insluitend die afmaak van sodanige dier.
- (2) Indien 'n hond of kat of enige soortgelyke dier, wat nie normaalweg by 'n veiling verkoop kan word nie, nie binne sewe (7) dae nadat 'n kennisgewing ingevolge artikel 13 van hierdie verordening op die eienaar van sodanige dier bedien is dat die betrokke dier geskut is, of nie binne sewe (7) dae nadat 'n advertensie in 'n plaaslike nuusblad verskyn het oor die skut van die betrokke dier, in die geval waar die eienaar nie bekend of opgespoor kan word nie, deur die eienaar opgeëis word nie, kan sodanige dier afgemaak word en kan die kostes vir die versorging en afmaak van die betrokke dier van die eienaar van die dier verhaal word, indien bekend.
- (3) Indien 'n dier wat normaalweg by 'n veiling aangebied word, nie verkoop word nie, kan die Munisipaliteit 'n verdere veiling reël op die voorgeskrewe wyse, met inbegrip van kennisgewing en advertering, of die Hof nader vir 'n bevel vir die afmaak van die betrokke dier op 'n menslike manier, ingevolge die bepalings van Reël 55 van die Wet op Landdroshowe, 1944 (Wet No 32 van 1944), soos gewysig, met dien verstande dat 'n aansoek *ex parte* gebring kan word, waar die Munisipaliteit kan bewys dat ondanks redelike pogings, die eienaar van die dier nie oopgespoor kan word nie.

22. VOORLEGGING VAN SKUTINSKRYWINGS NA VERKOPING VAN DIERE

Die Skutmeester moet binne veertien (14) dae na die datum van elke skutverkoping, 'n afskrif van alle skutregisterinskrywings aan die Munisipaliteit voorlê, wat aangeteken is sedert die datum van die vorige voorlegging van die skutregister aan die Munisipaliteit, en die Munisipaliteit moet al sodanige afskrifte van skutregisterinskrywings bewaar, en dit beskikbaar stel ter insae van enige persoon wat dit versoek.

23. INSAE IN SKUTREGISTER TYDENS VERKOPINGS

Wanneer 'n verkoping gehou gaan word van diere wat geskut is, moet die Skutmeester of 'n persoon wat gemagtig is om die verkoping waar te neem, die skutregister beskikbaar stel by die plek van verkoping, en sodanige register moet by die plek van verkoping kosteloos ter insae wees van alle persone wat dit versoek.

24. REËLINGS VIR DIENSLEWERING

- (1) Ten einde optimale dienslewering ingevolge hierdie verordening te verseker, kan die Munisipaliteit diensooreenkomste aangaan met ander munisipaliteite of enige ander instelling, en kan ander munisipaliteite of ander instellings per ooreenkoms, diere na 'n skut of soortgelyke fasiliteit van Stellenbosch Munisipaliteit afvoer.
- (2) Die fooie en tariewe betaalbaar vir dienste gelewer, soos voorsien in subartikel 27(1) van hierdie verordening vir die skut van diere, sal deur die betrokke diensleweringsooreenkoms bepaal word.

25. VRYWARING

Die Munisipaliteit, die Skutmeester en enige gemagtigde beampte, sal nie aanspreeklik wees vir die dood of diefstal van of besering aan enige dier, as gevolg van die aanhouding, vervoer, skut of vrylating daarvan gedurende of as gevolg van die skutproses nie.

26. STRAFBEPALINGS

'n Persoon wat—

- (a) 'n dier wat wettig aangehou word vir veilige bewaring of met die doel om dit te skut of wat wettig geskut is, vrylaat;
- (b) onwettig 'n dier vang met die doel om dit te skut;
- (c) onwettig 'n dier skut;
- (d) met die Skutmeester in die uitvoering van sy of haar pligte inmeng;
- (e) enige dier toelaat om vanaf sy of haar eiendom op 'n openbare pad of munisipale straat of padreserwe of steeg te gaan;
- (f) enige dier toelaat om ongemagtig op of in 'n openbare plek rond te loop of te wei;
- (g) wat hekke oopmaak, drade knip of enige handeling uitvoer om diere moedswillig vry te laat;
- (h) enige instruksie uitgereik deur 'n gemagtigde beampte of aangebring op 'n kennisgewingbord verontagsaam; of
- (i) enige bepalings van hierdie verordening oortree, of versuim om daaraan te voldoen of versuim om te voldoen aan 'n kennisgewing

uitgereik ingevolge hierdie verordening,

is skuldig aan 'n oortreding en mag by skuldigbevinding–

- (i) 'n boete of gevangenisstraf, of gevangenisstraf sonder die keuse van 'n boete, of beide sodanige boete en sodanige gevangenisstraf opgelê word;
- (ii) in geval van 'n voortdurende oortreding, 'n bykomende boete of bykomende termyn gevangenisstraf of tot sodanige bykomende gevangenisstraf sonder die keuse van 'n boete, of tot beide sodanige boete en gevangenisstraf, vir elke dag wat sodanige oortreding voortduur, opgelê word; en
- (iii) 'n verdere bedrag as kostebevel opgelê word, gelykstaande aan enige kostes en / of uitgawes wat die Hof bevind deur die Munisipaliteit aangaan was, as gevolg van sodanige oortreding.

27. MISHANDELING VAN DIERE

Niemand mag 'n dier wat gevind word waar dit oortree, buitensporig vinnig aanjaag of dit onnodig pla of mishandel nie.

28. APPËLLE

'n Persoon wie verontreg voel oor 'n besluit geneem deur die Munisipaliteit, ingevolge enige gedelegeerde magte, mag in terme van artikel 62 van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet No 32 van 2000), soos gewysig, Munisipale Stelselwet, teen sodanige besluit appèlleer, deur binne een-en-twintig (21) dae vanaf datum van kennisgewing van die besluit, skriftelik kennis aan die Munisipale Bestuurder te gee van die appèl, en redes vir die appèl te verstrek.

29. TEENSTRYDIGHEDE MET ANDER WETGEWING

In die geval van teenstrydigheid tussen enige bepaling van hierdie verordening, en nasionale en provinsiale wetgewing of regulasies, sal sodanige nasionale en provinsiale wetgewing of regulasies voorrang geniet.

30. BEDIENING VAN KENNISGEWINGS EN ANDER DOKUMENTE

- (1) 'n Kennisgewing, bevel, aanskrywing, of ander dokument, wat ingevolge hierdie verordening deur die Munisipaliteit uitgereik word, word geag behoorlik uitgereik te wees, indien 'n beampte wat deur die Munisipaliteit gemagtig is, dit onderteken het.
- (2) Wanneer dit nodig is om enige gemagtigde kennisgewing, bevel, aanskrywing of ander dokument te bedien op 'n persoon ingevolge hierdie verordening, word dit geag effektief en na behore aan sodanige persoon beteken te wees–

- (a) wanneer dit persoonlik aan die persoon afgelewer is;
 - (b) wanneer dit by die persoon se plek van inwoning of besigheid in die Republiek van Suid-Afrika gelaat is, by 'n persoon wat duidelik ouer as sestien jaar is;
 - (c) wanneer dit gepos is per geregistreerde of gesertifiseerde pos aan die persoon se laaste bekende woon- of besigheidsadres in die Republiek van Suid-Afrika, en 'n erkenning van die versending verskaf word;
 - (d) indien die persoon se adres in die Republiek van Suid-Afrika onbekend is, wanneer dit aan die persoon se agent of verteenwoordiger in die Republiek van Suid-Afrika bedien is op so 'n manier, soos in subartikels 33(1)(a), 33(1)(b) of 33(1)(c) van hierdie verordening bepaal;
 - (e) indien die persoon se adres en agent in die Republiek van Suid-Afrika onbekend is, wanneer dit opsigtelik vertoon word op die vaste eiendom of perseel, indien enige, waarop dit betrekking het; of
 - (f) in die geval van 'n bestuursliggaam, wanneer dit by die geregistreerde kantoor of die sakeperseel van sodanige bestuursliggaam afgelewer is.
- (3) Wanneer enige kennisgewing, bevel, aanskrywing of ander dokument aan 'n persoon ingevolge hierdie verordening bedien moet word, is dit nie nodig om dit by name te noem nie, maar sal dit voldoende wees as die persoon daarin beskryf word as die eienaar, bewoner of houer van sodanige vaste eiendom of ander reg, wat ook al die geval mag wees.
- (4) 'n Bevel, kennisgewing of ander dokument wat waarmerking vereis, moet behoorlik deur die Munisipaliteit onderteken wees.

31. PROSEDURES WAT GEVOLG MOET WORD IN AANSOEK BY DIE HOF

'n aansoek by die Hof vir--

- (a) Die skut van 'n dier in terme van hierdie verordening, moet voldoen aan die prosedure beoog in Artikel 55 van die Reëls van die Hof; en
- (b) die verkoop van 'n geskutte dier in terme van hierdie verordening moet voldoen aan die prosedure beoog in artikel 66 van die Wet op op Landdroshowe, 1944 (Wet No. 32 van 1944), en Artikel 41 van die Reëls van die Hof,

Gemaak deur die reëls van die Raad vir Geregshowe ingevolge Artikel 6 van die Reëls vir die Wet, 1985 (Wet No. 107 van 1985), en onder die Goewermentskennisgewing No. R.1108 gepubliseer in Regulasiëkoerant No. 980 van 21 Junie 1968, soos gewysig van tyd tot tyd, gelees met die nodige veranderinge.

32. BYLAES 1 EN 2 VORM DEEL VAN DIE VERORDENING

Bylaes 1 en 2 tot hierdie verordening, word vir alle praktiese doeleindes geag om deel van die verordening te wees.

33. KORT TITEL

Hierdie verordening staan bekend as die Verordening insake die Skut van Diere van Stellenbosch Munisipaliteit.

34. INWERKINGTREDING

Hierdie verordening tree op datum van publikasie daarvan in werking.

DRAFT



BYLAE 1

Kode van Goeie Praktyk insake die Hantering, Vervoer en Versorging van

Diere wat Geskut word

DEEL I: Kraalvereistes

1. Vir doeleindes van hierdie bylae het kraal, kamp en hok dieselfde betekenis, en is enige verwysing na 'n kraal ook 'n verwysing na 'n kamp of 'n hok of 'n soortgelyke struktuur waarin 'n dier bewaar kan word.
2. Verskillende spesies diere moet in afsonderlike krale gehou word.
3. Diere mag nie in oorvol krale opeengehoop word nie en die ruimte moet voldoende wees sodat alle diere gelyktydig kan lê en daar mag nie minder as een-punt-vyf (1.5) vierkante meter beskikbare grondruimte per dier wees nie.
4. Opstandige diere mag nie saam met ander diere aangehou word nie.
5. Jong, gespeende of jeugdige diere mag nie saam met volwasse diere in dieselfde kraal aangehou word nie, met uitsondering van 'n vroulike dier en haar kleintjies.
6. Voorsiening moet in krale gemaak word vir–
 - (a) geriewe soos rakke, voerbakke of ander geskikte houers wat maklik skoonmaak, wat die voer van diere van die grond af moontlik maak en wat gediens kan word sonder om diere te steur;
 - (b) watertroë wat 'n voldoende, geskikte voorraad vars water te alle tye voorsien;
 - (c) voldoende geriewe vir die behoorlike skoonmaak van krale; en
 - (d) geriewe vir die veilige hantering van diere.
7. (a) Krale moet te alle tye in 'n goeie, skoon en werkende toestand gehou word.
- (b) Skerp punte van drade, gebreekte planke, happerige punte, en skarniere of boutte wat uitsteek, wat beserings aan diere kan veroorsaak moet verwyder of na behore bedek word.
8. Die vloer van elke kraal, insluitend die op-en-aflaai vragwal, toevoerbane en drukgange van die laaifasiliteit by 'n skut, moet voorsien word met oppervlaktes wat glipvry is en wat effektief en behoorlik skoongemaak kan word, sodat dit geskik sal wees vir die aanhou en / of hantering van diere.

DEEL II: Hantering van diere

9. Diere moet te alle tye menslik, met geduld en verdraagsaamheid behandel word.
10. Die volgende moet in gedagte gehou word tydens die hantering van diere– (a) diere reageer beter wanneer hul aanjaer agter hulle staan, maar binne
hul
gesigsveld.
(b) diere in 'n trop reageer beter wanneer hulle in 'n trop aangejaag word in plaas van een een.
11. Diere mag nie aan hul bene gesleep, of aan hul koppe, ore of serte gedra word nie.
12. Jong kalfies moet opgelig word by die bors en agterkwart en gedra word indien hulle nie self met gemak kan loop nie. As alternatief moet hulle gerig word deur een hand op 'n agterkwart en die ander hand naby die skof of nek te plaas, en deur saam te stap in die vereiste rigting, teen 'n geskikte en gemaklike pas, gestuur word.
13. Slegs stokke met seildoek oorgetrek of dryfbande mag gebruik word tydens die aanjaag van diere, en dit is verkieslik om op die grond agter die dier te slaan, as op die dier self.
14. Elektriese aanporders, stokke of sambokke mag nie op jong diere gebruik word nie.
15. Elektriese aanporders mag nie oormatig of onnodig gebruik word nie, en mag glad nie op die gesig of anus of geslagsdele van diere gebruik word nie.

DEEL III: Verskuiwing van diere

16. Diere wat aangejaag word, moet te alle tye onder behoorlike en bekwame toesig wees.
17. Diere moet op 'n kalm manier teen 'n pas wat ontspanne, gemaklik, en natuurlik vir sodanige dier sal wees, aangejaag word, wat nie vinniger mag wees, as die pas van die stadigste dier in die trop nie.
18. Diere mag nie vir langer as tien (10) uur aaneen aangejaag word, sonder 'n rustyd van minstens een (1) uur nie. Genoegsame en geskikte vars water moet aan al die diere voorsien word, gedurende die proses van aanjaag.
19. Geen dier mag vir afstande langer as die volgende afstande aangejaag word nie–
 - (a) Gedurende 'n reis wat nie langer as een (1) dag duur nie– (i) 20 km vir skape en bokke; en
(ii) 30 km vir
beeste;
 - (b) Gedurende 'n reis wat meer as een (1) dag duur–

- (i) twintig (20) km gedurende die eerste dag, en vyftien (15) km vir elke daaropvolgende dag, vir skape en bokke; en
 - (ii) vyf-en-twintig (25) km gedurende die eerste dag, en twintig (20) km vir elke daaropvolgende dag vir beeste;
20. Sodra diere hul oornag kamp bereik, moet hulle onmiddellik voer en water kry, welke voer voldoende en geskik moet wees vir elke betrokke spesie.
21. Diere mag nie na donker aangejaag word nie.
22. Geen dier wat siek, beseer of vermink is, mag aangejaag word nie.

DEEL IV: Voertuie gebruik tydens die vervoer van diere

23. Voertuie en alle sleepwaens wat vir die vervoer van gehoefde diere gebruik word, moet geskik wees vir sodanige diere en in 'n padwaardige toestand wees.
24. Alle voertuie en sleepwaens in paragraaf 23 genoem moet—
- (a) 'n geskikte glipvrye vloerbedekking hê, wat nie die skoonmaak van die voertuie se vloer sal belemmer nie, en wat bevestig mag wees met verwyderbare heglatte of staal roosters, of heglatte of staalroosters wat kan skanier;
 - (b) voldoende lug en lig deurlaat, terwyl dit in beweging of stilstaande is, terwyl geen voertuig geheel en al toegemaak mag wees nie.
 - (c) voldoende beskerming teen uitlaatgasse hê, aangesien blootstelling aan uitlaatgasse diere se asemhaling kan belemmer en angs kan veroorsaak;
 - (d) sywande hê wat hoog genoeg is, om te voorkom dat diere ontsnap of uit die voertuig val, met dien verstande dat die sywande en / of afskortings -
 - (i) wanneer in gebruik op 'n voertuig om diere van mekaar te skei, van sodanige hoogte moet wees, dat die afskorting nie laer as die skouer van die grootste dier wat vervoer word, sal wees nie;
 - (ii) in die geval van beeste, maar uitgesonderd kalwers, 'n minimum hoogte van eenduisend agthonderd (1800) millimeter moet wees; en
 - (iii) in die geval van kleiner diere, 'n minimum hoogte van sewehonderd-en-vyftig (750) millimeter moet wees.
 - (e) in die geval van multi-dek voertuie, moet die hoogtes tussen dekke voldoende wees, ten einde die grootste diere in staat te stel om natuurlik vry en ten volle regop te staan, en moet voldoende ruimte toegelaat word bokant die diere vir lug om vrylik te vloei. In die geval van skape en varke, mag die vryhoogte nie minder as eenduisend (1000) millimeter wees nie.
 - (f) soliede ondeurdringbare vloere hê;
 - (g) op en aflaaier openinge aan die agterkant van die voertuig hê, wat

oor die volle wydte van die voertuig strek of indien dit aan die kante van die voertuig is, moet dit 'n opening hê, van nie minder as tweeduisend vierhonderd (2400) millimeter nie;

- (h) hekke hê, met of sonder afskortings, wat -
 - (i) van sodanige ontwerp en konstruksie is, dat dit sterk genoeg is en geskik is vir die beoogde vervoer van die betrokke diere; en
 - (ii) wat goed beveilig is, en vrylik kan oop en toemaak.

25. Die aantal diere wat saam geplaas is in enige ruimte vir doeleindes van die transport van sodanige diere moet sodanige beperk word, dat die veiligheid en gerief van die diere gedurende die vervoer daarvan verseker word en die voorgestelde vloerruimte per dier sal wees -

- (a) een-punt-vier (1.4) vierkante meter oppervlakte per groot dier; en
- (b) nul-punt-vyf (0.5) vierkante meter oppervlakte per klein dier wees.

DEEL V: Verskaffing van voer en water aan diere voor die oplaai daarvan

26. Diere moet voorsien word van voldoende en geskikte voeding en vars water, totdat hulle afgevoer word per voertuig.

DEEL VI: Op-en-aflaai prosedures

27. Die op- en aflaai van diere, op en vanaf voertuie, moet so stil en kalm moontlik geskied, en moet met die nodige geduld en verdraagsaamheid plaasvind, sonder die onnodige teistering, verskrikking, verkneusing en besering van diere, of onnodige lyding of spanning.

28. Geen dier mag aan sy kop, wol, vel, ore, stert, horings of bene op- of afgelaai word nie.

29. Geen dier mag op enige ander wyse as die volgende, op- of afgelaai word nie—

- (a) By wyse van 'n glipvry oppervlakte, wat sterk genoeg is om die gewig van die spesie dier wat hanteer word te ondersteun, en wat met voldoende sypanele of traliewerk toegerus is, wat die ontsnapping of afval van diere vanaf die loopplank sal voorkom. Sodanige loopplank mag nie 'n helling van meer as vyf-en-twintig (25) grade hê nie; of
- (b) By wyse van 'n laaiwal wat op dieselfde hoogte is as die vloer van die voertuig, of wanneer die afgelaai van diere plaasvind, nie meer as driehonderd-en-tien (310) millimeter onder die vloer van die aflaai voertuig is nie en met 'n helling van nie meer as vyf-en-twintig (25) grade nie.

30. Indien 'n voertuig toegerus is met 'n eie verwyderbare laaibrug, moet dit 'n glipvrye oppervlakte hê, en moet dit van voldoende lengte wees sodat, wanneer dit laat sak is, die helling daarvan nie

meer as vyf-en-twintig (25) grade sal wees nie, met die afstand tussen die grond en die haak van die laaibrug nie meer as eenhonderd-en-tien (310) millimeter nie.

31. 'n Laaibrug se hoogte moet elke keer aangepas word, om presies met die voertuig se vloerhoogte ooreen te stem.
32. Die reis vir die afvoer van diere, moet so gou moontlik begin nadat die diere opgelaai is en diere moet onmiddellik afgelaai word, wanneer die bestemming bereik word.
33. Tensy voldoende voorsiening gemaak is vir die effektiewe skeiding van verskillende spesies diere, mag sodanig verskillende spesies diere nie in dieselfde voertuig gelaai en vervoer word nie.
34. Diere van verskillende ouderdom, grootte en geslag mag nie saam gelaai en vervoer word nie, tensy voldoende voorsiening gemaak is vir die effektiewe skeiding van sodanige diere.
35. Volwasse beeste met horings, mag nie saam met poenskapbeeste vervoer word nie en hulle moet altyd afsonderlik gehok word.
36. Indien daar voldoende rede bestaan om te glo dat 'n dier tydens 'n voorgenome reis geboorte mag skenk, mag sodanige dier nie gelaai word vir vervoer daarvan nie.
37. Ingeval 'n dier wel tydens 'n reis geboorte skenk, moet die nodige voorsorg getref word om die ma en kroos te beskerm teen vertrapping of besering of teistering deur ander diere.
38. Ingeval die—
 - (a) transport voertuig onklaar raak;
 - (b) transport voertuig in 'n ongeluk of botsing betrokke raak; of
 - (c) 'n dier of diere in transito beseer raak of vrek, moet die karweier onmiddellik die besonderhede rapporteer aan, of hulp vra
 - van - (i) in die geval van paragraaf (a), 'n insleepdiens;
 - (ii) in die geval van paragraaf (b), die Suid-Afrikaanse Polisie Diens en / of die betrokke verkeersowerheid;
 - of
 - (iii) in die geval van paragraaf (c), 'n veearts.
39. Indien die vervoer van enige dier, 'n besering aan die dier self of ander diere kan veroorsaak, moet dit op so 'n manier onder bedwang gehou word, dat sodanige besering voorkom kan word.
40. Geen dier mag vir meer as vier (4) uur in enige vier en twintig (24) uur tydperk onder bedwang gehou word nie.
41. Geen draad of baaltou mag gebruik word om diere se bene of voete mee vas te bind nie.
42. Ten einde verwurging of nekbreke by diere te voorkom, mag geen dier met 'n skuifknoop aan hul horings of nek aan 'n voertuig vasgemaak

word nie. Die tou wat gebruik word om 'n dier onder bedwang te hou, moet op die dier se kniehoogte aan die voertuig vasgemaak word, sodat ingeval die dier sou val, die risiko dat die dier beseer sou raak of sou sterf, verminder word. Die tou aldus gebruik, moet lank genoeg wees, ten einde 'n dier toe te laat om gemaklik in 'n natuurlike posisie te lê, met die kop regop.

BYLAE 2

Skutregister Inligting

'n Skutregister moet ten minste die volgende inligting

bevat –

- (a) Naam van die skut.
- (b) Die datum waarop 'n dier ontvang is.
- (c) Die getal en beskrywing van diere wat geskut word.
- (d) Merke of brandmerke op diere.
- (e) Die ooretiketnommer wat deur die Skutmeester aan elke dier wat geskut word, toegeken word.
- (f) Naam en adres van persoon wat die dier gevang het.
- (g) Naam en adres van die eienaar van grond waarop die dier gevang is.
- (h) Naam en adres van die eienaar van 'n dier wat geskut is.
- (i) Rede waarom die dier geslut is.
- (j) Adres of beskrywing van plek waar die dier gevind is.
- (k) Afstand tussen die plek waar die dier gevang is en die skut.
- (l) Besonderhede van skade deur die dier aangerig.
- (m) Vervoerkoste betaalbaar.
- (n) Besonderhede van die uitsit of wegdoening van 'n dier.
- (o) Oorsaak van dood, diefstal of besering van 'n dier wat geskut is.
- (p) Beskrywing en bedrag van skutgelde betaalbaar.

- (q) Skadevergoeding toegestaan deur die Hof.
- (r) Datum van vrylating van 'n dier.
- (s) Datum van verkoop van 'n dier.
- (t) Opbrengs vir die verkoop van 'n dier.
- (u) Naam en adres van die koper van 'n dier.
- (v) Oorskotbedrag van die opbrengs met verkoping van 'n dier, indien enige, wat aan die eienaar van 'n dier betaal moet word.

DRAFT

7.7.2	BY-LAW ON THE PREVENTION OF PUBLIC NUISANCES AND THE KEEPING OF ANIMALS
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1. PURPOSE OF REPORT

To submit the repealed draft “By-Law on the Prevention of Public Nuisances and the Keeping of Animals,” to the Council for in principle adoption.

2. BACKGROUND

Several complaints regarding various types of nuisances have been received. Methods to address said complaints were investigated by the administration. It was proven that the previous by-laws were not adequate to address the problems experienced. Copies of said By-laws are attached hereto as **APPENDICES 1 – 5**. A new By-law has thus been drafted and is herewith submitted to Council for consideration, which is attached as **APPENDIX 6**.

3. DISCUSSION

The Manager: Corporate Strategy and Compliance has indicated that the By-Law had been distributed internally. The By-Law will be advertised after Council approval for public comment, after which the By-Law will be resubmitted to Council for consideration.

4. CONCLUSION

The By-Law is thus submitted to Council for consideration.

RECOMMENDED

- (a) that Council approves the draft “By-Law on the Prevention of Public Nuisances and the Keeping of Animals”; and
- (b) that the Administration be mandated to advertise said By-law after which it will be re-submitted to Council for final consideration.

**FINANCE AND STRATEGIC AND CORPORATE SERVICES COMMITTEE
MEETING: 2013-08-13: ITEM 6.1.4**

RECOMMENDED

- (a) that Council approves the draft “By-Law on the Prevention of Public Nuisances and the Keeping of Animals”, in principle; and
- (b) that the Administration be mandated to advertise said By-law whereafter same be re-submitted to this Committee for consideration and subsequent recommendation to Council for finalisation.

MAYORAL COMMITTEE MEETING: 2013-08-21: ITEM 5.1.5**RECOMMENDED BY THE EXECUTIVE MAYOR**

- (a) that Council approve the draft "By-Law on the Prevention of Public Nuisances and the Keeping of Animals", in principle; and
- (b) that the Administration be mandated to advertise said By-law whereafter same be re-submitted to this Committee for consideration and subsequent recommendation to Council for finalisation.

15TH COUNCIL MEETING: 2013-08-29: ITEM 7.3**RESOLVED** (nem con)

- (a) that Council approves the draft "By-Law on the Prevention of Public Nuisances and the Keeping of Animals", in principle; and
- (b) that the Administration be mandated to advertise said By-law whereafter same be re-submitted to the relevant Committee for consideration and subsequent recommendation to Council for finalisation.

FURTHER COMMENTS BY COMMUNITY AND PROTECTION SERVICES

It was established that the said By-Law was never advertised by the then Director: Strategic and Corporate Services as per Council resolution. The Acting Manager: Law Enforcement identified the need to have the draft by-law reviewed due to certain shortcomings in the draft which would have been problematic should the draft By-Law have been adopted and approved in its current format. The department has till now been using the old By-Law applicable to Stellenbosch Municipality insofar as the control of dogs and the suppression of public nuisances were concerned.

The following By-Laws will be repealed with the promulgation of the new By-Law;

BY-LAWS OF THE DISESTABLISHED MUNICIPALITY OF STELLENBOSCH		
PN No.	Short title	Extent of repeal
<i>PK 683/1984</i>	Stellenbosch Municipality: By-law relating to the control and Keeping of Dogs	Whole
<i>PK 667/1994</i>	Amendment to the Dog Control By-law	Whole
<i>PK 539/1995</i>	Municipality for the area of Franschhoek: By-law on the Prevention and Suppression of Nuisances	Whole
<i>PK 180/1998</i>	Stellenbosch Transitional Local Council: By-law on the Prevention and Suppression of Nuisances	Whole
<i>PK 6011/2003</i>	Stellenbosch Municipality: By-law for the Control of Certain Offences in Public Places	Whole

The draft By-Law has been amended and is attached as **APPENDIX 7**.

COMMENTS BY OTHER DEPARTMENTS**LEGAL DEPARTMENT****CONSTITUTIONAL AND LEGAL FRAMEWORK**

A municipality may make and administer by-laws for the effective administration of matters it has a right to administer in terms Section 156 (2) of the Constitution. The Council is obliged to ensure the provision of municipal services in terms of Chapter 7 of the Constitution which is reinforced by the Local Government Municipal Systems Act, Act 32 of 2000 as amended.

Section 160(2) of the Constitution, provides that the passing of by-laws may not be delegated. In terms of Section 160(2) of the Constitution read with Section 12 of the Systems Act, empowers a municipal council to pass by-laws. Section 160(4) of the Constitution, provides that a Municipal Council has both legislative and executive powers to make policies and by-laws, provided these fall within the competencies of the Municipality. Furthermore, no by-law may be passed by a municipality unless all the members of the council have been given reasonable notice and the proposed by-law has been published for public comment.

The concept by-law must be advertised for public input in terms of Section 12(3)(b) of the Systems Act. In terms of section 13 of the Systems Act, a by-law gives effect when published in the Government Gazette.

As part of the prescribed legislative process for the adoption of the Municipality's by-laws, the following process flow applies:

1. Mayoral Committee to adopt in principle
2. Submit draft by-law to Council for adoption in principle
3. Advertise proposed by-laws in press.
4. Re-submit by-laws together with any public input to the Mayoral committee and thereafter the Council for final approval.
5. Once the By-law is adopted by the Council, a list of contraventions will be drawn

The draft By-Law and recommendations are supported.

RECOMMENDED

- (a) that Council approves the amended draft "By-Law on the Prevention of Public Nuisances and the Keeping of Animals", in principle; and
- (b) that the Administration be mandated to advertise said By-Law for public comment until the end of February 2017, whereafter same be re-submitted to Council for approval.

Meeting: Ref No:	4 th Council: 2016-11-23 1/3/1/8	Submitted by Directorate: Author: Referred from:	Protection Services Acting Manager: Law Enforcement Mayco: 2016-11-16
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7.7.2

**BY-LAW ON THE PREVENTION OF
PUBLIC NUISANCES AND THE
KEEPING OF ANIMALS**

APPENDIX 1

P.K. 683/1984

26 Oktober 1984

Die Administrasie het sy goedkeuring geheg aan die volgende verordening opgestel deur die Munisipale Raad van Stellenbosch.

MUNISIPALITEIT STELLENBOSCH: VERORDENING INSAKE DIE AANHOU VAN EN BEHEER OOR HONDE

Woordbepaling

1. In hierdie verordening, tensy onbestaanbaar met die sinsverband—

-beteken "Dorpsaanlegskema" enige goedgekeurde skema of skema in afwagting van goedkeuring kragtens die Ordonnansie op Dorpe, 1934 (Ordonnansie 33 van 1934);

beteken "eienaar" met betrekking tot 'n hond iemand wat 'n hond aanhou;

beteken "hond" 'n reu en 'n teef, asook 'n gesteriliseerde teef bo die ouderdom van ses maande;

beteken "lisensie" 'n lisensie uitgereik ingevolge artikel 3 van die Ordonnansie;

beteken "lisensiehouer" 'n persoon wat wettig in besit is van 'n geldige lisensie en metaalplaatjie wat ingevolge artikel 3 van die Ordonnansie uitgereik is;

het "openbare plek" en "openbare straat" die betekenis daaraan geheg by artikel 2 van die Munisipale Ordonnansie, 1974 (Ordonnansie 20 van 1974);

beteken "Ordonnansie" die Ordonnansie op Hondebelaasting, 1978 (Ordonnansie 19 van 1978);

beteken "raad" die raad van die Munisipaliteit Stellenbosch;

beteken "stadsklerk" die persoon wat die betrekking van stadsklerk van die Munisipaliteit Stellenbosch beklee of daarin waarneem, en omvat dit enige persoon wat behoorlik deur hom gemagtig is om die bevoegdheids of pligte wat aan hom verleen of opgelê is ingevolge hierdie verordening uit te oefen of te vervul;

beteken "teef" 'n persoon wat die houer is van 'n geldige lisensie soos beoog by item 34 van die Eerste Bylae van die Lisensieordonnansie, 1981 (Ordonnansie 17 van 1981), aan hom uitgereik deur die raad;

beteken "veearts" 'n persoon wat as sodanig gekwalifiseer is in ooreenstemming met die bepalinge van die Veeartswet, 1933 (Wet 16 van 1933);

en bet enige ander woord of uitdrukking wat in die Munisipale Ordonnansie, 1974 (Ordonnansie 20 van 1974) of die Ordonnansie op Hondebelaasting, 1978 (Ordonnansie 19 van 1978), na gelang van die geval, omskryf word, wanneer dit in hierdie verordening gebruik word, die betekenis in sodanige Ordonnansie daaraan geheg.

Beperking op die aanhou van honde

2. (1) (a) Onderworpe aan die bepalinge van subartikel (d) mag niemand wat nie die houer is nie van 'n lisensie om hondehokke of 'n troeteldierverblyfplek ingevolge die Lisensieordonnansie, 1981 (Ordonnansie 17 van 1981) aan te hou, op sy perseel meer as twee honde aanhou nie; met dien verstande dat hierdie bepaling nie van toepassing is nie op—

(i) 'n teef se werpsel, as sodanige werpsel jonger as ses maande oud is;

(ii) honde wat in 'n veearts se kliniek vir behandeling gehou word, en

(iii) honde aangehou op 'n perseel wat deur die Diereskermingsvereniging geokkupeer word.

(b) Iedereen wat op die datum van afkondiging van hierdie verordening meer as twee honde aangehou het, kan voortgaan om sodanige groter getal aan te hou, maar hy mag nie enige hond bo twee in getal vervang as sodanige honde vrek of weggedoen word nie.

(c) 'n Persoon wat elders buite die munisipale gebied van Stellen-

P.N. 653/1984

26 October 1984

The Administrator has approved the subjoined by-law framed by the Municipal Council of Stellenbosch.

STELLENBOSCH MUNICIPALITY: BY-LAW RELATING TO THE CONTROL AND KEEPING OF DOGS

Definitions

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

"breeder" means a person who is the holder of a valid licence contemplated by item 34 of the First Schedule to the Licence Ordinance 1981 (Ordinance 17 of 1981), issued to him by the Council;

"Council" means the Council of the Municipality of Stellenbosch;

"dog" means a dog and a bitch, as well as a spayed bitch over the age of six months;

"licence" means a licence issued in terms of section 3 of the Ordinance;

"licensee" means a person who is lawfully in possession of a valid licence and metal badge issued in terms of section 3 of the Ordinance;

"Ordinance" means the Dog Tax Ordinance, 1978 (Ordinance 19 of 1978);

"owner" in relation to a dog means any person who keeps a dog;

"public place" and "public street" shall have the meanings assigned thereto by section 2 of the Municipal Ordinance, 1974 (Ordinance 20 of 1974);

"Town Clerk" means the person occupying or acting in the post of Town Clerk of the Stellenbosch Municipality and includes any person fully authorised by him to exercise the powers or perform the functions granted or imposed on him in terms of this by-law;

"Town Planning Scheme" means any approved scheme or scheme awaiting approval in terms of the Townships Ordinance, 1934 (Ordinance 33 of 1934);

"veterinarian" means a person who is qualified as such in accordance with the provisions of the Veterinary Act, 1933 (Act 16 of 1933);

and any other word or expression defined in the Municipal Ordinance, 1974 (Ordinance 20 of 1974) or the Dog Tax Ordinance, 1978 (Ordinance 19 of 1978), as the case may be, shall, when used in this by-law, have the meaning assigned thereto in such Ordinance.

Restriction on keeping of dogs

2. (1) (a) Subject to the provisions of subsection (d), no person not being a holder of a licence to keep kennels or a pets' boarding establishment in terms of the Licences Ordinance, 1981 (Ordinance 17 of 1981) shall keep on his premises more than two dogs; provided that this provision shall not apply to—

(i) the litter of a bitch when such litter is younger than six months;

(ii) dogs kept in a veterinary surgeon's clinic for treatment, and

(iii) dogs kept on premises occupied by the Animal Welfare Society.

(b) A person who at the date of promulgation of this by-law kept more than two dogs may continue to keep such greater number, but shall not replace any dog in excess of two when such dog dies or is disposed of.

(c) A person coming to reside permanently in the Municipal area of

bosch wat hom permanent in genoemde gebied kom vestig, mag nie meer as twee honde van buite die gebied inbring met die doel om dit aan te hou nie.

(d) Iedereen wat die eienaar of okkuperder is van enige perseel wat ingevolge die dorpsaanlegskema vir nywerheids-, spesiale nywerheids- of besigheidsdoeleindes gesoneer is, kan skriftelik by die Raad aansoek doen om toestemming om meer as twee honde op sodanige perseel aan te hou en die raad kan toestemming daartoe verleen dat sodanige honde op vasgestelde tye van die dag of nag aangehou kan word indien hy hom daarvan oortuig het dat—

(i) die honde uitsluitlik vir die beskerming van die eienaar se eiendom op die perseel gehou word;

(ii) die perseel of deel daarvan waar daar beoog word die honde aan te hou, geskik is vir die aanhou van die soort hond ten opsigte waarvan toestemming versoek word, gedagtig aan die ligging en grootte van genoemde perseel, en

(iii) die honde te alle tye onder behoorlike beheer deur die aansoeker of 'n persoon in sy diens gehou sal word sodat dit nie vir enige inwoner van die gebied 'n oorlast of steurnis sal veroorsaak nie.

(2) Vir die toepassing van hierdie artikel omvat "perseel" enige gebou of gedeelte van 'n gebou of 'n erf of stuk grond wat in die aktekantoor as 'n afsonderlike erf of stuk grond geregistreer is.

Beslaglegging op, skut en afmaak van honde

3. (1) Onderworpe aan die bepalings van subartikel (5) kan 'n gemagtigde beampte op enige hond beslag lê en dit skut op 'n plek deur die raad aangewys indien die hond—

(a) ingevolge artikel 13 (b) van die Ordonnansie afgemaak kan word;

(b) na sy vermoede aan skurft of enige aansteeklike of besmetlike siekte ly;

(c) na die beampte se mening 'n gevaar vir voertuig- of voetgangerverkeer wat 'n openbare straat gebruik, uitmaak;

(d) aan persone of eiendom skade berokken;

(e) los rondloop in omstandighede soos by artikel 4 (1) (a) of (d) beoog; met dien verstande dat indien sodanige honde 'n geldige metaalplaatjie, soos by artikel 3 (2) van die Ordonnansie beoog, of enige ander plaatjie of kenteken dra wat die eienaar van sodanige hond identifiseer, sodanige gemagtigde beampte binne 72 uur nadat die hond geskut is, die eienaar daarvan per geregistreerde pos by sy jongste bekende adres in kennis moet stel, en

(f) aangetref word op private eiendom deur die eienaar of okkuperder van sodanige eiendom en deur sodanige eienaar of okkuperder aangehou word totdat 'n gemagtigde beampte opdaag; met dien verstande dat indien sodanige hond 'n geldige metaalplaatjie, soos by artikel 3 (2) van die Ordonnansie beoog, of enige ander plaatjie of kenteken dra wat die eienaar van sodanige hond identifiseer, sodanige gemagtigde beampte binne 72 uur nadat die hond geskut is, die eienaar daarvan per geregistreerde pos by sy jongste bekende adres in kennis moet stel.

(2) 'n Hond wat kragtens subartikel (1) geskut word, uitgesonderd 'n hond wat aldus geskut is ingevolge subartikel (1) (b), word aan die eienaar daarvan of aan die persoon wat dit aanhou op aanvraag vrygestel teen—

(a) betaling van 'n bedrag wat die raad van tyd tot tyd by vasstel, en wat die uitgawes dek wat noodsaaklikerwys in verband met die skut van die hond aangegaan moet word, en

(b) betaling van die belasting en boete wat verskuldig is ten opsigte van sodanige hond of, indien sodanige belasting en boete reeds betaal is, by die voorlegging van die geldige lisensie wat uitgereik is ten opsigte van sodanige hond.

(3) 'n Hond wat kragtens subartikel (1) geskut word, uitgesonderd 'n hond wat aldus geskut is ingevolge subartikel (1) (b), kan afgemaak word of verkoop of andersins weggedoen word aan 'n persoon of organisasie goedgekeur deur die raad teen betaling van die gelde beoog in subartikel 2 (a) en voldoening aan subartikel (2) (b); met dien verstande dat indien sodanige hond 'n teef is, dit nie aan die nuwe eienaar oorhandig sal word nie voordat dit gesteriliseer is, en die koste

Stellenbosch from some other place outside the said area may bring more than two dogs from outside the said area with a view to keeping them.

(d) A person being the owner or occupier of any premises zoned for industrial, special industrial or business purposes, may, in terms of the Town Planning Scheme, apply to the Council in writing for permission to keep more than two dogs on such premises, and the Council may grant permission for the keeping of such dogs during fixed hours of the day or night, if he is satisfied that—

(i) the dogs are kept on the premises exclusively for the protection of the owner's property;

(ii) the premises or section thereof where the keeping of the dogs is envisaged is suitable for the keeping of the type of dog in respect of which permission is requested bearing in mind the location and size of the said premises, and

(iii) the dogs will be kept under proper control at all times by the applicant or by a person employed by him so that they will not cause a nuisance or an annoyance to any resident of the area.

(2) For the purposes of this section "premises" shall include a building or section of a building or an erf or lot registered in the Deeds Registry as a separate erf or lot.

Seizure, impounding and destruction of dogs

3. (1) Subject to the provisions of subsection (5), an authorised officer may seize and impound at a place appointed by the Council any dog which—

(a) may be destroyed in terms of section 13 (b) of the Ordinance

(b) he suspects is suffering from mange or any other infectious contagious disease;

(c) in his opinion constitutes a hazard to vehicular or pedestrian traffic using any public street;

(d) causes damage to persons or property;

(e) is at large in circumstances contemplated by section 4 (1) (a) (d); provided that if such dog is wearing a current metal badge contemplated by section 3 (2) of the Ordinance or any other badge token identifying the owner of such dog, such officer shall, within 72 hours of the impounding, inform the owner thereof by registered post addressed to his last known address; and

(f) is found on private property by the owner or occupier of such property and detained by such owner or occupier until the arrival of an authorised officer; provided that if such dog is wearing a current metal badge contemplated by section 3 (2) of the Ordinance or other badge or token identifying the owner of such dog, such officer shall, within 72 hours of the impounding, inform the owner thereof by registered post addressed to his last known address.

(2) A dog impounded in terms of subsection (1), other than a dog so impounded in terms of subsection (1) (b), shall be released to the owner or person keeping such dog on demand upon—

(a) payment of a fee which the Council may from time to time determine, which fee shall cover the costs necessarily incurred in connection with the impounding of the dog, and

(b) payment of the tax and penalty due in respect of such dog if such tax and penalty have already been paid, production of the current licence issued in respect of such dog.

(3) A dog impounded in terms of subsection (1), other than a dog so impounded in terms of subsection (1) (b), may be destroyed or otherwise disposed of to a person or organisation approved by the Town Council upon payment of the fees indicated in subsection (2) (a) and compliance with subsection (2) (b); provided that if such dog is a bitch it shall not be handed to the new owner before it has been spayed, and the costs thereof shall be included in the fee

daarvan ingesluit sal word in die gelde beoog in subartikel (2) (a) en (b) nadat dit minstens tien volle dae, uitgesonderd Saterdag, Sondag en openbare feesdae, aangehou is, tensy dit ingevolge subartikel (2) spesifiek en vrygelaat is.

(4) Ondanks die bepalings van subartikel (3) kan 'n hond waarop beslag gelê is of wat geskut is ingevolge—

(a) subartikel (1) (b), of

(b) enige bepaling van hierdie verordening of die bepalings van enige ander wet, en wat blyk aan enige ongeneslike, aansteeklike of besmetlike siekte te ly, of erg beseer te wees.

onverwyl op aanbeveling van die persoon of organisasie wat deur die raad aangewys en goedgekeur is, afgemaak laat word.

(5) 'n Gemagtigde beampte kan op enige hond wat wild, kwaai of gevaarlik is, of wat aan persone of eiendom skade berokke het, beslag lê en op sy aanbeveling onverwyl laat afmaak.

(6) Die afmaak van enige hond ingevolge subartikel (4) en (5) of kragtens enige bepalings van die Ordonnansie moet gedoen word op 'n pynlose wyse wat deur 'n veterinsnykundige beampte goedgekeur word, en mag net onder die toesig van 'n gemagtigde beampte plaasvind.

(7) Nóg die raad nóg enige gemagtigde beampte of enige werknemer van die raad is aanspreeklik vir of ten opsigte van enige besering of siekte opgedoen deur of skade veroorsaak aan enige hond, of verlies deur die eienaar daarvan gely as gevolg van of gedurende die inbeslagneming, skut, inbewaring hou, verkoop of afmaak daarvan ingevolge die Ordonnansie of hierdie verordening.

(8) Die raad hou boek van alle honde waarop daar kragtens hierdie verordening beslag gelê word en wat daarkragtens geskut of afgemaak word.

Beheer oor Honde

4. (1) Niemand mag—

(a) toelaat dat enige loopse teef waarvan hy die eienaar is of wat by aanhou in enige openbare straat of plek is nie en sodanige teef moet vir minstens drie weke in hondebokke (uitgesonderd die skut) aangehou word;

(b) enige hond aanspoor of toelaat om enige persoon of dier aan te val, lastige val of bang te maak nie, behalwe waar dit nodig is vir die verdediging van enige persoon of eiendom;

(c) enige hond aanhou nie wat —

(i) 'n steurnis of oorlas veroorsaak deur buitensporige gebel, gekel, gehuil of getjank, of

(ii) hom openige ander wyse sodanig gedra, dat hy die gewone gemak, gerief, vrede of rus van enige persoon weselik versteur;

(d) toelaat dat enige hond waarvan hy die eienaar is of wat deur hom aangehou word —

(i) in 'n openbare straat of openbare plek of enige ander plek buite sy eienaar se perseel is nie, tensy dit aan 'n leiriem gehou word deur en onder die beheer is van 'n persoon wat daartoe in staat is om sodanige hond te hanteer, of

(ii) in 'n openbare straat of openbare plek of enige ander plek buite sy eienaar se perseel is terwyl dit aan skurftie of enige ander besmetlike of aansteeklike siekte te ly nie, of

(iii) hom in 'n openbare straat of openbare plek of enige ander plek buite sy eienaar se perseel ontas nie, sonder dat sodanige persoon onmiddellik genoemde ontlasting ten genoede van die gemagtigde beampte laat verwyder, of

(iv) in 'n openbare straat of openbare plek of enige ander plek buite sy eienaar se perseel is as dit wild, kwaai of gevaarlik is nie, tensy dit gemuilband is en aan 'n leiriem gehou word en onder beheer is van 'n persoon wat daartoe in staat is om sodanige hond te hanteer.

(2) (a) Indien die stadsklerk of 'n gemagtigde beampte van mening is dat 'n hond 'n hond is soos beoog in subartikel (1) (b) en (c), kan hy 'n kennisgewing aan die eienaar van die hond laat beteken waar-

templated in subsection (2) (a) and (b), after it has been detained for not less than ten clear days excluding Saturdays and Sundays and public holidays, unless it has been claimed and released in terms of subsection (2).

(4) Notwithstanding the provisions of subsection (3), a dog which has been seized or impounded in terms of—

(a) subsection (1) (b), or

(b) any provision of this by-law or the provisions of any other law and which is found to be suffering from any incurable, infectious or contagious disease, or to be badly injured,

may be destroyed forthwith on the recommendation of the person or organisation appointed and approved by the Council.

(5) An authorised officer may seize any ferocious, vicious or dangerous dog, or any dog which has caused damage to any person or property and have it destroyed forthwith on his recommendation.

(6) The destruction of any dog in terms of subsection (4) and (5) or under any provisions of the Ordinance shall be by such painless method as may be approved by a veterinary officer and shall take place only under the supervision of an authorised officer.

(7) Neither the Council nor any authorised officer or any employee of the Council shall be liable for or in respect of any injury suffered by, disease contracted by or damage caused to any dog or loss suffered by the owner thereof as a result of or during its seizure, impounding, detention, sale or destruction in terms of the Ordinance or this by-law.

(8) The Council shall keep records of all dogs seized and impounded or destroyed in terms of this by-law.

Control of dogs

4. (1) No person shall—

(a) permit any bitch on heat owned or kept by him to be in any public street or public place and such bitch shall be kept in kennels (which exclude the pound) for a minimum of three weeks;

(b) urge or allow, any dog to attack, worry or frighten any person or animal, except where necessary for the defence of any person or property;

(c) keep any dog which—

(i) creates a disturbance or a nuisance by excessive barking, yelping, howling or whinnying, or

(ii) behaves in any other manner so as to interfere materially with the ordinary comfort, convenience, peace or quiet of any person;

(d) permit any dog owned or kept by him—

(i) to be in a public street or public place or any other place outside its owner's premises, unless it is held on a leash by a person who is capable of handling such dog, or

(ii) to be in a public street or public place or any other place outside its owner's premises while suffering from mange or any other infectious or contagious disease, or

(iii) to evacuate in a public street or public place, or any other place outside his owner's premises, without such person causing the said evacuation to be removed immediately to the satisfaction of the authorised officer, or

(iv) which is ferocious, vicious or dangerous to be in a public street or public place or any other place outside its owner's premises unless it is muzzled and held on a leash and under the control of a person who is capable of handling such dog.

(2) (a) In the event of the Town Clerk or an authorised officer being of the opinion that a dog is a dog contemplated in subsection (1) (b) and (c), he may cause a notice to be served on the owner of

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4345

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in daar van sodanige eienaar vereis word om stappe te doen wat sodanige oorsaa doeltreffend uit die weg sal ruim en om ten genoë van die stadsklerk of gemagtigde beampte te bewys dat sodanige hond onder behoorlike beheer gehou word. Indien die eienaar versuim om aan enige vereiste van sodanige kennisgewing te voldoen, kan die stadsklerk of gemagtigde beampte aan sodanige eienaar skriftelik opdrag gee om sodanige hond uit die munisipale gebied van Stellenbosch te verwyder en moet die eienaar sodanige hond binne 96 uur van af 12h00 op die dag waarop sodanige kennisgewing beteken, aldus verwyder; en

(b) indien die Stadsklerk of gemagtigde beampte van oordeel is dat 'n hond 'n hond is soos beoog in subartikel 1(d)(ii) en (iv), kan hy 'n kennisgewing aan die eienaar van die hond laat beteken waarin daar van sodanige eienaar vereis word om sodanige hond onmiddellik aan 'n veearts vir ondersoek en die behandeling wat die veearts voorskryf, te lewer en binne 'n redelike tydperk 'n verslag aan die stadsklerk of gemagtigde beampte te lewer oor die uitslag van sodanige ondersoek.

(3) Geen persoon mag vanaf 1 Januarie 1985 'n hond of honde aanhou nie tensy sy perseel of gedeelte daarvan sodanig omhein of andersins ingerig is dat sy hond of honde binne sodanige perseel gehou kan word.

(4) Indien 'n eienaar versuim om aan enige vereiste soos beoog in subartikel (3) te voldoen, kan die stadsklerk aan sodanige eienaar skriftelik opdrag gee om sodanige hond uit die munisipale gebied van Stellenbosch te verwyder en moet die eienaar sodanige hond binne 96 uur vanaf 12h00 op die dag waarop sodanige kennisgewing beteken is, aldus verwyder.

(5) Indien 'n eienaar versuim om te voldoen aan enige vereiste soos beoog in subartikels (2) (a) en (b) en (4), kan 'n gemagtigde beampte onverwyld op die hond(c) beslag lê en dit laat afmaak soos in artikel 3 (3) omskryf.

Die vrylating van geskutte honde

5. Niemand mag deur dreigemente van geweld of andersins enige hond wat wettig na die skut gebring is, vrylaat of probeer vrylaat van die persoon of persone in beheer daarvan nie, of mag enige hond vrylaat of probeer vrylaat nadat dit wettig deur 'n gemagtigde beampte geskut is nie.

Misdrywe

6. Iedereen wat—

(a) die eienaar of persoon in beheer is van enige winkel of ander plek waar voedsel verkoop of te koop uitgestal word, en wat toelaat dat enige hond in sodanige winkel of op sodanige plek is of bly, of

(b) enige bepaling van hierdie verordening, of enige bevel of kennisgewing wettig daarkragtens uitgereik, oortree of versuim om daaraan te voldoen,

is skuldig aan 'n misdryf en onderworpe aan die strawwe soos by artikel 16 van die Ordonnansie bepaal.

Herroeping van verordeninge

7. (1) Artikels 2, 3 en 4 van die Verordening insake die Beheer oor Honde en die Aanhou van Diere, Voëls, Reptiele en Insekte, afgekondig by Provinsiale Kennisgewing 491 van 7 Mei 1976, word hierby herroep, en die woorde "Die Beheer oor Honde en" in die opskrif van die verordening word hierby geskrap.

(2) Die Regulasies insake die Aanhou van Honde, afgekondig by Provinsiale Kennisgewing 668 van 4 Desember 1947, word hierby herroep.

8. Hierdie verordening tree in werking op 1 Januarie 1985.

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26 Oktober 1984

AFDELINGSRAAD SWARTLAND: HERROEPING VAN VERORDENING

Die Administrateur het dit goedgekeur dat die Verordening insake Huisvullis vir die Plaaslike Gebied Dwarskroersbos, afgekondig by Provinsiale Kennisgewing 653 van 9 Julie 1971, soos gewysig, herroep word.

the dog requiring such owner to take such steps as will effectively abate such nuisance and to establish to the satisfaction of the Town Clerk or authorised officer that such dog is being kept under proper control. In the event of an owner failing to comply with any requirement of such notice, the Town Clerk or authorised officer may order such owner in writing to remove such dog from the municipal area of Stellenbosch and the owner shall remove such dog within 96 hours of 12h00 on the day on which such order was served; and

(b) in the event of the Town Clerk or authorised officer being of the opinion that a dog is a dog contemplated in subsection (1) (d) (ii) and (iv), he may cause a notice to be served on the owner of the dog requiring such owner to deliver such dog forthwith to a veterinary surgeon for examination and such treatment as the veterinary surgeon may prescribe, and to furnish the Town Clerk or authorised officer with a report on the outcome of such examination within a reasonable period of time.

(3) No person shall be allowed to keep a dog or dogs as from 1 January 1985 if his premises or part thereof is not fenced or otherwise prepared so as to keep his dog or dogs on such premises.

(4) In the event of an owner failing to comply with any requirement contemplated in subsection (3), the Town Clerk may order such owner in writing to remove such dog from the municipal area of Stellenbosch and the owner shall remove such dog thus within 96 hours of 12h00 on the day on which such order was served.

(5) In the event of an owner failing to comply with any requirement contemplated in subsections (2) (a) and (b), and (4) an authorised officer may forthwith seize the dog(s) and have it/them destroyed as described in section 3 (3).

The rescue of impounded dogs

5. No person shall by threats of violence or otherwise rescue or attempt to rescue from the person or persons in charge thereof any dog being lawfully brought to the pound, or shall rescue or attempt to rescue any dog after such dog has been lawfully impounded by an authorised officer.

Offences

6. Any person who—

(a) being the owner or person in control of any shop or other place where food is sold or exposed for sale permits any dog to be or remain in such shop or place, or

(b) contravenes or fails to comply with any provision of this by-law or with any order or notice lawfully issued thereunder,

shall be guilty of an offence and liable to the penalties as determined by section 16 of the Ordinance.

Repeal of by-laws

7. (1) Sections 2, 3 and 4 of the By-law relating to the Control of Dogs and the Keeping of Animals, Birds, Reptiles and Insects, promulgated by Provincial Notice 491 dated 7 May 1976, is hereby repealed and the words "the control of Dogs and" in the title of the by-law are hereby deleted.

(2) The Regulations relating to the Keeping of Dogs promulgated by Provincial Notice 668 dated 4 December 1947 are hereby repealed.

8. This by-law shall take effect on 1 January 1985.

P.N. 687/1984

26 October 1984

SWARTLAND DIVISIONAL COUNCIL: REPEAL OF BY-LAW

The Administrator has approved the repeal of the by-law relating to Domestic Refuse for the Local Area of Dwarskroersbos, promulgated under Provincial Notice 653 dated 9 July 1971, as amended

P.K. 667/1994

15 Desember 1994

Die Premier het sy goedkeuring gegee aan die volgende wysiging opgestel deur die Munisipale Raad van die Munisipaliteit van die Gebied Franschhoek.

**MUNISIPALITEIT VAN DIE GEBIED VAN FRANSCHHOEK:
WYSIGING VAN DIE VERORDENING INSAKE DIE BEHEER
OOR HONDE**

Die verordening afgekondig by Provinsiale Kennisgewing 613 van 2 Oktober 1981 word hierby gewysig deur artikel 7 deur die volgende artikel te vervang:

"Beperking op die aanhou van honde

- 7.(1)(a) Geen eienaar of okkuperder van 'n perseel (uitgesonderd 'n landbou gesoneerde perseel) binne 'n geproklameerde dorpsgebied mag op sodanige perseel meer as twee (2) honde aanhou of toelant dat meer as twee honde daarop aangehou word nie;
- (b) geen eienaar van 'n landbou gesoneerde perseel binne 'n geproklameerde dorpsgebied mag op sodanige perseel meer as vier (4) honde aanhou nie;
- (c) geen werknemer, okkuperder of huurder van 'n landbou gesoneerde perseel binne 'n geproklameerde dorpsgebied mag meer as een (1) hond per woongebou op sodanige perseel aanhou nie; met dien verstande dat hierdie bepaling nie van toepassing is nie op —
- (i) honde wat tydelik met die voorafverkreeë skriftelike goedkeuring van die raad aangehou word;
- (ii) honde wat in 'n veears se kliniek vir behandeling gehou word;
- (iii) honde aangehou op 'n perseel wat deur die Dierebeskermingsvereniging geokkupeer word;
- (iv) persele wat hoofsaaklik aangewend word om akkommodasie, losies of tydelike verblyfplek aan honde te verskaf, en;
- (v) enigeen in artikel 7(1) genoem wat die raad se skriftelike goedkeuring bekom het om meer honde aan te hou as die bepaalde getalle.
- (2) Iedereen wat op die datum van afkondiging van hierdie verordening 'n groter getal honde aanhou as wat in subartikel (a) bepaal word, kan voortgaan om sodanige groter getal aan te hou, maar mag nie enige sodanige hond(e) vervang as sodanige hond(e) vrek of mee weggedoen word nie."

P.K. 672/1994

15 Desember 1994

MUNISIPALITEIT VELDDRIF:

WET OP OPHEFFING VAN BEPERKINGS, 1967

Kragtens artikel 2(1) van die Wet op Opheffing van Beperkings, 1967 (Wet 84 van 1967), soos gewysig, en op aansoek van die eienaar van Erf 315, Velddrif, geleë in die Munisipaliteit van Velddrif, Administratiewe Distrik van Piketberg, word voorwaardes E.6.(a), (b), (c) en (d) in Transportakte Nr T.45393 van 1991 hierby deur die Premier opgehef.

P.K. 673/1994

15 Desember 1994

MUNISIPALITEIT PAROW:

WET OP OPHEFFING VAN BEPERKINGS, 1967

Kragtens artikel 2(1) van die Wet op Opheffing van Beperkings, 1967 (Wet 84 van 1967), soos gewysig, en op aansoek van die eienaar van Erf 4474, in die Munisipaliteit van Parow, Afdeling Kaap, word voorwaardes B.(i), (ii), (iii), (iv), (v) en (vi) in Transportakte Nr T.69909 van 1993 hierby deur die Premier opgehef.

15 Desember 1994

The Premier has approved the following amendment framed by the Municipal Council of the Municipality for the Area of Franschhoek.

**MUNICIPALITY FOR THE AREA OF FRANSCHHOEK
MUNICIPALITY:**

**AMENDMENT TO THE DOG CONTROL
BY-LAW**

The by-law promulgated under Provincial Notice 613 dated 2 October 1981 is hereby amended by the substitution for section 7 of the following section:

"Restriction on the keeping of dogs

- 7.(1)(a) No owner or occupier of premises (with the exception of premises zoned for agriculture) within a proclaimed township shall keep more than two (2) dogs, or allow more than two dogs to be kept, on such premises;
- (b) no owner of premises zoned for agriculture within a proclaimed township shall keep more than four (4) dogs on such premises;
- (c) no employee, occupier or lessee of premises zoned for agriculture within a proclaimed township shall keep more than one (1) dog per residential building on such premises; provided that this provision shall not apply to —
- (i) dogs kept for a temporary purpose with the prior written approval of the Council;
- (ii) dogs kept in a veterinary clinic for treatment;
- (iii) dogs kept on premises occupied by the Society for the Prevention of Cruelty to Animals;
- (iv) premises mainly used for providing accommodation, board or temporary lodging to dogs, and
- (v) any person referred to in section 7(1) who has obtained the Council's written permission to keep more than the stipulated numbers of dogs.
- (2) Any person who, on the date of proclamation of this by-law keeps a greater number of dogs than is laid down in subsection (a) may continue to keep such greater number, but shall not replace such dog(s) when such dog(s) die(s) or is/are done away with."

P.N. 672/1994

15 Desember 1994

VELDDRIF MUNICIPALITY:

REMOVAL OF RESTRICTIONS ACT, 1967

Under section 2(1) of the Removal of Restrictions Act, 1967 (Act 84 of 1967), as amended, and on application by the owner of Erf 315, Velddrif, situated in the Municipality of Velddrif, Administrative District of Piketberg, the Premier hereby removes conditions E.6.(a), (b), (c) and (d) in Deed of Transfer No T.45393 of 1991.

P.N. 673/1994

15 Desember 1994

PAROW MUNICIPALITY:

REMOVAL OF RESTRICTIONS ACT, 1967

Under section 2(1) of the Removal of Restrictions Act, 1967 (Act 84 of 1967), as amended, and on application by the owner of Erf 4474, Parow, in the Municipality of Parow, Cape Division, conditions B.(i), (ii), (iii), (iv), (v) and (vi) in Deed of Transfer No T.69909 of 1993 are hereby removed by the Premier.

7.7.2

**BY-LAW ON THE PREVENTION OF
PUBLIC NUISANCES AND THE
KEEPING OF ANIMALS**

APPENDIX 2

PROVINCE OF WESTERN CAPE

PROVINSIE WES-KAAP

Provincial Gazette Extraordinary

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No.

No.

Bladsy

Local Authority

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NOTICE BY LOCAL AUTHORITY

STELLENBOSCH MUNICIPALITY:

BY-LAW FOR THE CONTROL OF CERTAIN OFFENCES
IN PUBLIC PLACESPREAMBLE

1. The Stellenbosch Municipality accepts that—

- (a) Section 156(1)(a), read with Part B of Schedule 5 to the Constitution of South Africa Act 108 of 1996, as amended, and Municipal Ordinance 20 of 1974, gives municipalities the authority to make and administer by-laws regarding control over public nuisances, public places and noise pollution; and
- (b) Ordinance 20 of 1974 gives municipalities the authority to create offences and to impose penalties; and
- (c) the public order requires that measures be taken against the causing of various forms of public nuisance and pollution; and
- (d) the Municipality has a responsibility to provide for the physical and psychological needs of homeless persons; and
- (e) therefore appropriate measures are being provided for in this by-law.

DEFINITIONS

2. Unless the context indicates otherwise, any word or expression, when used in this by-law, has the following meaning:

- (a) **"Council"**: the council of the Stellenbosch Municipality;
- (b) **"Dump"**: with regard to waste, the placement, throwing, leaving, unloading, letting out, release or burning, irrespective of whether the waste is in a container or not, in any way;
- (c) **"Nuisance"**: any behaviour that brings about or that could bring about a state of affairs or condition that involves a source of danger or disturbance for a person or the property of a person or which materially infringes on the usual comfort, ease, rest or peace of a person, including begging;
- (d) **"Peace Officer"**: as defined in the Criminal Procedure Act 51 of 1977;
- (e) **"Person"**: includes a natural person, close corporation, company, trust and partnership;
- (f) **"Public Place"** or **"in public"**: any place including a square, park, road, sidewalk, alley, recreation area, sportsground, or open space which:
 - (i) is provided, reserved or set aside for use by the public or the owners or occupiers of those erven, plots or building sites irrespective of whether it is shown as such on a general plan, subdivisional plan or diagram, or not;
 - (ii) was at any time transferred to the public; or
 - (iii) was used by the public without interruption for a period of at least 30 years which lapsed after the 31st day of December 1959; or
 - (iv) was at any time made a public place by the local authority or another competent authority;
- (g) **"Shelter"**: an institution where clean water, basic sanitation facilities, facilities for spending the night and food are provided to homeless persons free of charge or at a nominal cost;

KENNISGEWING DEUR PLAASLIKE OWERHEID

MUNISIPALITEIT STELLENBOSCH:

VERORDENING VIR BEKAMPING VAN SEKERE OORTREDINGS
IN OPENBARE PLEKKEAANHEF

1. Die Stellenbosch Munisipaliteit aanvaar dat:

- (a) Artikel 156(1)(a), saamgelees met Deel B van Bylae 5 van die Grondwet van Suid-Afrika 108 van 1996, soos gewysig, en Munisipale Ordonnansie 20 van 1974, aan munisipaliteite die bevoegdheid gee om verordeninge uit te vaardig en te administreer aangaande beheer oor openbare steurnisse, openbare plekke en geraasbesoedeling; en
- (b) Ordinasie 20 van 1974 aan munisipaliteite die bevoegdheid gee om misdrywe te skep en strawwe op te lê; en
- (c) die openbare orde verg dat maatreëls getref word teen die veroorsaking van verskillende vorme van openbare oorlas en besoedeling; en
- (d) die Munisipaliteit 'n verantwoordelikheid het om in hawelose persone se fisiese en psigiese behoeftes te voorsien; en
- (e) daarom word deur hierdie verordening toepaslike maatreëls getref.

WOORDOMSKRYWING

2. Tensy uit die samehang anders blyk, het 'n woord of uitdrukking wanneer dit in hierdie verordening gebruik word, die volgende betekenis:

- (a) **"Oortas"**: enige gedrag wat 'n stand van sake of toestand meebring of kan meebring wat 'n bron van gevaar of steurnis vir 'n persoon of die eiendom van 'n persoon inhou of wat weselik inbreuk maak op die gewone gerief, gemak, rus of vrede van 'n persoon; insluitende bedelary;
- (b) **"Afval"**: 'n houër of enige ander materiaal of stof wat normaalweg weggegooi word, van enige aard en van enige bron gegeneer, insluitend 'n huishoudelike-, tuin-, voedsel-, mediese- of toksiese houër, materiaal of stof;
- (c) **"Oornag"**: om tussen 22:00 en 06:00 op 'n openbare plek te slaap of voorberei om te slaap;
- (d) **"Openbare Plek"** of **"in die openbaar"**: enige plek, insluitende 'n plein, park, pad, sypaadjie, steeg, ontspanningsterrein, sportterrein, of oop ruimte wat:
 - (i) voorsien, gereserveer of afgesonder is vir gebruik deur die publiek of die eienaars of bewoners van daardie erwe, standplase of boupersele, ongeag of dit op 'n algemene plan, onderverdelingsplan of diagram as sodanig aangetoon word al dan nie; of
 - (ii) te eniger tyd aan die publiek opgedra is; of
 - (iii) sonder onderbreking deur die publiek gebruik is vir 'n tydperk van minstens 30 jaar wat na die een-en-dertigste dag van Desember, 1959 verstryk het; of
 - (iv) te eniger tyd deur die plaaslike owerheid of 'n ander bevoegde gesag tot openbare plek gemaak is;
- (e) **"Persoon"**: sluit in 'n natuurlike persoon, beslote korporasie, maatskappy, trust en vennootskap;
- (f) **"Raad"**: die raad van die Stellenbosch Munisipaliteit;
- (g) **"Skuiwing"**: 'n inrigting waar skoon water, basiese sanitêre geriewe, oomagfasiliteite en voedsel gratis of teen nominale vergoeding aan hawelose persone verskaf word;

7 Mei 2003

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- (h) "Spend the night": to sleep or to prepare to sleep in a public place between 22:00 and 06:00;
- (i) "Waste": a container or other material or substance which is normally thrown away, of any nature and generated from any source, including a domestic-, garden-, food-, medical-, or toxic container, material or substance.

SPENDING THE NIGHT IN PUBLIC PLACE

3. (a) Should it reasonably appear to a peace officer that a person is spending the night in a public place, the peace officer shall warn such person that he may not spend the night in a public place.
- (b) The peace officer shall further inform such person of the facilities available at a shelter, and that such person has the right to spend the night in the shelter.
- (c) The peace officer shall offer to accompany the person referred to in section 3(a) to a shelter and, should the relevant person agree to be accompanied to the shelter, the peace officer shall take the person concerned to the shelter without delay.
- (d) The peace officer may use a municipal vehicle to transport the person to the shelter.
- (e) Should the person referred to in section 3(a) continue to spend the night in that public place after the warning referred to in section 3(a) has been directed at him and after the information referred to in section 3(b) has been conveyed to him, then the person concerned is guilty of an offence.

OBSTRUCTING OF ENTRANCE TO A BUILDING

4. (a) Should it reasonably appear to a peace officer that a person obstructs the entrance or exit to a building or property, the peace officer shall warn such person that he may not obstruct the entrance or exit of a building and he shall request him to vacate the entrance or exit.
- (b) Should the person referred to in section 4(a) refuse or fail to vacate the entrance or exit of the building after the warning referred to in section 4(a) has been directed at him, such person is guilty of an offence.

NUISANCE

5. (a) Should it reasonably appear to a peace officer that a person causes a nuisance in public, the peace officer shall warn such a person that he may not cause a nuisance and he shall request him to discontinue the nuisance.
- (b) Should the person referred to in section 5(a) refuse to discontinue the nuisance after the warning referred to in section 5(a) has been directed at him, such a person is guilty of an offence.

DUMPING OF WASTE

6. (a) Should it reasonably appear to a peace officer that a person dumps waste in public, the peace officer shall warn such a person that he may not dump waste and shall request him to discontinue dumping waste and to pick up the waste that has already been dumped.
- (b) Should the person referred to in section 6(a) refuse to discontinue dumping the waste or refuse to pick up the waste that he has already dumped, after the warning referred to in section 6(a) has been directed at him, he is guilty of an offence.
- (c) Where the provisions of section 6(b) are contravened the Council may also order any or all of the hereinafter mentioned persons, within a stated period, to discontinue the offence or to prevent the offence or the continuation of the offence and to take any measures which the Council deems necessary to clear away the waste, to rehabilitate the property or the place where the offence took place and to ensure that the waste is legally disposed and if the relevant person refuses to obey, such person is guilty of an offence; and also the following persons:

- (h) "Steurnis": sluit in enige sintuiglik waareembare stand van sake of toestand;
- (i) "Stort": met betrekking tot afval, die plaas, gooi, laat, aflaai, uitlaat, loslaat of verbrand, ongeag of die afval in 'n houer is al dan nie, op enige wyse;
- (j) "Vredesbeampte": soos omskryf in die Strafproseswet 51 van 1977.

OORNAG OP OPENBARE PLEK

3. (a) Indien dit vir 'n vredesbeampte redelikerwys voorkom asof 'n persoon op 'n openbare plek oornag, moet die vredesbeampte sodanige persoon waarsku dat hy nie op 'n openbare plek mag oornag nie.
- (b) Die vredesbeampte moet voorts sodanige persoon inlig van die fasiliteite beskikbaar by 'n skuiling, asook dat sodanige persoon die reg het om in die skuiling te oornag.
- (c) Die vredesbeampte moet aanbied om die persoon in artikel 3(a) bedoel, na 'n skuiling te vergesel en indien die bedoelde persoon instem om na die skuiling vergesel te word, moet die vredesbeampte sonder versuim die bedoelde persoon na die skuiling neem.
- (d) Die vredesbeampte mag munisipale voertuie gebruik om persone na die skuiling te vervoer.
- (e) Indien die persoon in artikel 3(a) bedoel, voortgaan om op daardie openbare plek te oornag nadat die waarskuwing in artikel 3(a) bedoel aan hom gerig is en nadat die inligting in artikel 3(b) bedoel aan hom oorgedra is, dan is bedoelde persoon skuldig aan 'n misdryf.

VERSPER VAN INGANG TOT GEBOU

4. (a) Indien dit redelikerwys vir 'n vredesbeampte voorkom asof 'n persoon die ingang of uitgang tot 'n gebou of perseel versper, moet die vredesbeampte sodanige persoon waarsku dat hy nie die ingang of uitgang tot 'n gebou mag versper nie en hom versoek om die ingang of uitgang te ontruim.
- (b) Indien die persoon in artikel 4(a) bedoel, weier of versuim om die ingang tot die gebou te ontruim nadat die waarskuwing in artikel 4(a) bedoel aan hom gerig is, is sodanige persoon skuldig aan 'n misdryf.

OORLAS

5. (a) Indien dit redelikerwys vir 'n vredesbeampte voorkom asof 'n persoon in die openbaar 'n oorlas veroorsaak, moet die vredesbeampte sodanige persoon waarsku dat hy nie 'n oorlas mag veroorsaak nie en hom versoek om die oorlas te staak.
- (b) Indien die persoon in artikel 5(a) bedoel weier om die oorlas te staak nadat die waarskuwing in artikel 5(a) bedoel aan hom gerig is, is sodanige persoon skuldig aan 'n misdryf.

STORTING VAN AFVAL

6. (a) Indien dit redelikerwys vir 'n vredesbeampte voorkom asof 'n persoon in die openbaar afval stort, moet die vredesbeampte sodanige persoon waarsku dat hy nie afval mag stort nie en hom versoek om op te hou om afval te stort en om die afval wat reeds gestort is, op te tel.
- (b) Indien die persoon in artikel 6(a) bedoel weier om op te hou om die afval te stort of weier om die afval wat hy reeds gestort het op te tel, nadat die waarskuwing in artikel 6(a) bedoel aan hom gerig is, is sodanige persoon skuldig aan 'n misdryf.
- (c) Waar die bepalings van artikel 6(b) oortree word, kan die raad ook enige van of al die hiernagemelde persone, gelas om binne 'n vermelde tyd die oortreding te staak of om 'n oortreding of die voortsetting van die oortreding te voorkom en om enige stappe te doen wat die Raad nodig ag om die afval op te ruim of te verwyder, om die perseel of plek waar die oortreding plaasvind te rehabiliteer en om te verseker dat die afval wettig weggedoen word, en indien die betrokke persoon weier om gehoor te gee, is sodanige persoon aan 'n misdryf skuldig; en ook die volgende persone:

- (i) any person who is responsible for, or who directly or indirectly contributed to such offence;
- (ii) the owner of the waste, irrespective of whether such owner is responsible for the offence or not;
- (iii) the owner of the erf or property on which or in which the offence took place where such owner failed to take reasonable steps to prevent that such erf or property be used or allowed that it be used for the purpose of dumping waste;
- (iv) the person in charge of the erf or property on which or in which the offence takes place, or any person who has or had the right to use such erf or property at the time of the offence, where such person failed to take the reasonable steps as set out in subsection (iii);
- (v) any person who failed in a negligent manner to prevent the offence from taking place.

PENALTIES

- 7. (a) Any person who is guilty of an offence in terms of this by-law is punishable with a fine not exceeding R1 000,00 or imprisonment for a period of six months, or with such fine as well as such imprisonment, or with compulsory, reasonable and appropriate community service.
- (b) Any person who was convicted of an offence in terms of this by-law and who, after such conviction continues with the behaviour in respect of which he was thus convicted, is guilty of a continuing offence and on conviction punishable with a fine of not exceeding R500,00 in respect of every day on which he thus continues or continued with it after conviction, or imprisonment for a period of 30 days, or with such fine as well as such imprisonment, or with compulsory, reasonable and appropriate community service.

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- (i) enige persoon wat verantwoordelik is vir, of wat regstreeks of onregstreeks bygedra het tot, sodanige oortreding;
- (ii) die eienaar van die afval, ongeag of sodanige eienaar vir die oortreding verantwoordelik is al dan nie;
- (iii) die eienaar van die grond of perseel waarop of waarin die oortreding plaasvind waar sodanige eienaar versuim het om redelike stappe te doen om te voorkom dat sodanige grond of perseel gebruik of toelaat dat dit gebruik word vir die doel van storting van afval;
- (iv) die persoon in beheer van die grond of perseel waarop of waarin die oortreding plaasvind, of enige persoon wat 'n reg het of gehad het om sodanige grond of perseel te gebruik ten tyde van die oortreding, waar sodanige persoon versuim het om die redelike stappe soos in subartikel (iii) uiteengesit, te doen;
- (v) enige persoon wat op nalatige wyse versuim het om te voorkom dat die oortreding plaasvind.

STRAWWE

- 7. (a) Enige persoon wat kragtens hierdie verordening aan 'n misdryf skuldig is, is strafbaar met 'n boete van hoogstens R1 000,00 of gevangenisstraf vir 'n periode van ses maande, of met sodanige boete sowel as sodanige gevangenisstraf, of met verpligte, redelike en toepaslike gemeenskapsdiens.
- (b) Iemand wat aan 'n misdryf kragtens hierdie verordening skuldig bevind is en wat na bedoelde skuldigbevinding voortgaan met die handelwyse ten opsigte waarvan hy aldus skuldig bevind is, is aan 'n voortdurende misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens R500,00 ten opsigte van elke dag waarop hy aldus daarmee voortgaan of voortgegaan het na skuldigbevinding, of gevangenisstraf vir 'n periode van 30 dae of met sodanige boete sowel as sodanige gevangenisstraf of met verpligte, redelike en toepaslike gemeenskapsdiens.

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7.7.2

**BY-LAW ON THE PREVENTION OF
PUBLIC NUISANCES AND THE
KEEPING OF ANIMALS**

APPENDIX 4

PROVINSIALE KENNISGEWINGS

Die volgende Provinsiale Kennisgewings word vir algemene inligting gepubliseer.

J. H. A. BEUKES,
DIREKTEUR-GENERAAL

Provinsiale-gebou,
Waalstraat,
Kaapstad.

P.K. 539/1995

8 Desember 1995

Die Premier het sy goedkeuring geheg aan die volgende verordening opgestel deur die Munisipale Raad van Franschhoek.

MUNISIPALITEIT VIR DIE GEBIED VAN FRANSCHHOEK:

VERORDENING VIR DIE VOORKOMING EN ONDERDRUKKING VAN OORLASTE

Vir die toepassing van hierdie verordeninge —

beteken "aanstootlike materiaal" tuinvuils, vuilgoed, afvalmateriaal, rommel, afvalyster, in onbruik geraakte motors, masjinerie of ander voertuie, asook die in onbruik geraakte onderdele daarvan, vullis van enige bouwerkzaamhede of enige vullis wat op enige grond of perseel gestort kan word, met inbegrip van nuwe of gebruikte boumateriaal wat nie noodwendig nodig is in verband met bona fide boubedrywighede wat werklik op enige grond aan die gang is nie, en omvat dit enige vaste stof, vloeistof of gas wat aanstootlik of gevaarlik of nadelig vir die gesondheid is of kan word, of wat wesenlik inbreuk maak op die gewone gemak of gerief van die publiek;

beteken en omvat "eienaar" —

- die persoon by wie die regstiel van enige onnmerende eiendom berus;
- waar die eiendom verhuur is vir 50 jaar of langer, die huurder van sodanige eiendom;
- waar die persoon by wie die regstiel berus, insolvent, dood of geestelik versteurd is of indien sy boedel afgestaan is tot voordeel van sy skuldeisers, die persoon by wie die administrasie van die eiendom berus as trustee, eksekuteur, kurator, regsverkygende of administrateur, en
- waar die eienaar soos hierbo genoem, afwesig is, die agent of persoon wat die huur van die betrokke perseel ontvang;

beteken "erf" enige grond, hetsy onbebou, geokkuper of met geboue daarop;

beteken en omvat "okkuperder" met betrekking tot enige perseel —

- enige persoon in werklike okkupasie;
- enige persoon wetlik geregtig om dit te okkuper, of
- enige persoon wat die beheer of bestuur van 'n perseel uitoefen, met inbegrip van die agent van sodanige persoon wanneer hy afwesig is uit die Republiek of indien sy adres onbekend is;

het "park" die betekenis wat in artikel 2 van Ordonnansie 20 van 1974 aan die uitdrukking openbare plek geheg word;

beteken "perseel" enige gebou of tent saam met die grond waarop dit geleë is asook die aangrensende grond wat in verband daarmee gebruik word en enige grond sonder geboue of tente en omvat die enige voertuig, vervoermiddel of boot;

beteken "Raad" die Munisipale Raad van Franschhoek;

beteken "Stadsklerk" die Stadsklerk van Franschhoek;

PROVINCIAL NOTICES

The following Provincial Notices are published for general information.

J. H. A. BEUKES,
DIRECTOR-GENERAL

Provincial Building,
Wale Street,
Cape Town.

8 December 1995

The Premier has approved the subjoined by-law framed by the Municipal Council of Franschhoek.

MUNICIPALITY FOR THE AREA OF FRANSCHHOEK:

BY-LAW FOR THE PREVENTION AND SUPPRESSION OF NUISANCES

1. For the purpose of this by-law —

"Council" means the Municipality for the Area of Franschhoek;

"erf" means any land, whether vacant, occupied or with buildings thereon;

"garden" means any island or circle in any street or public parking area which has been cultivated as a garden or rockery or planted with trees or shrubs;

"objectionable material" means garden litter, rubbish, waste material, rubble, scrap metal, disused parts thereof, refuse from any building operations or any refuse capable of being dumped on any land or premises, including new or used building materials not necessarily required in connection with bona fide building operations actually in progress on any land, and includes any solid, liquid or gas which is or may become offensive or dangerous or injurious to health or which materially interferes with the ordinary comfort or convenience of the public;

"occupier" in relation to any premises means and includes —

- any person in actual occupation;
- any person legally entitled to occupy it, or
- any person in charge of or responsible for the management of any premises, including the agent of any such person when he is absent from the Republic or his whereabouts are unknown;

"owner" means and includes —

- any person in whom is vested the legal title to any immovable property;
- where the property has been leased for 50 years or upwards, the lessee of such property;
- in cases where the person in whom the legal title is vested is insolvent, dead, of unsound mind or his estate has been assigned for the benefit of his creditors, the person in whom the administration of the property is vested as trustee, executor, curator, assignee or administrator, and
- in cases where the owner as described above is absent, the agent or person receiving the rent of the property in question;

"park" shall have the meaning assigned to the term "public place" in section 2 of Ordinance 20 of 1974;

"premises" means any building or tent together with the land on which it is situated and the adjoining land used in connection therewith, and includes any land used in connection therewith, and includes any

beteken "tuin" enige cilind of sirkel in enige straat of openbare parkeerterrein wat as rotstuin of tuin uitgelê of met bome of struik beplant is.

2. (1) Niemand mag enige vrugteskilte, glasstukke, papier of enige stof of ding wat waarskynlik die skoon toestand van enige park, tuin of kampeergebied sal benadeel of ergernis, gevaar of besering aan persone in sodanige park, tuin of kampeergebied sal veroorsaak, in sodanige park, tuin of kampeergebied plaas, uitgooi, laat bly, neergooi of aersit nie.
 - (2) Niemand mag enige plastiekbottels, plastieksakke, papier, kartonne, gebroke bottels, glas of erdeware, of enige vrugte- of groenteskilte, of enige vullis op enige straat, erf, voetpad of openbare plak gooi of plaas of toelaat dat dit daarop gegooi of geplaas word nie.
 - (3) Geen eienaar of okkuperder van enige winkel of besigheidsperseel of onbeboude grond wat aan sodanige winkel of besigheidsperseel grens, mag enige stoep of veranda van sodanige winkel of besigheidsperseel of onbeboude grond wat aan sodanige winkel of besigheidsperseel grens, gebruik of laat gebruik of toelaat dat dit gebruik word vir die doel om enige goedere, artikels of handelsware op te berg, te stort, weg te doen, uit te stal, te hou, te verkoop of vir verkoop aan te bied nie.
 - (4) Geen eienaar of okkuperder van enige winkel of besigheidsperseel of onbeboude grond wat aan sodanige winkel of besigheidsperseel grens mag sodanige winkel of besigheidsperseel of onbeboude grond wat aan sodanige winkel of besigheidsperseel grens gebruik of laat gebruik of toelaat dat dit gebruik word vir die doel om enige afvalmateriaal, vullis, kratte, kartonne, houers of ander artikels van 'n dergelyke aard op te berg, op te stapel, te stort, weg te doen of te hou nie.
 - (5) Geen eienaar of okkuperder van enige winkel of besigheidsperseel mag enige stoep of veranda of sodanige winkel of besigheidsperseel deur middel van los of vaste strukture, voorwerpe, artikels of middels toemaak of laat toemaak of toelaat dat dit daarmee toegemaak word nie, behalwe deur middel van bouwerk van 'n permanente aard wat ooreenkomstig planne wat deur die Stadsklerk goedgekeur is, gedoen word.
3. Ondanks die bepalinge van enige ander verordening mag niemand —
- (1) aanstootlike materiaal in of op enige erf, straat, riool, waterkloot, vuilrioel, deurgang, openbare plein of dorpsgrond stort, ophoop of plaas of laat stort, ophoop of plaas of toelaat dat dit daarin of daarop gestort, opgehoop of geplaas word nie, behalwe op die plek of plekke wat die Raad van tyd tot tyd vir sodanige doeleindes afsonder of goedkeur, met dien verstande egter dat die Raad toestemming aan openbare garages, werkwinkels en ander bedrywe kan verleen, onderworpe aan die voorwaardes wat in elke geval gestel word vir die hou, bewaring, herstel, aftakeling of hermontering van enige motorvoertuig of ander voertuig of apparaat op persele wat deur die Raad goedgekeur is;
 - (2) werk op enige erf uitvoer of 'n gebou of grond gebruik vir doeleindes wat daarop bereken is om sodanige erf te ontier of om indruk te maak op die gerief of gemak van die bure of om 'n bron van gevaar vir enige persoon te word nie. Indien die Raad van mening is dat hierdie bepaling verontagsaam word, kan hy gelas dat sodanige werk of gebruik onmiddellik gestaak word en dat die vorige toestand herstel word;
 - (3) enige handel, besigheid of beroep uitoefen op enige erf in die munisipale gebied wat na die mening van die Raad 'n bron van ongerief of ergernis vir die omgewing is of kan word nie;
 - (4) toelaat dat enige erf met bosse, onkruid of gras of ander plantegroei, uitgesonderd gekweekte bome, struik en gras, begroei word in so 'n mate dat dit na die mening van die Raad of enige behoorlike gemagtigde werknemer van die Raad, gebruik kan word as 'n skuilplek vir rondlopers, wilde diere of ongediertes of dat dit of volksgesondheid of die veiligheid van 'n lid van die gemeenskap kan bedreig of die verspreiding van brande kan bevorder nie;

"Town Clerk" means the Town Clerk of Franschhoek.

2. (1) No person shall deposit, leave, spill, drop or place any fruit peels, broken glass, paper or any matter or thing likely to interfere with the cleanliness of any park, garden or camping area or cause annoyance, danger or injury to persons in such park, garden or camping area.
 - (2) No person shall throw or deposit or permit to be thrown or deposit any plastic bottles, plastic bags, paper, cartons, broken bottles, glass or earthenware or any fruit or vegetable peelings or any refuse upon any street, erf, footpath or public place.
 - (3) No owner or occupier of any shop or business premises or vacant land adjoining such shop or business premises shall use or cause or permit to be used any stoep or verandah of such shop or business premises or vacant land adjoining such shop or premises for the purpose of storing, dumping, disposing of, displaying, keeping, selling or offering for sale any goods, articles or merchandise.
 - (4) No owner or occupier of any shop or business premises of vacant land adjoining such shop or business premises shall use or cause or permit to be used such shop or vacant land adjoining such shop or business premises or any portion thereof which is visible to the public for the purpose of storing, stacking, dumping, disposing of or keeping any waste material, refuse, crates, cartons, containers or other articles of a like nature.
 - (5) No owner or occupier of any shop or business premises shall enclose or cause or permit to be enclosed any stoep or verandah of such shop or business premises by means of movable or immovable structures, objects articles or devices otherwise than by building work of a permanent nature which shall be in accordance with plans bearing the approval of the Town Clerk.
3. Notwithstanding the provisions of any other by-law, no person shall —
- (1) dump, accumulate or place or cause or permit to be dumped, accumulated or placed any objectionable materials in or on any erf, street, drain, water furrow, sewer, thoroughfare, public square or commonage except at such place or places as the Council may from time to time set aside or approve for such purposes; provided however, that the Council may permit public garages, workshops and other trades, subject to such conditions as may be imposed in each case, to keep, store, repair, dismantle or re-assemble any motor vehicle or other vehicle or apparatus on premises approved by the Council;
 - (2) do work on any erf or use any building or land for purposes calculated to disfigure such erf or to interfere with the convenience or comfort of the neighbours or to become a source of danger to any person. Should the Council be of the opinion that this provision is being ignored, the Council may instruct that such work or use be discontinued forthwith and that the previous condition be reinstated;
 - (3) do work on any erf or use any building or land for purposes calculated to disfigure such erf or to interfere with the convenience or comfort of the neighbours or to become a source of danger to any person. Should the Council be of the opinion that this provision is being ignored, the Council may instruct that such work or use be discontinued forthwith and that the previous condition be reinstated;
 - (4) allow any erf to be overgrown with bush, weeds or grass or other vegetation except cultivated trees, shrubs and grass to such an extent that, in the opinion of the Council or any duly authorised employee of the Council, it may be used as a shelter by vagrants, wild animals or vermin or may threaten the public health or the safety of any member of the community or may promote the spread of fires;

- (5) toelaat dat enige erf vuil, verwaarloos of met knaagdiers, slange, muskiete, vlieë, bosluise, luise of ander insekte wat skadelik is vir die gesondheid, besmet is, of toelaat dat enige onsaangename reuke of gasse op sodanige erf afgegee word nie;
- (6) toelaat dat die omheining van enige erf in 'n vervalte, onooglike of verwaarloosde toestand raak nie;
- (7) toelaat dat 'n gebou of struktuur of enige gedeelte daarvan op enige erf in 'n vervalte, verwaarloosde of onooglike toestand raak nie, of in gebreke bly om die dakwaterwegdoenstelsel, pype, vuilriole, riole, water, afvalwater- en spoelklosettoerusting en alle ander toebehore wat deel uitmaak van of bevestig is aan enige gebou of struktuur, in 'n goeie en heel toestand te hou nie;
- (8) op sy perseel 'n dier of voël aanhou wat deur gedurig te veel te lawaai, die bure versteur of vir hulle tot oorlas is nie;
- (9) nagvuil op 'n perseel stort of hou of laat stort of hou of toelaat dat dit daarop gestort of ghou word nie, behalwe in 'n behoorlike sanitêre gemak wat die Raad goedgekeur het en in ooreenstemming met enige verordening van die Raad;
- (10) op sy perseel 'n sanitêre gemak hou of laat hou of toelaat dat dit daarop gehou word wat van so 'n aard is dat dit 'n oorlas of aanspootlik of nadelig of gevaarlik vir die gesondheid is nie;
- (11) 'n openbare gemak of 'n gemak wat in 'n openbare gebou of openbare vermoekheidsplek voorsien is, bevuil, misbruik of beskadig nie;
- (12) enige aanspootlike materiaal of ding, vloeibaar of vas, wat aanspootlik of gevaarlik of nadelig vir die gesondheid is of kan word, deur of in 'n straat of openbare plek dra of vervoer of toelaat dat die daardeur of daarin gedra of vervoer word nie, tensy sodanige aanspootlike materiaal of ding met geskikte materiaal bedek is om te voorkom dat 'n oorlas ontstaan;
- (13) 'n dooie liggaam op 'n onwettige plek begrawe of wegdoen nie;
- (14) toelaat dat die karkas van 'n dier wat sy eiendom of onder sy beheer is en wat op sy perseel of elders in die munisipale gebied gevreck het, onbegrawe bly nie;
- (15) duld of toelaat dat 'n spruit, poel, sloot, rioolgreep, waterloop, opwasbak, bad, tenk, spoelkloset, privaat of urinaal of enige grond of perseel wat aan hom behoort of deur hom geokkupeer word of onder sy beheer is, so vuil is of word of in so 'n toestand verkeer of verval of so geleë is of gebou word dat dit aanspootlik of gevaarlik of nadelig vir die gesondheid is nie;
- (16) duld of toelaat dat vuil of besoedelde water of enige vuil vloeistof of aanspootlike materiaal vanaf 'n perseel wat aan hom behoort of deur hom geokkupeer word, ongeag of dit vir handels-, besigheid-, fabriek-, woon- of enige ander doeleindes geokkupeer word, in 'n straat of op enige grond afloop of vloei nie;
- (17) 'n daad pleeg of laat pleeg of toelaat dat dit gepleeg word wat kan lei tot die besoedeling van water wat inwoners van die munisipaliteit die reg het om te gebruik of wat vir die gebruik van sodanige inwoners verskaf of afgesonder is nie;
- (18) in 'n openbare stroom, dam of watertrog twaaf of horn of 'n dier of 'n kledingstuk of ander artikel of ding daarin of by 'n openbare brandkraan of fontein of op 'n plek wat nie deur die Raad vir enige sodanige doel afgesonder is nie, was nie;
- (19) te enige tyd gedurende die dag of nag die openbare vrede in 'n straat of openbare plek versteur deur onbetaamlike geluide te maak of deur te skreeu, aanhoudend te roeter, te twis of rusie te maak, of deur 'n skare byeen te bring, of deur 'n betoging te reël, of deur te baklei of 'n haktelery uit te lok, of deur met 'n stok of ander wapen te slaan of dit te swaai of op 'n dreigende wyse te gebruik of deur enige ander oproerige, gewelddadige of onbetaamlike gedrag nie;
- (20) in enige straat of openbare plek rondsleuter of op sypanadies vergader of saamdrom nie;
- (5) allow any erf to be dirty, neglected or infested with rodents, snakes, mosquitoes, flies, ticks, bugs or other insects harmful to health, or allow any offensive odours or gases to emanate from such erf;
- (6) allow the fencing of any erf to fall into a state of disrepair or to become unsightly or dilapidated;
- (7) allow any building or structure or any portion thereof on any erf to fall into a dilapidated, neglected or unsightly state, or fail to maintain the roof-water disposal system, pipes, sewers, drains, water fittings, waste water fittings, water closet fittings and all other appurtenances forming part of or attached to any building or structure in good and sound repair;
- (8) keep on his premises any animal or bird which creates a disturbance or a nuisance to the neighbours by making frequent and excessive noise;
- (9) deposit or keep or cause or permit to be deposited or kept any nightsoil on any premises, except in a proper sanitary convenience approved by the Council and in accordance with any by-law of the Council;
- (10) keep or cause or permit to be kept upon his premises any sanitary convenience of such nature that it is a nuisance or offensive or injurious or dangerous to health;
- (11) defoul, misuse or damage any public convenience or any convenience provided in any public building or place of public entertainment;
- (12) carry or convey, or permit to be carried or conveyed through or in any street or public place any objectionable material or thing, liquid or solid, which is or may become offensive or dangerous or injurious to health, unless such objectionable material or thing is covered with a suitable material to prevent the creation of any nuisance;
- (13) bury or dispose of any dead body in any unauthorised place;
- (14) permit the carcass of any animal, being his property or in his charge, which has died on his premises or elsewhere in the municipal area, to remain unburied;
- (15) suffer or permit any stream, pool, ditch, drain, gutter, water-course, sink, bath, cistern, water closet, privy or urinal on any land or premises owned or occupied by him or of which he is in charge to be or become so foul or in such a state or to be so situated or constructed as to be offensive or dangerous or injurious to health;
- (16) suffer or permit any foul or polluted water or any foul liquid or objectionable material to run or flow from any premises owned or occupied by him, whether occupied for trade, business, manufacturing, dwelling or any other purposes, into any street or on any land;
- (17) commit or cause or permit to be committed any act which may pollute any water which inhabitants of the municipality have the right to use or which is provided or reserved for the use of such inhabitants;
- (18) bathe or wash himself or any animal or article of clothing or any other article or thing in any public stream, pool or water trough or at any public hydrant or fountain or at any place which has not been set aside by the Council for any such purpose;
- (19) at any time of the day or night disturb the public peace in any street or public place by making unseemly noises or by shouting, insistent hooting, wrangling or quarrelling, or by collecting a crowd or organising any demonstration or fighting or challenging to fight, or by striking with or brandishing or using in a threatening manner any stick or other weapon, or by any other riotous, violent or unseemly behaviour;
- (20) loiter in any street or public place or gather in crowds on pavements;

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- (21) ware of dienste in 'n straat of openbare plek adverteer deur middel van 'n megafoon, luidspreker of dergelike toestel of deur aanhoudend te skreeu, op 'n ghong te slaan, toeters te druk of klokke te lui op so 'n wyse dat dit 'n openbare oortas in die buurt uitmaak nie;
- (22) wat in of op 'n private perseel is, die openbare vrede in die omgewing van sodanige perseel versteur deur daarin of daarop onbehoorlike geluide te maak, te skreeu, te twis, rusie te maak of te sing, of deur luidsprekers, radio's, televisietoestelle of iets dergeliks aanhoudend en te hard te gebruik nie;
- (23) in enige straat of openbare plek beledigend of dreigende taal besig of iets doen wat die vrede kan versteur of wat daarop bereken is om die vrede te versteur nie;
- (24) in enige straat of openbare plek om aalmoese bedel of deur die vertoning van wonde, sere, beserings, gebreke of bedelbriewe aalmoese probeer verky nie;
- (25) 'n voertuig of 'n aanstootlike artikel of stuk gereedskap in 'n straat of openbare plek skoonmaak of was nie;
- (26) enige woning okkuper of toelaat of duld dat dit geokkuper word wat nie voorsien is van 'n behoorlike sanitêre gemak van die aard wat voorgeskryf word deur die verordening van die Raad (indien daar is) wat dan van krag is nie;
- (27) enige woning okkuper of toelaat of duld dat dit geokkuper word, wat nie voorsien is van 'n behoorlike, genoegsame en suiwer watervoorraad binne so 'n redelike afstand as wat dit onder die omstandighede moontlik is om te kry nie;
- (28) wat ophou om 'n perseel vir langer as een week te okkuper, versuim om alle nagvuil, vullis en slaapkamer- of kombuisvuilwater van sodanige perseel te laat verwyder nie;
- (29) enige perseel okkuper of toelaat of duld dat dit geokkuper word op 'n wyse wat skadelik of gevaarlik vir die gesondheid is nie, hetsy by wyse van oorbewoning of andersins;
- (30) enige woning of gedeelte daarvan okkuper of toelaat of duld dat dit geokkuper word, wat nie voldoen aan enige vereistes van die Derde Bylae van die Slumswet, 76 van 1979, nie;
- (31) wat die eienaar is van enige perseel wat aan meer as een huurder verhuur word, versuim om federe gedeelte van sodanige perseel wat gesamentlik deur meer as een huurder gebruik word, te alle tye in 'n skoon en higiëniese toestand te onderhou nie;
- (32) wat 'n fabriek of handelsperseel besit of okkuper, versuim om sodanige fabriek of handelsperseel skoon en vry te hou van aanstootlike reuke wat moontlik kan ontstaan in enige dreineer-voor, emmergemak, spoelgemak, grondkloset of urinaal en dit sodanig te ventileer dat enige gasse, dampe, stof of ander onsuiverhede wat ontstaan, sover as moontlik vernietig of onskadelik gestel word, en geen sodanige persoon mag toelaat dat sodanige fabriek of handelsperseel oorbewoon is of sodanig bely en geventileer is dat dit skadelik of gevaarlik is vir die gesondheid van diegene wat daarin werk nie;
- (33) enige voedsel of drinkware wat bedoel is vir menslike gebruik vir verkoop hou of berei of toelaat dat dit vir verkoop gehou of berei word op 'n perseel wat sodanig geleë of gebou is of so gebruik of onderhou word dat dit moontlik sodanige voedsel of drinkware kan besoedel of ongesond of skadelik of gevaarlik vir menslike gebruik kan maak nie.
4. Waar 'n oortreding van enige van die bepalings van hierdie verordening ontstaan as gevolg van 'n gebrek of tekortkoming van 'n strukturele aard, of ten opsigte van 'n perseel of woning wat ongeokkuper is, word die eienaar geskuldig te wees aan sodanige oortreding.
5. (1) Indien enige materiaal, voorwerp of ding van watter aard ook al op enige erf opgehoop, gestort, opgeberg of geplaan is of waar enige erf met bosse, onkruid, gras of plantegroei oorgroei is in stryd met artikel 3(1) en 3(4), kan die Raad 'n kennisgewing beteken aan —
- (a) die persoon wat regstreeks of onregstreeks vir sodanige ophoping, storting, opberging of plasing verantwoordelik is;
- (21) advertise wares or services in any street or public by means of any megaphone, loudspeaker or similar device or by insistent shouting, striking of gongs, blowing of horns or ringing of bells in such manner as to constitute a public nuisance in the neighbourhood;
- (22) while he is in or on any private premises, disturb the public peace in the neighbourhood of such premises by making therein or thereon any unseemly noises, or by shouting, quarrelling, wrangling or singing, or by the continuous and overloud use of loudspeakers, radios, television sets or the like;
- (23) in any street or public place use any abusive or threatening language or commit any act which may or is calculated to cause a breach of the peace;
- (24) solicit alms in any street or public place or endeavour by exposure of wounds, sores, injuries or deformities or the production of begging letters to obtain alms;
- (25) cleanse or wash any vehicle or any offensive article or utensil in any street or public place;
- (26) occupy or suffer or permit to be occupied any dwelling not provided with proper sanitary conveniences of such description as may be prescribed by the by-laws (if any) of the Council in force at the time being;
- (27) occupy or suffer or permit to be occupied any dwelling not provided with a proper, sufficient and wholesome water supply within as reasonable a distance under the circumstances it is possible to obtain;
- (28) before giving up possession of or ceasing actually to occupy for a longer period than one week any premises, fail or cause to be removed therefrom all nightsoil, refuse and bedroom or kitchen slopwater;
- (29) occupy or suffer or permit to be occupied any premises so as to be injurious or dangerous to health, whether by overcrowding or otherwise;
- (30) occupy or suffer or permit to be occupied any dwelling or part thereof which does not comply with any requirements of the Third Schedule of the Slums Act, 76 of 1979;
- (31) if he is the owner of any premises which are let to more than one tenant, fail at all times to maintain in a clean and sanitary condition every part of such premises which is used in common by more than one tenant;
- (32) if he owns or occupies a factory or trade premises, fail to keep or permit to be kept such factory or trade premises in a cleanly state and free from any offensive smells arising from any drain, privy, water closet, earth closet or urinal and so ventilated as to destroy or render harmless and inoffensive as far as practicable any gases, vapours, dust or other impurities generated, and no such person shall permit such factory or trade premises to be overcrowded or lighted and ventilated so as to be injurious or dangerous to the health of those employed therein;
- (33) keep or prepare for sale or permit to be kept or prepared for sale any article of food or drink intended for human consumption on premises so situated or constructed or so used or kept as to be liable to render any such article contaminated or unwholesome or injurious or dangerous for human consumption.
4. Where a contravention of any of the provisions of this by-law arises from any want of defect of a structural character, or in respect of a dwelling or premises which is or are unoccupied, the owner shall be deemed guilty of such contravention.
5. (1) Where any material, article or thing of whatsoever nature has been accumulated, dumped, stored or deposited on any erf, or where there is an overgrowth of bush, weeds, grass or vegetation on any erf in contravention of section 3(1) and 3(4), the Council may serve a notice on —
- (a) the person directly or indirectly responsible for such accumulation, dumping, storing or depositing;

- (h) die eienaar van sodanige materiaal, voorwerp of ding, ongeag of hy vir sodanige ophoping, storting, opberging of plasing verantwoordelik is of nie; of
- (e) die eienaar van die erf waarop sodanige ophoping, storting, opberging of plasing plaasvind, ongeag of hy daarvoor verantwoordelik is of nie;
- (d) die eienaar van die erf wat met bosse, onkruid, gras of plantegroei oorgroei is

waarin daar van sodanige persone of eienaars vereis word om sodanige materiaal, voorwerp of ding weg te doen, te vernietig of te verwyder of om sodanige oorgroei te genoeë van die Raad te verwyder binne 'n tydperk van 14 dae vanaf die datum van sodanige kennisgewing of binne die verdere tydperk wat die Raad op skriftelike aansoek toestaan.

- (2) Indien enige persoon of eienaar in gebreke bly om binne die tydperk wat deur die Raad bepaal is, aan die vereistes van 'n kennisgewing ingevolge subartikel (1) te voldoen, kan die Raad self sodanige materiaal, voorwerp of ding wegdoen, vernietig of verwyder of die oorgroei van enige erf verwyder op koste van enigiens of meer van die persone of eienaars in subartikel (1)(a), (b), (c), en (d) gemeld;
 - (3) Waar daar op enige erf 'n oortreding van artikel 3(5), (6), (7) of (19) plaasvind, kan die Raad na goeddunke 'n kennisgewing van of die eienaar of die okkuperder beteken om die ooras te verwyder.
6. Iedereen wat met bouwerk, padbou of konstruksiewerk van enige aard besig is, moet, wanneer dit van hom vereis word, voldoende sanitêre geriewe vir hom en sy werknemers verskaf ten genoeë van en ooreenkomstig enige vereistes gespesifiseer deur die Raad.
7. Niemand mag sonder die toestemming van 'n Raad 'n woonwa, tent of ander soortgelyke beskutting van enige aard vir menslike bewoning okkuper of toelaat dat dit daarvoor geokkuper word nie, behalwe op 'n genagtigde woonwa- of kampeertreë wat deur die Raad beheer word, met dien verstaande dat 'n woonwa, tent of beskutting wat geparkeer of opgerig is op 'n private woonperseel waarop 'n woning met al die nodige was- en toiletgeriewe opgerig is, vir 'n tydperk van hoogstens 60 dae vir die tydelike huisvesting van besoekers gebruik kan word.
8. Iedereen wat 'n hepaling van hierdie verordening oortree is skuldig aan 'n misdryf en by skuldigbevinding strafbaar met die strawwe voorgeskryf in artikel 189(23) van die Munisipale Ordonnansie, 1974 (Ordonnansie 20 van 1974).

P.K. 542/1995

8 Desember 1995

PROVINSIE WES-KAAP:

OORGANGSWET OP PLAASLIKE REGERING, 1993
(WET 209 VAN 1993)

WYSIGING VAN BEPALINGS AANGAANDE DIE
BESOLDIGING VAN PLAASLIKE
OWERHEIDSVERTEENWOORDIGERS

VERDETERINGSKENNISGEWING

Proklamasie No. 82/1995 van 9 Mei 1995, soos gewysig, gepubliseer in Provinsiale Koerant No. 4949 van 12 Mei 1995 word hiermee verbeter, soos in die Bylae hierby uiteengesit. Hierdie wysiging word geag om op 9 Mei 1995 in werking te getree het.

BYLAE

- 1. Deur Tabel 2 waar verwys word na die Bestuurskomitees Atlantis soos volg te wysig:

Informele gradering	Bestuurskomitee	Hurgemeesters en Voorsitters van Uitvoerende Komitees	Lede van Uitvoerende Komitees	Raadslede
9	Atlantis	6 189	4 642	1 547

- (b) the owner of such material, article or thing, whether or not he is responsible for such accumulation, dumping, storage or depositing;
- (c) the owner of the erf on which such accumulation, dumping, storage or depositing takes place, whether or not he is responsible therefor, or
- (d) the owner of the erf on which there is an overgrowth of bush, weeds, grass or vegetation.

requiring such persons or owners to dispose of, destroy or remove such material, article or thing or to clear such overgrowth to the satisfaction of the Council within a period of 14 days from the date of such notice or such further period as the Council may, on written application, grant.

- (2) Should any person or owner fail to comply with the requirements of a notice in terms of subsection (1) within the period stipulated by the Council, the Council may itself dispose of or destroy or remove such material, article or thing, or clear the overgrowth from any erf at the cost of any one or more of the persons or owners mentioned in subsection (1)(a), (b), (c) and (d).
 - (3) Where on any erf there is a contravention of section 3(5), (6), (7) or (19), the Council may at its discretion serve a notice on either the owner or the occupier to abate the nuisance.
6. Every person engaged in building operations, road construction or construction work of any nature shall, when required to do so, provide adequate sanitary accommodation for himself and his employees to the satisfaction of and in accordance with any requirements specified by the Council.
7. No person shall, without the permission of the Council, occupy or permit to be occupied for human habitation a caravan, tent or other similar shelter of any description except on an authorised camping or caravan site controlled by the Council or otherwise licensed in terms of the Licences Ordinance, 1981; provided that a caravan, tent or shelter parked or erected on a private residential site on which has been erected a dwelling with all the necessary ablution and toilet facilities may be used for the temporary accommodation of visitors for a period not exceeding 60 days.
8. Any person contravening any provision of this by-law shall be guilty of an offence and liable on conviction to the penalties prescribed in section 189(23) of the Municipal Ordinance, 1974 (Ordinance 20 of 1974).

P.N. 542/1995

8 December 1995

PROVINCE OF WESTERN CAPE:

LOCAL GOVERNMENT TRANSITION ACT, 1993
(ACT 209 OF 1993)

AMENDMENT OF ENACTMENT REGARDING THE
REMUNERATION OF LOCAL
GOVERNMENT REPRESENTATIVES

CORRECTION NOTICE

Proclamation No. 82/1995 of 9 May 1995, as amended, published in Provincial Gazette No. 4949 of 12 May 1995, is hereby corrected, as set out in the Schedule hereto. This amendment is deemed to have come into operation on 9 May 1995.

SCHEDULE

- 1. Amend Table 2 where it refers to the Management Committee Atlantis as follows:

Informal grading	Management Committee	Mayors and Chairpersons of Executive Committees	Members of Executive Committees	Councillors
9	Atlantis	6 189	4 642	1 547

Maart 1957)

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P.N. 130/1957.]

[1st March, 1957.]

The Administrator has approved of the subjoined regulations framed by the Municipal Council of Franschoek under the provisions of Ordinances Nos. 19 of 1951 and 22 of 1946.

FRANSCHHOEK MUNICIPALITY: REGULATIONS RELATING TO THE KEEPING OF DOGS.

1. The words and expressions used in these regulations shall have the meanings assigned to them in Ordinance No. 22 of 1946.
2. Subject to the provisions of Ordinance No. 22 of 1946, every person who keeps a dog shall register such dog with and shall pay to the Council an annual tax of £10s. for a male dog and £10s. 0d. for a bitch; provided that in respect of each greyhound not registered with the South African Kennel Union the amount of tax shall be £5 per annum.
3. Any person who can adduce proof to the satisfaction of the Council that he has lost or accidentally destroyed any licence or metal badge issued to him by the Council in respect of any dog, may be issued with a duplicate licence or metal badge on payment of the sum of one shilling.
4. The officer appointed by the Council for the purpose shall keep a register of all licences granted by him specifying the name and place of abode of the person keeping the dog, the description of any dog such person shall be licensed to keep and the number of the licence and metal badge issued in respect of such dog. Any authorised officer or any owner or occupier of land may at any convenient time inspect the register of licences.
5. (1) Every dog found without a badge issued in respect of or transferred to such dog may be seized by an authorised officer and may be sold or destroyed after it has been impounded for seven clear days by the Council during which time its detention shall be notified on the notice board outside the offices of the Council; provided that any person keeping such dog may claim and release it on payment of any tax due in respect of such dog and the fees for its detention.
5. (2) Every dog suffering from mange or other infectious or contagious disease found in any street, road or public place may be seized and destroyed by an authorised officer.
5. (3) The proceeds of the sale of any dog impounded and sold by the Council shall be applied towards the payment of the expenses of its maintenance in the pound and towards the costs and dues attending its sale, and any balance thereafter remaining shall be paid over to the person keeping it, provided he claims the same within three months of the sale, failing which the same shall be forfeited to the Council.
6. No person who keeps any ferocious, vicious or dangerous dog shall allow it to be at large at any time to the annoyance or danger to life or property of any person.
7. No person shall unlawfully set on or urge any dog to attack, worry or put in fear any other person or any other animal.
8. No person shall keep any dog which creates a disturbance or a nuisance to the neighbours by frequent or excessive barking, howling or whining.
9. No person shall allow any bitch on heat to be at large in any street, road or public place.
10. Any person contravening any of the foregoing regulations shall be guilty of an offence and liable on conviction to a penalty not exceeding £10 (ten pounds).
11. Regulations 49 to 51 inclusive relating to Dogs promulgated under Provincial Notice 240 dated 13th July, 1921, as amended, are hereby repealed.

P.N. 153/1957.]

[1st March, 1957.]

The Administrator has approved of the subjoined amendment framed by the Municipal Council of Malmesbury under the provisions of Ordinances Nos. 19 of 1951 and 22 of 1946.

MALMESBURY MUNICIPALITY: AMENDMENT TO THE DOG TAX REGULATIONS.

The regulations promulgated under Provincial Notice 61 dated 1st February, 1940, as amended are hereby further amended by the substitution in Regulation 1 for the figures and words "12s. 6d. for each male dog and 20s. for each bitch" (as substituted by Provincial Notice 620 dated 24th December, 1940) of the figures and words "15s. for each male dog and £1 2s. 6d. for each bitch."

[1 Maart 1957.]

Die Administrateur het sy goedkeuring gegee aan die volgende regulasies opgestel deur die munisipale raad van Franschoek kragtens die bepalings van Ordonnansies nos. 19 van 1951 en 22 van 1946.

MUNISIPALITEIT FRANSCHHOEK: REGULASIES INSAKÊ DIE AANHOU VAN HONDE

1. Die woorde en uitdrukkings wat in hierdie regulasies gebruik word, het die betekenisse wat in Ordonnansie no. 22 van 1946 daaraan gegee word.
2. Behoudens die bepalings van Ordonnansie no. 22 van 1946, moet iedereen wat 'n hond aanhou, so 'n hond by die raad laat registreer en 'n jaarlikse belasting aan die raad betaal van 10s. ten opsigte van elke reuhoond en £1 10s. ten opsigte van elke teef; met dien verstande dat die belasting ten opsigte van elke windhoond wat nie by die "South African Kennel Union" geregistreer is nie, £5 per jaar bedra.
3. Aan iedereen wat tot genoeë van die raad bewys kan lewer dat hy 'n lisensie of metaalplaatjie wat deur die raad ten opsigte van 'n hond aan hom uitgereik is, verloor of per abuis vernielig het, kan 'n duplikaatlisensie of -metaalplaatjie uitgereik word en wel by betaling van die som van een sjieling.
4. Die beampte wat deur die raad vir die doel aangestel is, hou 'n register van alle lisensies wat hy uitreik, waarin vermeld word die naam en verblyfplek van die persoon wat 'n hond aanhou, die beskrywing van 'n hond vir die aanhou waarvan so 'n persoon 'n lisensie besit en die nommer van die lisensie en metaalplaatjie wat ten opsigte van sodanige hond uitgereik is. Die register van lisensies lê op alle gerieflike tye hier ter insse van 'n gemagtigde amptenaar of 'n dienaar of okkupeerder van grond.
5. (1) Elke hond wat aangetrof word sonder 'n plaatjie wat ten opsigte van sodanige hond uitgereik is, kan deur die raadsman en verkoop of van kant gemaak word nadat dit hierdie tyd moet die bewaring daarvan op die kennisgewingbord buitekant die kantore van die raad bekend gemaak word; met dien verstande dat iedereen wat sodanige hond aanhou, dit kan opeis en wrystel by betaling van enige verskuldigde belasting ten opsigte van so 'n hond en die gelde vir die bewaring daarvan.
- (2) Elke hond wat aan skurft of ander aansteeklike of besmetlike siekte ly en in 'n straat, pad of openbare plek aangetref word, kan deur 'n gemagtigde beampte in beslag geneem en van kant gemaak word.
- (3) Die opbrengs van die verkoop van 'n hond wat deur die raad geskut en verkoop word, word aangewend ter bestryding van die onkoste van die onderhoud daarvan in die skut en die koste en gelde verbonde aan die verkoop daarvan, en enige saldo wat daarna oorbly, word betaal aan die persoon wat dit aanhou, mits hy dit binne drie maande na die verkoop opeis, by gebreke waarvan dit aan die raad verbeur word.
6. Niemand wat 'n kwaadaardige, kwaai of gevaarlike hond aanhou, mag toelaat dat dit te eniger tyd tot las of gevaar vir die lewe of eiendom van enige persoon los rondloop nie.
7. Niemand mag onwettiglik 'n hond aanhous of aanspoor om iemand anders of 'n perd of ander dier aan te val, te hinder of vrees aan te ja nie.
8. Niemand mag 'n hond aanhou wat deur gedurig of te veel te blaas, te huil of te tjank, die bure stoof of tot oorlast is nie.
9. Niemand mag toelaat dat 'n loopse teef in 'n straat, pad of openbare plek los rondloop nie.
10. Iedereen wat 'n bepaling van die voorgaande regulasies oortree, is skuldig aan 'n misdryf en by skuldigbevinding strafbaar met 'n boete van hoogstens £10 (tien pond).
11. Regulasies 49 tot en met 51 insake honde, afgekondig by Provinsiale Kennisgewing 240 van 13 Julie 1921, soos gewysig, word hierby herroep.

P.K. 153/1957.]

[1 Maart 1957.]

Die Administrateur het sy goedkeuring gegee aan die volgende wysiging opgestel deur die munisipale raad van Malmesbury kragtens die bepalings van Ordonnansies nos. 19 van 1951 en 22 van 1946.

MUNISIPALITEIT MALMESBURY: WYSIGING VAN DIE HONDEBELASTINGREGULASIES.

Die regulasies afgekondig by Provinsiale Kennisgewing 61 van 1 Februarie 1940, soos gewysig, word hierby verder gewysig deur vir regulasie 1 die syfers en woorde "12s. 6d. vir elke reuhoond en 20s. vir elke teef" (soos vervang by Provinsiale Kennisgewing 620 van 24 Desember 1940) deur die syfers en woorde "15s. vir elke reuhoond en £1 2s. 6d. vir elke teef."

7.7.2

**BY-LAW ON THE PREVENTION OF
PUBLIC NUISANCES AND THE
KEEPING OF ANIMALS**

APPENDIX 5

3 April 1998

Province of Western Cape: Provincial Gazette 5249

P.N. 130/1998

3 April 1998

The Premier has approved the following by-law framed by the Municipal Council of Stellenbosch.

STELLENBOSCH TRANSITIONAL LOCAL COUNCIL:

BY-LAW RELATING TO THE PREVENTION AND SUPPRESSION OF NUISANCES

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

"Council" means the Stellenbosch Transitional Local Council;

"erf" means any land, whether vacant, occupied or with buildings thereon;

"garden" means any island or circle in any street or public parking area which has been cultivated as a rockery or garden or planted with trees or shrubs;

"objectionable material" means sound, sounds or noise whether caused electronically or mechanically, garden litter, rubbish, waste material, rubble, scrap metal, disused motor cars, machinery or other vehicles, as well as the disused parts thereof, refuse from any building operations, or any refuse capable of being dumped on any land or premises, including new or used building materials not necessarily required in connection with bona fide building operations actually in progress on any land, and includes any solid, liquid or gas which is or may become offensive or dangerous or injurious to health or which materially interferes with the ordinary comfort or convenience of the public;

"occupier" —

(a) any person in actual occupation;

(b) any person legally entitled to occupy it; or

(c) any person in charge of or responsible for the management of any premises and includes the agent of any such person when he is absent from the Republic or his whereabouts are unknown;

"owner" —

(a) the person in whom is vested the legal title to any immovable property;

(b) where the property has been leased for fifty years or upwards, the lessee of such property;

(c) in cases where the person in whom the legal title is vested is insolvent, dead, of unsound mind or his estate has been assigned for the benefit of his creditors, the person in whom the administration of the property is vested as trustee, executor, curator, assignee or administrator, and

(d) in cases where the owner as above described is absent, the agent or person receiving the rent of the property in question;

"park" shall have the meaning assigned to the term "public place" in section 2 of the Municipal Ordinance, 1974 (Ordinance 20 of 1974);

"premises" means any building or tent together with the land on which the same is situated and the adjoining land used in connection therewith, and any land without buildings or tents, and includes any vehicle, conveyance, ship or boat; and

"Town Clerk" means the Town Clerk of Stellenbosch.

2. (1) No person shall deposit, leave, spill, drop or place any fruit peels, broken glass, paper or any matter or thing likely to interfere with the cleanliness of any park, garden or camping area or cause annoyance, danger or injury to persons in such park, garden or camping area.

(2) No person shall throw or deposit or permit to be thrown or deposit any plastic bottles, plastic bags, paper, cartons, broken bottles, glass or earthenware, or any fruit or vegetable peelings, or any refuse upon any street, erf, footpath or public place.

P.K. 130/1998

3 April 1998

Die Premier het sy goedkeuring gegee aan die volgende verordening opgestel deur die Munisipale Raad van Stellenbosch.

STELLENBOSCH PLAASLIKE OORGANGSRAAD:

VERORDENING VIR DIE VOORKOMING EN ONDERDRUKKING VAN OORLASTE

1. Vir die toepassing van hierdie verordening beteken—

"aanstootlike materiaal" geluid, geluide of geraas hetsy elektronies of meganies veroorsaak, tuinvullis, vuilgoed, afvalmateriaal, rommel, afvalyster, in onbruik geraakte motors, masjinerie of ander voertuie, asook die in onbruik geraakte onderdele daarvan, vullis van enige bouwerksaamhede, of enige vullis wat op enige grond of perseel gestort kan word, met inbegrip van nuwe of gebruikte boumateriaal wat nie noodwendig nodig is in verband met bona fide-boubedrywighede wat werklik op enige grond aan die gang is nie, en omvat dit enige vaste stof, vloeistof of gas wat aanstootlik of gevaarlik of nadelig vir die gesondheid is, of kan word, of wat wesenlik inbreuk maak op die gewone gemak of gerief van die publiek;

"eienaar" —

(a) die persoon by wie die regstiel van enige onroerende eiendom berus;

(b) waar die eiendom verhuur is vir 'n vyftig jaar of langer, die huurder van sodanige eiendom;

(c) waar die persoon by wie die regstiel berus, insolvent, dood of geestelik versteurd is of indien sy boedel afgestaan is tot voordeel van sy skuldeisers, die persoon by wie die administrasie van die eiendom berus as trustee, ekskuteur, kurator, regverkrygende of administrateur; en

(d) waar die eienaar soos hierbo genoem, afwesig is, die agent of persoon wat die huur van die betrokke perseel ontvang;

"erf" enige grond, hetsy onbebou, geokkupeer of met geboue daarop;

"okkupeerder" —

(a) enige persoon in werklike okkupasie;

(b) enige persoon wetlik geregtig om dit te okkupeer; of

(c) enige persoon wat die beheer of bestuur van 'n perseel uitoefen en omvat dit die agent van sodanige persoon wanneer hy afwesig is uit die Republiek of indien sy adres onbekend is;

"park" die betekenis wat in artikel 2 van die Munisipale Ordonnansie, 1974 (Ordonnansie 20 van 1974) aan die uitdrukking "openbare plek" gegee word;

"perseel" enige gebou of tent saam met die grond waarop dit geleë is asook die aangrensende grond wat in verband daarmee gebruik word, en enige grond sonder geboue of tente en omvat dit enige voertuig, vervoermiddel of boot.

"raad" die Stellenbosch Plaaslike Oorgangsraad;

"Stadsklerk" die Stadsklerk van Stellenbosch, en

"tuin" enige eiland of sirkel in enige straat of openbare parkeerterrein wat as ruitsuin of tuin uitgelê of met bome of struik geplant is.

2. (1) Niemand mag enige vrugteskille, glasstukke, papier of enige stof of ding wat waarskynlik die skoon toestand van enige park, tuin of kampeergebied sal benadeel of ergeris, gevaar of besering aan persone in sodanige park, tuin of kampeergebied sal veroorsaak, in sodanige park, tuin of kampeergebied plaas, uitgooi, laat bly, neergooi of neersit nie.

(2) Niemand mag enige plastiekbottels, plastieksakke, papier, kartonne, gebreke bottels, glas of ordeware, of enige vrugte- of groenteskille, of enige vullis op enige straat, erf, voetpad of openbare plek gooi of glas of toelaar dat dit daarop gegooi of geglas word nie.

- (3) No owner or occupier of any shop or business premises or vacant land adjoining such shop or business premises shall use or cause or permit to be used such shop or vacant land adjoining such shop or business premises or any portion thereof which is visible to the public for the purpose of storing, stacking, dumping, disposing of or keeping any waste material, refuse, crates, cartons, containers or other articles of a like nature.
3. Notwithstanding the provisions of any other by-law no person shall—
- (1) (a) dump, accumulate or place or cause or permit to be dumped, accumulated or placed objectionable material in or on any erf, street, drain, waterfurrow, sewer, thoroughfare, public square or commonage except at such place or places as the Council may from time to time set aside or approve for such purposes; provided however, that the Council may permit public garages, workshops and other trades, subject to such conditions as may be imposed in each case to keep, store, repair, dismantle or reassemble any motor vehicle or other vehicles or apparatus on premises approved by the Council;
 - (b) at any time of the day or night disturb the public peace by allowing a burglar alarm, car alarm or similar sound device to sound beyond the boundaries of the premises situated within the municipality of Stellenbosch for a continuous period longer than five minutes, or by allowing a car alarm to disturb the peace by ringing for longer than five minutes.
 - (2) do work on any erf or use any building or land for purposes calculated to disfigure such erf or to interfere with the convenience or comfort of the neighbours or to become a source of danger to any person. Should the Council be of the opinion that this provision is being ignored, the Council may instruct that such work or use be discontinued forthwith and that the previous condition be reinstated;
 - (3) carry on any trade, business or profession on any erf in the municipal area which may be, in the opinion of the Council be a source or become a source of discomfort or annoyance to the neighbourhood;
 - (4) allow any erf to be overgrown with bush, grass or other vegetation, except cultivated trees, shrubs and grass, to such an extent that, in the opinion of the Council or any duly authorised employee of the Council, it may be used as a shelter by vagrants, wild animals or vermin or may threaten the public health or the safety of any member of the community or may promote the spread of fires;
 - (5) allow any erf to be dirty, neglected or infested with rodents, snakes, mosquitoes, flies, ticks, bugs or other insects harmful to health, or allow any offensive odours or gasses to emanate from such erf;
 - (6) allow the facing of any erf to fall into a state of disrepair or to become unsightly or dilapidated;
 - (7) allow any building or structure or any portion thereof on any erf to fall into a dilapidated, neglected or unsightly state, or fail to maintain the roof-water disposal system, pipes, sewers, drains, water fittings, waste water fittings, water closet fittings and all other appurtenances forming part of or attached to any building or structure in good and sound repair;
 - (8) keep on his premises any animal or bird which creates a disturbance or a nuisance to the neighbours by making frequent and excessive noise;
 - (9) deposit or keep or cause or permit to be deposited or kept any nightsoil on any premises, except in a proper sanitary convenience approved by the Council and in accordance with any by-law of the Council;
 - (10) keep or cause or suffer to be kept upon his premises any sanitary convenience of such nature that it is a nuisance or is offensive or injurious or dangerous to health;
 - (11) defoul, misuse or damage any public convenience or any

- (3) Geen eienaar of okkuperder van enige winkel of besigheidperseel of onbeboude grond wat aan sodanige winkel of besigheidperseel grens mag sodanige winkel of besigheidperseel of onbeboude grond wat aan sodanige winkel of besigheidperseel grens of enige gedeelte daarvan wat vir die publiek toeganklik of sigbaar is, wat vir die publiek toeganklik of sigbaar is, gebruik of laat gebruik of toelaat dat dit gebruik word vir die doel om enige afvalmateriaal, vuilis, kraute, kartonne, houers of ander artikels van 'n dergelyke aard op te berg, op te stapel, te stort weg te doen of te hou nie.
3. Ondanks die bepalings van enige ander verordening mag niemand—
- (1) (a) aanstootlike materiaal in of op enige erf, straat, riool, watersloot, vuilrioel, deurgang, openbare plein of dorpsgrond stort, ophoop of plaas of laat stort, ophoop of plaas of toelaat dat dit daarin of daarop gestort, opgehoop of geplaas word nie, behalwe op die plek of plekke wat die raad van tyd tot tyd vir sodanige doeleindes afsonder of goedkeur; met dien verstande egter dat die raad toestemming aan openbare garages, werkwinkels en ander bedrywe kan verleen, onderworpe aan die voorwaardes wat in elke geval gestel word vir die hou, bewaring, herstel, afrukking of hermontering van enige motorvoertuig of ander voertuig of apparaat of persele wat deur die raad goedgekeur is;
 - (b) te eniger tyd gedurende die dag of nag die openbare vrede versteur deur die toelating van die geraas van enige alarmstelsel of soortgelyke toetsel buite die grense van die perseel geleë binne die munisipale gebied van Stellenbosch vir 'n aaneenlopende periode langer as vyf minute of die toelating van die luit van 'n motoralarm vir langer as vyf minute.
 - (2) werk op enige erf uitvoer of 'n gebou of grond gebruik vir doeleindes wat daarop bereken is om sodanige erf te ontseer of om inbreuk te maak op die gerief of gemak van die bure of om 'n bron van gevaar vir enige persoon te word nie. Indien die raad van mening is dat hierdie bepaling verontagsaam word, kan hy gelas dat sodanige werk of gebruik onmiddellik gestaak word en dat die vorige toestand herstel word;
 - (3) enige handel, besigheid of beroep uitoefen op enige erf in die munisipale gebied wat na die mening van die raad 'n bron van ongerief of ergeris vir die omgewing is of kan word nie;
 - (4) toelaat dat enige erf met bosse, onkruid of gras of ander plantegroei, uitgesoender gekweekte bome, struik en gras, begroei word in so 'n mate dat dit na die mening van die raad of enige, behoorlik gemagtigde werknemer van die raad, gebruik kan word as 'n skuilplek vir rondlopers, wilde diere of ongediertes of dat dit die volksgesondheid of die veiligheid, van 'n lid van die gemeenskap kan bedreig of die verspreiding van brande kan bevorder nie;
 - (5) toelaat dat enige erf vuil, verwaarloos of met kwaagdiere, slange, muskiete, vlieg, boshuis, luise of ander insekte wat skadelik is vir die gesondheid, besmet is, of toelaat dat enige onaangename reuke of gasse op sodanige erf afgegee word nie;
 - (6) toelaat dat die omheining van enige erf in 'n vervalle, onooglike of verwaarloosde toestand raak nie;
 - (7) toelaat dat 'n gebou of struktuur of enige gedeelte daarvan op enige erf in 'n vervalle, verwaarloosde of onooglike toestand raak nie, of in gebreke bly om die dakwaterwegdoelstelsel, pype, vuilriole, note, water-, afvalwater- en spoelkloset-toerusting en alle ander toebehore wat deel uitmaak van of bevestig is aan enige gebou of struktuur, in 'n goeie en heel toestand te hou nie;
 - (8) op sy perseel 'n dier of voël aanhou wat deur gedurig en te veel te lawaai, die bure steur of vir hulle tot oorlas is nie;
 - (9) nagvuil op enige perseel stort of hou of laat stort of hou of toelaat dat dit daarop gestort of gehou word nie, behalwe in 'n behoorlike sanitêre gemak wat die raad goedgekeur het en in ooreenstemming met enige verordening van die raad;
 - (10) op sy perseel 'n sanitêre gemak hou of laat hou of toelaat dat dit daarop gehou word wat van so 'n aard is dat dit 'n oorlas of aanstootlik of nadelig of gevaarlik vir die gesondheid is nie;
 - (11) 'n openbare gemak of 'n gemak wat in 'n openbare gebou of

- convenience provided in any public building or place of public entertainment;
- (12) carry or convey, or permit to be carried or conveyed through or in any street or public place, any objectionable material or thing, liquid or solid, which is or may become offensive or dangerous or injurious to health, unless such objectionable material or thing is covered with a suitable material in order to prevent the creation of any nuisance;
- (13) bury or dispose of any dead body in any unauthorised place;
- (14) permit the carcass of any animal, being his property or of which he is in charge and which has died on his premises or elsewhere in the municipal to remain unburied;
- (15) cause or permit any stream, pool, ditch, drain, gutter, water-course, sink, bath, cistern, water closet, privy or urinal on any land or premises owned or occupied by him or of which he is in charge to be or to become so foul or in such a state or to be so situated or constructed as to be offensive or dangerous or injurious to health;
- (16) cause or permit any foul or polluted water or any foul liquid or objectionable material to run or flow from any premises owned or occupied by him, whether occupied for trade, business, manufacturing, dwelling or any other purposes, into any street or onto any land;
- (17) commit or cause or permit to be committed any act which may pollute any water to which inhabitants of the municipality have the right to use or which is provided or reserved for the use of such inhabitants;
- (18) bathe or wash himself or any animal or article of clothing or any other article or thing in any public stream, pool or water trough or at any public hydrant or fountain or at any place which has not been set aside by the Council for any such purpose;
- (19) at any time of the day or night disturb the public peace in any street or public place by making unseemly noises or by shouting, insistent hooting, wrangling or quarrelling or by collecting a crowd or by organising any demonstration or by fighting or challenging to fight, or by striking with or brandishing or using in a threatening manner any stick or other weapon, or by any other riotous, violent or unseemly behaviour;
- (20) loiter in any street or public place, or gather or crowd on pavements;
- (21) advertise wares or services in any street or public place by means of any megaphone, loudspeaker or similar device or by insistent shouting, striking of gongs, blowing of horns or ringing of bells in such manner as to constitute a public nuisance in the neighbourhood, except with prior permission from the Council, which permission the Council may, if it so deems desirable, refuse or grant;
- (22) while he is in or on any private premises, disturb the public peace in the neighbourhood of such premises, by making therein or thereon any unseemly noises, or by shouting, wrangling, quarrelling or singing or by the continuous and over-loud use of loudspeakers, radios, television sets or the like;
- (23) in any street or public place use any abusive or threatening language or commit any act which may or is calculated to cause a breach of the peace;
- (24) solicit alms in any street or public place or endeavour by the exposure of wounds, sores, injuries or deformities or the production of begging letters to obtain alms;
- (25) cleanse or wash any vehicle or any offensive article or utensil in any street or public place;
- (26) occupy or suffer to be occupied any dwelling not provided with proper sanitary conveniences of such description as may be prescribed by the by-laws (if any) of the Council in that behalf in force at the time being;
- openbare vermaakplek voorsien is, bevuil, misbruik of beskadig nie;
- (12) enige aanstootlike materiaal of ding, vloeibaar of vas, wat aanstootlik of gevaarlik of nadelig vir die gesondheid is of kan word, deur of in enige straat of openbare plek dra of vervoer of toelaat dat dit daardeur of daarin gedra of vervoer word nie, tensy sodanige aanstootlike materiaal of ding met geskikte materiaal bedek is ten einde te voorkom dat enige oortas ontstaan;
- (13) 'n doodse liggaaam op enige onwettige plek begrawe of wegdoen nie;
- (14) toelaat dat die karkas van enige dier wat sy eiendom of onder sy beheer is en wat op sy perseel of elders in die munisipale gebied gevrek het, onbegrawe bly nie;
- (15) duld of toelaat dat 'n spruit, poel, sloot, rioolgeut, waterloop, opwasbak, bad, tenk, spoelkloset, privaat of urinaal op enige grond of perseel wat aan hom behoort of deur hom geokkupeer word of onder sy beheer is, so vuil is of word of in so 'n toestand verkeer of vervas of so geleë is of gebou is dat dit aanstootlik of gevaarlik of nadelig vir die gesondheid is nie;
- (16) duld of toelaat dat vuil of besoedelde water of enige vuil vloeistof of aanstootlike materiaal vanaf 'n perseel wat aan hom behoort of deur hom geokkupeer word, ongeag of dit vir handels-, besigheids-, fabrieks-, woon- of enige ander doeleindes geokkupeer word, in 'n straat of op enige grond afloop of vloei nie;
- (17) 'n daad pleeg of laat pleeg of toelaat dat dit gepleeg word wat kan lei tot die besoedeling van water wat inwoners in die munisipaliteit die reg het om te gebruik of wat vir die gebruik van sodanige inwoners verksaf of afgesonder is nie;
- (18) in 'n openbare suroom, dam of watertrug baai of hom of 'n dier of 'n kledingsstuk of ander artikel of ding daarin of by 'n openbare brandkraan of fontein of plek wat nie deur die raad vir enige sodanige doel afgesonder is, was nie;
- (19) te enige tyd gedurende die dag of nag die openbare vrede in 'n straat of openbare plek versteur deur onbetamlike geluide te maak of deur te skree, aanhoudend te toeter, te twis of rusie te maak, of deur 'n skare byeen te bring, of deur 'n benoging te reël, of deur te baklei of 'n bakleierij uit te lok, of deur met 'n stok of ander wapen te slaan of dit te swaai of op 'n dreigende wyse te gebruik of deur enige ander oproerige gewelddadige of onbetamlike gedrag nie;
- (20) in enige straat of openbare plek rondslenter of op sypaadjies vergader of saamkom nie;
- (21) ware of dienste in 'n straat of openbare plek adverteer deur middel van 'n megafoon, luidspreker of dergelyke toestel of deur aanhoudend te skree, op 'n ghong te slaan, toeters te druk of klokke te lui op so 'n wyse dat dit 'n openbare oortas in die buurt uitmaak nie, behalwe indien toestemming daarvoor vooraf by die raad verkry word, welke toestemming die raad na goeddunke kan weiger of verleen;
- (22) wat in of op 'n private perseel is; die openbare vrede in die omgewing van sodanige perseel versteur deur daarin of daarop onbetamlike geluide te maak, te skree, te twis, rusie te maak of te sing, of deur luidsprekers, radio's, televisiestelle of iets dergelyks aanhoudend en te hard te gebruik nie;
- (23) in enige straat of openbare plek beledigende of dreigende taal besig of iets doen wat die vrede kan versteur of wat daarop bereken is om die vrede te versteur nie;
- (24) in enige straat of openbare plek om aalmoese bedel of deur die vertoning van wonde, sere, beserings, gebreke of bedelbriewe aalmoese probeer verkry nie;
- (25) 'n voertuig of 'n aanstootlike artikel of stuk gereedskap in enige straat of openbare plek skoonmaak of was nie;
- (26) enige woning okkupeer of toelaat of duld dat dit geokkupeer word, wat nie voorsien is van 'n behoorlike sanitêre gemak van die aard wat voorgeskryf word deur die verordeninge van die raad (indien daar is) wat dan van krag is nie;

- (27) occupy or cause or suffer to be occupied any dwelling not provided with such a proper, sufficient and wholesome water supply within a reasonable distance as under the circumstances it is possible to obtain;
- (28) before giving up possession of, or ceasing actually to occupy for a longer period than one week, any premises, fail to cause to be removed therefrom all nightsoil, refuse and bedroom or kitchen slopwater;
- (29) occupy or cause or suffer to be occupied any premises so as to be injurious or dangerous to health, whether by overcrowding or otherwise;
- (30) if he is the owner of any premises which are let to more than one tenant, fail at all times to maintain in a clean and sanitary condition every part of such premises which is used in common by more than one tenant;
- (31) if he owns or occupies a factory or trade premises, fail to keep or cause to be kept such factory or trade premises in a cleanly state and free from any offensive smells arising from any drain, privy, water closet, earth closet of urinal and so ventilated as to destroy or render harmless and inoffensive as far as practicable any gases, vapours, dust or other impurities generated, and no such person shall permit such factory or trade premises to be overcrowded or lighted and ventilated so as to be injurious or dangerous to the health of those employed therein, or
- (32) keep or prepare for sale or cause to be kept or prepared for sale any article of food or drink intended for human consumption on premises so situated or so used or kept as to be liable to render any such article contaminated or unwholesome or injurious or dangerous for human consumption.
4. (1) Where any material, article or thing of whatsoever nature has been accumulated, dumped, stored or deposited on any erf, or where there is an overgrowth of bush, weeds, grass or vegetation on any erf in contravention of section 3(1) and 3(4) the Council may serve a notice on—
- (a) the person directly or indirectly responsible for such accumulation, dumping, storing or depositing;
- (b) the owner of such material, article or thing, whether or not he is responsible for such accumulation, dumping, storing or depositing;
- (c) the owner of the erf on which such accumulation, dumping, storage or depositing takes place, whether or not he is responsible therefor, or
- (d) the owner of the erf on which there is an overgrowth of bush, weeds, grass or vegetation;
- requiring such persons or owners to dispose of, destroy or remove such material, article or thing or to clear such overgrowth to the satisfaction of the Council within a period of 14 days from the date of such notice or such further period as the Council may, on written application, grant.
- (2) Should any person or owner fail to comply with the requirements of a notice in terms of subsection (1) within the period stipulated by the Council, the Council may itself dispose of or destroy or remove such material, article or thing, or clear the overgrowth from any erf at the cost of any one or more of the persons or owners mentioned in subsection (1)(a), (b), (c) and (d).
- (3) Where on any erf there is a contravention of section 3(5), (6) (7) or (19), the Council may at its discretion serve a notice on either the owner or the occupier to abate the nuisance.
5. Every person engaged in building operations, road construction or construction work of any nature shall, when required to do so, provide adequate sanitary accommodation for himself and his employees to the satisfaction of and in accordance with any requirements specified by the Council.
- (27) enige woning okkupeer of toelaat of duid dar geokkupeer word, wat nie voorsien is van 'n behoudlike, genoegsame en suiwer watervoorraad nie, binne 'n redelike afstand wat dit onder die omstandighede moontlik is om te verkry nie;
- (28) wat ophou om 'n perseel vir langer as een week te okkupeer, versuim om alle nagvuil, vullis en slaapkamer- of kombuisvuilwater van sodanige perseel te laat verwyder te word;
- (29) enige perseel okkupeer of toelaat of duid dat dit geokkupeer word op 'n wyse wat skadelik of gevaarlik vir die gesondheid is nie, hetsy by wyse van oorbewoning of andersins;
- (30) wat die eienaar is van enige perseel wat aan meer as een huurder verhuur word, versuim om iedere gedeelte van sodanige perseel wat gesamentlik deur meer as een huurder gebruik word, te alle tye in 'n skoon en higiëniese toestand te onderhou nie;
- (31) wat 'n fabriek of handelsperseel besit of okkupeer, versuim om sodanige fabriek of handelsperseel skoon en vry te hou van aanstootlike reuke wat moontlik kan ontstaan in enige dreineerwerk, emmergemak, spoelgemak, grondkloset of urinaal, en dit sodanig te ventileer dat enige gasse, dampe, stof of ander onsuurwerhede wat ontstaan, sover as moontlik vernietig of onskadelik gestel word, en geen sodanige persoon mag toelaat dat sodanige fabriek of handelsperseel oorbewoon is of sodanig belig en geventileer is dat dit skadelik of gevaarlik is vir die gesondheid van diene wat daarin werk nie, of
- (32) enige voedsel of drinkware wat bedoel is vir menslike gebruik verkoop hou of berei of toelaat dat dit vir verkoop gehou of berei word op 'n perseel wat sodanig geleë of gebou is of so gebruik of onderhou word dat dit moontlik sodanige voedsel of drinkware kan besoedel of ongesond of skadelik of gevaarlik vir menslike gebruik kan maak nie.
4. (1) Indien enige materiaal, voorwerp of ding van watter aard ook al op enige erf opgehoop, gestort, opgeborg of geplaas is of waar enige erf met bosse, onkruid, gras of plantegroei is in stryd met artikel 3(1) en 3(4), kan die raad 'n kennisgewing beteken aan—
- (a) die persoon wat regsreëls of onregstreeks vir sodanige ophoping, storting, opberging of plasing verantwoordelik is;
- (b) die eienaar van sodanige materiaal, voorwerp of ding, ongeag of hy vir sodanige ophoping, storting, opberging of plasing verantwoordelik is of nie, of
- (c) die eienaar van die erf waarop sodanige ophoping, storting, opberging of plasing plaasvind, ongeag of hy daarvoor verantwoordelik is of nie;
- (d) die eienaar van die erf wat met bosse, onkruid, gras of plantegroei oorgroei is;
- waarin daar van sodanige persone of eienaars vereis word om sodanige materiaal, voorwerp of ding weg te doen, te vernietig of te verwyder of om sodanige oorgroei ten genoë van die raad te verwyder binne 'n tydperk van 14 dae vanaf die datum van sodanige kennisgewing of binne die verdere tydperk wat die raad op skriftelike aansoek toestaan.
- (2) Indien enige persoon of eienaar in gebreke bly om binne die tydperk wat deur die raad bepaal is, aan die vereistes van 'n kennisgewing ingevolge subartikel (1) te voldoen, kan die raad self sodanige materiaal, voorwerp of ding wegdoen, vernietig of verwyder of die oorgroei van enige erf verwyder op koste van enigeen of meer van die persone of eienaars in subartikel (1)(a), (b), (c) en (d) gemeld.
- (3) Waar daar op enige erf 'n oortreding van artikel 3(5), (6), (7) of (19) plaasvind, kan die raad na goeiddunke 'n kennisgewing van of die eienaar of die okkupeerer beteken om die oorlas te verwyder.
5. Iedereen wat met bouwerk, padbou of konstruksiewerk van enige aard besig is, moet wanneer dit van hom vereis word, voldoende sanitêre geriewe vir hom en sy werknemers verskaf ten genoë van en ooreenkomstig enige vereistes gespesifiseer deur die raad.

3 April 1998

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5. No person shall, without the permission of the Council, occupy or permit to be occupied for human habitation a caravan, tent or other similar shelter of any description except on an authorised camping or caravan site controlled by the Council; provided that a caravan, tent or shelter parked or erected on a private residential site on which has been erected a dwelling with all the necessary ablution and toilet facilities, may be used for the temporary accommodation of visitors for a period not exceeding 60 days.
7. Any person contravening any provision of this by-law shall be guilty of an offence and liable on conviction to the penalties in section 189(23) of the Municipal Ordinance, 1974 (Ordinance 20 of 1974).

6. Niemand mag sonder die toestemming van die raad 'n woonwa, tent of ander soortgelyke beskutting van enige aard vir menslike bewoning okkipeer of toelaat dat dit daarvoor geokkipeer word nie, behalwe op 'n gemagtigde woonwa- of kampeerterrein wat deur die raad beheer word; met dien verstande dat 'n woonwa, tent of beskutting wat geparkêer of opgerig is op 'n private woonperseel waarop 'n woning met al die nodige was- en toiletgeriewe opgerig is, vir 'n tydperk van hoogstens 60 dae vir die tydelike huisvesting van besoekers gebruik kan word.
7. Iedereen wat 'n bepaling van hierdie verordening oortree is skuldig aan 'n misdryf en by skuldigbevinding strafbaar met die strawwe voorgeskryf in artikel 189(23) van die Munisipale Ordonnansie, 1974 (Ordonnansie 20 van 1974).

P.N. 181/1998

3 April 1998

The Premier has approved the subjoined amendment framed by the West Coast Peninsula Transitional Council.

**WEST COAST PENINSULA TRANSITIONAL COUNCIL
AMENDMENT TO THE BY-LAW RELATING TO THE
REMOVAL OF SEWAGE**

The By-law promulgated by the former Vredenburg-Saldanha Municipality under Provincial Notice 399 dated 18 April 1980, as amended by Provincial Notice 558 dated 17 January 1997 and Provincial Notice 432 dated 5 December 1997, is hereby further amended:

In section 6—

- (1) By the deletion of the expression "which in terms of the Town Planning Scheme is zoned for *bona fide* residential purposes," where it occurs in subsection (3), and subsection (3)(b);
- (2) By the addition of the following proviso to subsection (3):
"provided that this provision shall not apply in cases where township establishment conditions prescribe specific alternative sewage disposal methods."

P.K. 181/1998

3 April 1998

The Premier has approved the subjoined amendment framed by the West Coast Peninsula Transitional Council.

**WESKUS SKIEREILAND OORGANGSRAAD
WYSIGING VAN DIE VERORDENING INSAKE
RIOOLVUILVERWYDERING**

Die verordening afgekondig deur die voormalige Munisipaliteit Vredenburg-Saldanha by Provinsiale Kennisgewing 399 van 18 April 1980, soos gewysig deur Provinsiale Kennisgewing 558 van 17 Januarie 1997 en Provinsiale Kennisgewing 432 van 5 Desember 1997, word hierby verder gewysig:

In artikel 6—

- (1) Deur die uitdrukking "wat ingevoeg die dorpsaanlegskema vir *bona fide* woondoeleindes gesoneer is" waar dit in subartikel (3), en subartikel 3(b) voorkom, te skrap;
- (2) Deur die volgende voorbehoudsbepaling tot subartikel (3) toe te voeg:
"met dien verstande dat hierdie bepaling nie geld in gevalle waar dorpsvestigingsvoorwaardes spesifieke alternatiewe rioolvuilbeskikingsmetodes voorskryf nie."

P.N. 182/1998

3 April 1998

**OVERBERG DISTRICT COUNCIL AREA
ESTABLISHMENT OF A PRIVATE NATURE RESERVE**

Notice is hereby given in terms of section 12(4) of the Nature and Environmental Conservation Ordinance, 1974 (Ordinance 19 of 1974), that the Minister of Environmental Affairs has granted approval to Dr. P. M. Grant, to establish a private nature reserve on her property being the Remainder of the Farm No. 632 and Portion 1 of the Farm Waterfall No. 635, Caledon, situated in the area of the Overberg District Council, to which the name "Waterfall Private Nature Reserve" has been assigned and the boundaries of which are as indicated on a map filed in the office of the Acting Head of Department: Environmental and Cultural Affairs, Utilities Building, 1 Dorp Street, Cape Town.

P.K. 182/1998

3 April 1998

**OVERBERG DISTRIKSRAADSGEBIED
STIGTING VAN 'N PRIVATE NATUURRESERVAAT**

Kennisgewing geskied hierby kragtens artikel 12(4) van die Ordonnansie op Natuur- en Omgewingsbewaring, 1974 (Ordonnansie 19 van 1974), dat die Minister van Omgewingsake goedkeuring verleen het aan Dr. P. M. Grant, om 'n private natuurreservaat op haar eiendom, synde die Resant van die Plaas Nr. 632 en Gedeelte 1 van die Plaas Waterfall Nr. 635, Caledon, geleë in die gebied van die Overberg Distriksraad te stig, waaraan die naam "Waterfall Private Natuurreservaat" toegewys is en waarvan die grense is soos aangedui op 'n kaart geliasseer in die kantoor van die Waarnemende Hoof van Departement: Omgewing- en Kultuursake, Utiliteitsgebou, Dorpstraat 1, Kaapstad.

**PAARL MUNICIPALITY
REMOVAL OF RESTRICTIONS ACT, 1967
(ACT 84 OF 1967): ERF 6463, PAARL**

It is hereby notified in terms of section 3(6) of the above Act that the undermentioned application has been received by the Premier and is open for inspection at Room 1023, L.S.M. Building, 27 Wale Street, Cape Town, and at the office of the relevant local authority. Any objections, with full reasons therefor, should be lodged in writing with the Town Clerk, P.O. Box 12, Paarl, on or before 24 April 1998 quoting the above Act and the objector's erf number.

Applicants	Nature of Application
E. B. and K. Lewis	Removal of title conditions applicable to Erf 6463, 45 Magennis Street, Paarl, so as to erect a second garage and a roof over the recreational area on the property.

A. J. Sauts, Town Clerk.

**MUNISIPALITEIT PAARL
WET OP OPHEFFING VAN BEPERKINGS, 1967
(WET 84 VAN 1967): ERF 6463, PAARL**

Kragtens artikel 3(6) van bostaande Wet word hiernmee kennis gegee dat onderstaande aansoek deur die Premier ontvang is en ter insae lê by Kamer 1023, L.S.M.-gebou, Waalsestraat 27, Kaapstad, en in die kantoor van die betrokke plaaslike owerheid. Enige besware, met die volledige redes daarvoor, moet skriftelik by die Stadsklerk, Posbus 12, Paarl, ingedien word op of voor 24 April 1998 met die vermelding van bogenoemde Wet en beswaarmaker se erfnummer.

Aansoekers	Aard van Aansoek
E. B. en K. Lewis	Opheffing van titelvoorwaardes van toepassing op Erf 6463, Magennisstraat 45, Paarl, ten einde die eiendom in staat te stel om 'n tweede motorhuis en 'n onderdak braai-area op die eiendom op te rig.

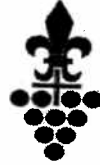
A. J. Sauts, Stadsklerk.

7.7.2

**BY-LAW ON THE PREVENTION OF
PUBLIC NUISANCES AND THE
KEEPING OF ANIMALS**

APPENDIX 6

**STELLENBOSCH MUNICIPALITY BY-LAW ON THE PREVENTION
OF PUBLIC NUISANCES AND THE KEEPING OF ANIMALS | 2013**



STELLENBOSCH MUNICIPALITY

Stellenbosch Municipality, by virtue of the powers vested in it by section 156 (2) of the Constitution of the Republic of South Africa as amended, read with section 13 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), has made the By-law set out below:

BY-LAW ON THE PREVENTION OF PUBLIC NUISANCES AND THE KEEPING OF ANIMALS

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1. Definitions

In this by-law, words used in the masculine gender include the feminine, the singular includes the plural and vice versa, the Afrikaans text shall prevail in the event of an inconsistency between the different texts, and unless the context otherwise indicates:

“animal” means any equine, bovine, sheep, goat, poultry, camel, dog, cat, or other domestic animal or bird, or any wild animal or reptile which is in captivity or under the control of a person.

“bird” means a pigeon, peafowl, pheasant, partridge, canary, budgerigar, parrot, ostrich and any other domesticated bird or wild bird which is in captivity or under control of a person.

“cattery” means any establishment where cats are bred or boarded.

“district municipality” means the Cape Winelands District Municipality established in terms of section 12 of the **Municipal Structures Act, 1998 (Act 117 of 1998) Provincial Notice 480 dated 22 September 2000**, as amended by **Provincial Notice 162 dated 20 August 2004**, and includes any political structure, political office bearer, councillor, duly authorised agent thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office-bearer, councillor, agent or employee.

“kennel” means any establishment that has as its business the breeding, training or boarding of dogs and includes pounds whether operated by the state or otherwise.

“municipality” means the Municipality of Stellenbosch established in terms of section 12 of the **Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), Provincial Notice 5642 dated 4 December 2000** and includes any political structure, political office-bearer, councillor, or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office-bearer, councillor, or employee.

“Municipal Manager” means a person appointed in terms of section 54A of the **Municipal Systems Act, 2000 (Act 32 of 2000)** and includes any person;

- (a) acting in such position; and
- (b) to whom the Municipal Manager has delegated any power, function or responsibility in as far as it concerns the execution of those powers, functions or duties.

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“owner” means;

- (a) in relation to an animal, includes the person having the possession, charge, custody or control of such animal;
- (b) in relation to a public nuisance as contemplated in **CHAPTER III : Part 1** of this by-law;
 - (i) the person or persons in whom from time to time shall be vested the legal title to any immovable property;
 - (ii) in any case where a property is subject to a registered lease, the lessee of such property;
 - (iii) in cases where the person in whom the legal title is vested is insolvent or deceased, or is of unsound mind or whose estate has been assigned for the benefit of his creditors, the person in whom the administration of the property is vested as trustee, executor, curator or assignee; or
 - (iv) in cases where the person in whom the legal title is vested is insolvent or deceased, or is of unsound mind or whose estate has been assigned for the benefit of his creditors, the person in whom the administration of the property is vested as trustee, executor, curator or assignee, or administration;
 - (v) in any case where the property is beneficially occupied under a servitude or right similar thereto, the occupier of such property.

“pet” means a tame animal which is kept in a household for companionship and amusement.

“pet parlour” means an establishment where pets are groomed.

“petshop” means an establishment where pets are kept for trading purpose.

“poultry” means any fowl, goose, ostrich, duck, pigeon, dove, turkey, muscovy, guineafowl, peacock or peahen or bird whether domesticated or wild.

“premises” means;

- (a) land or portion of land, whether or not a building or structure has been constructed or erected on such land or portion thereof;
- (b) a building, structure, tent or caravan and the land on which it is situated and includes any vehicle, carriage, ship or boat.

“public nuisance” means any act, omission or condition on any premises, including any building, structure or growth thereon, which is offensive or dangerous, or which materially interferes with the ordinary comfort, convenience, peace or quiet of other people or which adversely affects the safety of the public.

“public place” means any square, building, park recreation ground or open space which:

- (a) is vested in the municipality;
- (b) the public has the right to use; or

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- (c) is shown on a general plan of a township filed in a deeds registry or a Surveyor-General's office and has been provided for or reserved for the use of the public or the owners of erven in such townships.

"responsible authority" means the Cape Winelands District Municipality or any national or provincial department that may in terms of its powers and functions impose conditions or restrictions in respect of the keeping of animals.

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

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

"structure" means any stable, shed, pigsty, kraal, aviary, paddock, covering structure, poultry house, enclosure, run, loft or building used for human shelter or the keeping or enclosing of animals.

2. APPLICATION OF BY-LAW

- (1) The provisions of **sections 4(1), 14(1), 15(1), 21(1) and 27** are not applicable to;
 - (a) premises or land which is used for bona fide agricultural purpose; or
 - (b) premises or land identified by the municipality where the keeping of animals or the operation of pet parlours, pet shops or catteries and kennels is permitted and indicated as such in an approved spatial development framework and zoning scheme.
- (2) A person who keeps animals on premises contemplated in **subsection (1)(a) and (b)**, is not exempt from the provisions of any other by-laws of the appropriate municipality or legislation with regard to the inception or bringing about of a public nuisance.

CHAPTER I: GENERAL PROVISIONS RELATING TO PUBLIC NUISANCES

3. BEHAVIOUR AND CONDUCT

- (1) Notwithstanding the provisions of any other by-law no person shall:
 - (a) do work on any premises or use any building or land for purposes calculated to disfigure such premises or to interfere with the convenience or comfort of other people or to become a source of danger to any person;
 - (b) carry on any trade, business, profession or hobby on any premises in the municipal area, which may in the opinion of the municipality be a source or become a source of discomfort or annoyance to other people;

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- (c) deposit, leave, spill, drop or place any fruit or vegetable peels, broken bottles, glass, refuse or thing which is offensive or likely to cause annoyance, danger or injury to persons in or upon any premises, street or public place;
- (d) allow the fencing of any premises to fall into a state of disrepair or to become unsightly or dilapidated, which may in the opinion of the municipality be a source or become a source of danger, discomfort or annoyance to other people;
- (e) allow any building or structure or any portion thereof to fall into a dilapidated, neglected or unsightly state, or fail to maintain the roof-water disposal system, pipes, sewers, drains, water fittings, waste water fittings, water closet fittings and all other appurtenances forming part of or attached to any building or structure in good and sound repair, or fail to maintain the walls of any building or structure free from dampness, which may in the opinion of the municipality be a source or become a source of danger, discomfort or annoyance to other people;
- (f) use or cause or permit to be used any stoop and/or veranda of any shop or business premises or vacant land adjoining such shop or business premises for the purpose of storing, stacking, dumping, disposing, displaying or keeping articles or merchandise, which may in the opinion of the municipality be a source or become a source of danger, discomfort or annoyance to other people;
- (g) use or cause or permit any shop or business premises or vacant land adjoining such shop or business premises or any portion thereof, which is open or visible to the public for the purpose of storing, stacking, dumping, disposing or keeping any waste material, refuse, cartons, crates, containers or other articles of a like nature, which may in the opinion of the municipality be a source or become a source of danger, discomfort or annoyance to other people;
- (h) enclose or cause or permit the enclosing of any stoop or veranda of any shop or business premises by means of movable or immovable structures, objects, articles or devices, otherwise than by such means as the municipality may approve;
- (i) cause or allow the disturbance of the ordinary comfort, convenience, peace or quiet of other people by the utilisation or use of electrical appliances, machinery, malfunctioning air conditioning units or similar appliances or equipment;
- (j) defoul, misuse or damage a toilet provided in a public building on public place;
- (k) carry or convey, or cause or permit to be carried or conveyed through or in any street or public place, any objectionable material or thing, liquid or solid, which is or may become offensive or dangerous or injurious to health, unless such objectionable material or thing is covered with a suitable material to prevent the creation of any nuisance;
- (l) accumulate, dump, store or deposit any article or thing of whatsoever nature, which in the opinion of the municipality is waste material or likely to constitute an obstruction in any street, public place or build-up or vacant premises or land, where such actions take place with the consent of the municipality and any conditions of approval are ignored or complaints are received from the general public, the municipality may take action in terms of **subsection (2)**;

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- (m) allow any erf to be overgrown with bush, weeds or grass or other vegetation, except cultivated trees, shrubs and grass, to such an extent that it may be used as a shelter by vagrants, wild animals or vermin or may threaten the safety of any member of the community;
- (n) by an action directly or indirectly or by negligence allow that a nuisance be created or continued;
- (o) bath or wash himself or any animal or article or clothing or any other article or thing in any public stream, pool or water through or at any public hydrant or fountain or at any place which has not been set aside by the municipality for that purpose;
- (p) in any street or public place use any abusive or threatening language or commit any act which may or is calculated to cause a breach of the public peace;
- (q) cleanse or wash any vehicle or part in any street or public place;
- (r) discharge any firearm, airgun or air pistol on any premises, except premises or land zoned for agricultural purposes and which does not form part of a general plan for a township.
- (2) (a) In the event of a contravention of **section 3(1)(a) to (r)**, the municipality may issue a notice on the owner or occupier or the alleged offender to terminate the action or to remove the nuisance created. In the event of non-compliance with such order and without prejudice to the municipality's right to prosecute, the municipality may take the necessary steps to remove the cause or source of the nuisance and any costs incurred in connection therewith shall be recoverable from the person responsible for the nuisance or the owner or occupier or the premises on which the nuisance originates or is being continued, whether or not such owner or occupier is responsible therefore.
- (b) Where a person complies with a notice issued in terms of **subsection (a)**, the municipality may require such person to apply for a certificate of compliance which will be issued by the municipality once the nuisance has been removed or the action creating a nuisance has been terminated.
- (c) Where the municipality has evidence that any vacant or dilapidated premises or land in the vicinity of a street is being used for any purposes by unauthorised persons or that any of the materials or things mentioned in **subsection 3(1)** are being dumped or deposited on such premises, it may serve notice in writing on the owner or occupier thereof requiring him to enclose or fence it in to its satisfaction by a date specified in the notice. Every such enclosure or fence shall be not less than two metres in height and shall be of such a nature and so constructed that it will effectively prevent the entry of unauthorised persons and the dumping or depositing thereon of materials and things.
- (3) For the application of this by-law, any action or condition on any premises, including any building, structure or vegetation thereon, which in the opinion of the municipality endangers the safety of any person or property or which is untidy, annoying, troublesome, offensive or disturbing to the peace of other people, shall be considered a public nuisance.
- (4) Any person who contravenes or fails to comply with any provisions of this section or fails to comply with any notice lawfully given thereunder shall be guilty of an offence.

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CHAPTER II: GENERAL PROVISIONS RELATING TO KEEPING TO KEEPING OF ANIMALS**4. PREMISSION TO KEEP ANIMALS**

- (1) No person shall keep or permit to be kept on any premises or property any animals, excluding pets, without the written permission of the municipality.
- (2) For the purpose of managing the keeping of animals on premises, the municipality may determine the number of bee hives, as well as the kind, number and sex of animals that may be kept and the areas within which the keeping of such animals and bees shall be prohibited.
- (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.

5. PLANS FOR STRUCTURES AND MANAGEMENT

- (1) An application to keep animals must be submitted on an application form obtainable from the municipality, and be accompanied by a detailed site plan indicating all existing or proposed structures and fences on the premises for which the permit is required.
- (2) Detailed plans, according to specifications obtainable from the municipality, of structures in which it is proposed to keep animals must accompany the application in **section 4** and such plans must be approved by the municipality.
- (3) Where possible, an exposition of the numbers, kinds and gender of animals must accompany the plans in **subsection (2)**.

6. CONSIDERATION OF APPLICATIONS AND IMPOSITION OF CONDITIONS

- (1) The municipality may, after consideration of;
 - (a) the input or comments obtained in terms of **section 4(3)**;
 - (b) the location, geographical features or size of the premises in respect of which the application is submitted;
 - (c) the documents and expositions submitted in terms of **section 5**; or
 - (d) any other information relating to the application.
- (2) Where consent is refused, the municipality must furnish the applicant with the reasons for such refusal and at the same time advise him or her of the right of appeal in terms of **section 27**.
- (3) Where consent is granted, the municipality may impose conditions.

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7. VISIBILITY OF STRUCTURES ON PREMISES

All structures in which animals are kept shall be suitably screened from any street.

8. WAVERING OF REQUIREMENTS AND WITHDRAWAL OF AUTHORISATIONS

Notwithstanding the aforementioned provisions, the municipality may after considering conditions particular to the property and on condition that no objection is received from the owners or occupants of surrounding premises, waive any or all of the requirements of this part and impose other conditions if appropriate and may further withdraw any authorisation in terms of **section 6(3)** if any of the conditions therein are not adhered to.

9. VALIDITY OF AUTHORISATIONS

All authorisations to keep animals granted in terms of any by-law or regulation repealed shall be deemed to have been granted in terms of this by-law.

10. DUTIES OF OWNERS OR KEEPERS OF ANIMALS

The owner of animals or the keeper thereof,

- (a) may not cause or allow an animal to interfere with the ordinary comfort, convenience, peace or quiet of other people;
- (b) must provide such animal with bedding, shelter, water and proper food daily; and
- (c) must at all times maintain the premises on which an animal is kept, and all appurtenances in good repair and in neat condition so as prevent the occurrence of a public nuisance.

11. ANIMALS KEPT IN AN UNSATISFACTORY MANNER

Whenever animals kept on any premises, whether or not such premises have been approved by the municipality under this by-law, are a public nuisance, the municipality may by written notice require the owner or occupier of such premises, within a period to be stated in such notice, but not less than 24 hours after the date of such notice, to remove the cause of and to abate such nuisance and to carry out such action or take such steps necessary to ensure the prevention of such nuisance.

12. EUTHANASIA OF ANIMALS

- (1) The municipality may order the destruction of an animal which are;
 - (a) dangerous or ferocious;
 - (b) injured or diseased to such an extent that it would be humane to do so.

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- (2) Animals destroyed in terms of **subsection (1)** must be destroyed with such instruments or appliances and in such a manner as to inflict as little suffering as possible.

13. HAWKING OF ANIMALS

- (1) No person may hawk an animal –
- (a) in a street or public place; or
 - (b) in or from a movable structure or vehicle.
- (2) A person who contravenes any of the provisions of **sections 4, 5, 7, 10, 11** as well as **subsection (1)** of this section commits an offence.

CHAPTER III: PROVISIONS RELATING TO THE KEEPING OF DOGS, CATS AND PETS

PART 1 – GENERAL PROVISIONS RELATING TO DOGS, CATS AND PETS

14. NUMBER OF DOGS AND CATS

- (1) Subject to the provisions of **section 15**, no person may keep on any premises;
- (a) more than two dogs; and
 - (b) more than two cats,
- without the permission of the municipality.
- (2) An application in terms of **subsection (1)**, must be submitted on an application form obtainable from the municipality and must contain an exposition of the breed, gender and number of dogs cats applied applied for.
- (3) A restriction imposed under **section 17** on the number of animals that may be kept on premises does not apply for a period of 10 weeks after the birth of the litter from an animal kept in terms of a permit.

15. BREEDERS OF DOGS AND CATS

- (1) A breeder of dogs who wishes to keep more than two dogs or a breeder of cats who wishes to keep more than two cats must obtain permission from the municipality.
- (2) An application in terms of **subsection (1)** must be submitted in the form prescribed by the municipality and must contain an exposition of the race, gender and number of dogs or cats applied.
- (3) Plans and specifications of structures in which it is proposed to keep the dogs or cats, as well as a site plan indicating all existing or proposed structures and fences on the premises of which the permit is required, must accompany the

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application in **subsection (1)** and such plans must be approved by the municipality.

16. BREEDERS OF PETS

- (1) A person who breeds with pets must obtain the approval of the municipality.
- (2) The provisions of **section 15(2)** and **(3)** are, with the necessary adjustment applicable to an application in terms subsection **(1)**.

17. CONDITIONS AND RESTRICTIONS

The municipality's consent in terms of **sections 4, 14(1), 15(1)** and **16(1)**, shall be granted subject to such conditions and restrictions as the municipality, in consultation with another responsible authority, may deem fit to impose.

18. WITHDRAWAL OF PERMISSION

- (1) Where a person contravenes or fails to adhere to a condition or restriction contemplated in **section 17**, the municipality may, after hearing that person, withdraw its consent and may order the removal of animals from the premises for care and safekeeping by an animal welfare organisation or pound.
- (2) Any costs incurred by the municipality for the removal and safekeeping of animals contemplated in **subsection (1)**, shall be recoverable from the owner or keeper of such animals.

19. DOGS OR CATS IN PUBLIC PLACES

- (1) The owner or keeper of a dog or cat may not bring or allow it in a street or public place, unless the dog is kept on a leash by a responsible person or the cat is under the physical control of the owner.
- (2) Except in the event of a blind person being lead by a guide dog, a person in charge of a dog in street or public place, must remove any faeces left by the dog, by wrapping it in paper or plastic and disposing of it in a receptacle provided for litter or refuse.
- (3) A person who contravenes any of the provisions of **sections 14, 15 or 19**, shall be guilty of an offence.

PART 2 – SPECIFIC PROVISIONS FOR DOGS**20. CONTROL OF DOGS**

- (1) No person may;
 - (a) permit a bitch on heat owned or kept by him or her to be in a street or public place without supervision.

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- (b) urge a dog or attack, worry or frighten any person or animal, except where necessary for the defence of such first-mentioned person or his or her property.
 - (c) keep a dog if the premises where such a dog is kept, is not properly and adequately fenced to keep such dog in side when it not on a leash.
 - (d) Permit a dog owned or kept by such person;
 - (i) to trespass on private property;
 - (ii) in any public road or place whilst such dog suffers from an infectious or contagious disease;
 - (iii) to constitute a hazard to traffic using any public road;
 - (iv) to constitute or to his knowledge be likely to constitute a source of danger or injury to persons outside the premises on which such dog is kept; or
 - (v) to be a source of danger to employees of the municipality entering upon such premises for the purpose of carrying out their duties. A notice to the effect that a dog is being kept on such premises must be displayed in a conspicuous place.
 - (e) keep any dog which;
 - (i) by barking, yelping, howling or whining;
 - (ii) by having acquired the habit of charging any vehicles, animals, poultry, pigeons or persons outside any premises where it is kept; or
 - (iii) by behaving in any other manner, interferes materially with the ordinary comfort, convenience, peace or quiet or neighbours.
- (2) The municipality may seize and impound at a place designated by the municipality, a dog which is found in a street or public place in contravention with the provisions of **section 20(d)**.
- (3) A dog impounded in terms of **subsection (2)** may be released to the owner of such dog upon payment of a fee determined by the municipality.
- (4) A dog impounded in terms of **subsection (2)**, may be sold or destroyed after having been kept in custody for seven days.
- (5) A person who contravenes any provision of this section commits an offence.

CHAPTER IV: DOG KENNELS, CATTERIES, PET SHOPS AND PET PARLOURS

21. PERMISSION TO OPERATE

- (1) No kennel, cattery, pet shop or pet parlour may be operated without the permission of the municipality, which permission may be subject to conditions.

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- (2) Application for permission must be done on an application form obtainable from the municipality.
- (3) The person operating a kennel, cattery, pet shop or pet parlour may not conduct the business in such a manner so as to cause any nuisance or annoyance to other people.
- (4) A person contravening any of the provisions of this section commits an offence.

CHAPTER V: CO-OPERATION BETWEEN MUNICIPALITIES

22. SERVICE DELIVERY ARRANGEMENTS

In an effort to achieve optimal service delivery in terms of this by-law, the municipality may enter into agreements with the district municipality with which legislative and executive powers is shared, in respect of the following:

- (a) the practical arrangement with regard to the execution of the provisions of this by-law;
- (b) the imposition and enforcement of conditions with regard to any application in terms of this by-law, in so far as such conditions pertain to the functions and powers performed by the district municipality;
- (c) the recovery of costs and expenses related to any action in terms of this by-law;
- (d) subject to the provisions of **section 86** of the Municipal Structures Act, mechanisms for the settlement of disputes with regard to execution of powers of functions in terms of this by-law or the matters on which have been agreed;
- (e) any other matter regarded necessary by the parties to achieve optimal service delivery in terms of this by-law.

CHAPTER VI: POWERS OF MUNICIPALITY IN CASE OF OMISSION BY DISTRICT MUNICIPALITY

23. FAILURE OR OMISSION BY DISTRICT MUNICIPALITY

- (1) If the municipality is of the opinion that optimal service delivery referred to in **section 22** in its area of jurisdiction is impeded by the refusal or omission by District Municipality to execute any of the practical arrangements envisaged in **section 22(a)**, it may serve written notice on such district municipality to give effect or adhere to such arrangement within reasonable time. Upon failure to adhere to such notice, the municipality may proceed to give effect to such arrangement.
- (2) Any expenses or cost incurred by the municipality in giving effect to any arrangement referred to in **subsection (1)** may be recovered from the district municipality.

CHAPTER VII: NOISE NUISANCES

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24. No person shall in a public place;
- (1) cause or permit to be caused a disturbance by shouting, screaming or making any other loud or persistent noise or sound, including amplified noise or sound, causing a nuisance to other persons;
 - (2) permit noise from a private residence or business to be audible in a public place, except for the purposes of loudspeaker announcements for public meetings or due to actions of street entertainers;
 - (3) at any time during the day or night disturb the public peace in any public or private place or premises or street by making unseemly noises or by shouting, insistent hooting, wrangling or quarrelling, or by collecting a crowd or by organising any demonstration or by fighting or challenging to fight, or by striking with or brandishing or using in a threatening manner any stick or other weapon or by any other riotous, violent or unseemly behaviour at any time of the day or night, or by loitering in any street or public place or by gathering in crowds on pavements;
 - (4) advertise wares or services in any street or public place by means of any megaphone, loudspeaker or similar device or by insistent shouting, striking of gongs, blowing of horns or ringing of bells;
 - (5) in or upon any property or premises disturb the public peace in the neighbourhood of such premises by making therein or thereon any unseemly noises, or by shouting, wrangling, quarrelling and singing or by playing therein or thereon a musical instrument or use or permit to be used or any loudspeaker or other device for the reproduction or amplification of sound, in such manner or at such a time or in such circumstances that the sound thereof is audible beyond the boundaries of such property or premises in such a manner that it creates a public nuisance and materially interfere with the ordinary comfort, convenience, peace or quiet of other people.

CHAPTER: VIII: GENERAL PROVISIONS**25. RIGHT OF ENTRY AND INSPECTION**

- (1) Any duly authorised employee of the municipality is authorised to inspect any premises within the municipal area in order to determine, whether there is compliance with the provisions of this by-law.
- (2) When entering a premises in terms of **subsection (1)**, the authorised employee must on request by any person, identify him/herself by producing written proof of authorisation.
- (3) The authorised employee may be accompanied by a person reasonably required to assist in conducting the inspections.
- (4) Any person who fails to give or refuses access to any authorised employee if he requests entrance on any land or premises, or obstructs or hinders him in the execution of his duties under his by-law, or who fails or refuses to give information that he may lawfully be required to give to such employee, or who gives false or misleading information knowing it to be false or misleading, shall be guilty of an offence.

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26. SERVICE OF DOCUMENTS AND PROCESS

- (1) Whenever a notice, order, demand or other document is authorised 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 person, when it has been delivered to him personally;
- (a) when it has been left at his place of residence or business in the Republic with a person apparently over the age of 16 years;
 - (b) when it has been posted by registered or certified mail to his last known residential or businesses address in Republic and an acknowledgment of the posting thereof is produced;
 - (c) if his address in the Republic is unknown, when it has been served on his agent or representative in the Republic in the manner provided by section (a) and (b); or
 - (d) if his address and agent in the Republic are unknown, when it has been posted in a conspicuous place on the immovable property (if any) to which it relates.
- (2) When any notice, order, demand or other document as aforesaid is authorised or required to be served on a person by reason of his being or having been the owner or occupier of or holding some other right in respect of immovable property, it shall not be necessary to name him, but it shall be sufficient if he is therein described as the owner, occupier or holder of such immovable property or other right, as the case may be.

27. TRANSITIONAL PROVISIONS

A person who, at the commencement of this by-law, owns a larger number of animals than the number contemplated in **section 4(1)**, may continue to keep such larger number of animals, but may not replace any animal in excess of that number should one or more of the animals die or be disposed of, unless permission is obtained from the municipality for exceeding that number.

28. Appeal

- (1) A person whose rights are affected by a decision taken by a political structure, political office-bearer, councillor or staff member of a municipality in terms of a power or duty delegated or sub-delegated by a delegating authority to the political structure, political office-bearer, councillor or staff member may appeal against that decision by giving written notice of the appeal and reasons to the municipal manager within 21 days of the date of the notification of the decision.
- (2) The Municipal Manager must promptly submit the appeal to the appropriate appeal authority mentioned in **subsection (4)**.
- (3) The appeal authority must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.
- (4) When the appeal is against a decision taken by;
 - (a) a staff member other than the Municipal Manager, the Municipal Manager is the appeal authority;

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- (b) the Municipal Manager, the Executive Committee or Executive Mayor is the appeal authority, or, if the municipality does not have an Executive Committee or Executive Mayor, the Council of the municipality is the appeal authority or a political structure or political office-bearer, or a councillor;
 - (i) the municipal council is the appeal authority where the council comprises less than 15 councillors; or
 - (ii) a committee of councillors who were not involved in the decision and appointed by the municipal council for this purpose is the appeal authority, where the council comprises more than 14 councillors.
- (5) An appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable period.
- (6) The provisions of this section do not detract from any appropriate appeal procedure provided for in any other applicable law.

29. PENALTIES

A person who contravenes or fails to comply with any provision of this by-law shall be guilty of an offence and liable upon conviction to:

- (a) fine or imprisonment, or to such imprisonment without the option of a fine or to both such fine and such imprisonment; and
- (b) in the case of a continuing offence, to an additional fine or an additional period of imprisonment or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued; and
- (c) a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as result of such contravention or failure.

30. EXEMPTIONS

Notwithstanding the provisions of this by-law, the municipality may exempt any person and/or class of persons from any or all of these requirements and may impose any other requirements deems appropriate.

31. REPEAL OF BY-LAWS

The by-laws listed in **Schedule A** are hereby repealed to the extent in the third column thereof.

32. SHORT TITLE AND COMMENCEMENT

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This by-law shall be known as the "By-law relating to Public Nuisances and the Keeping of Animals" and shall come into operation on the date of publication thereof in the Provincial Gazette.

DRAFT

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SCHEDULE A

<i>BY-LAWS OF THE DISESTABLISHED MUNICIPALITY OF STELLENBOSCH</i>		
<i>PN No.</i>	<i>Short title</i>	<i>Extent of repeal</i>
<i>PK 683/1984</i>	<i>Stellenbosch Municipality : By-law relating to the Control and Keeping of Dogs</i>	<i>Whole</i>
<i>PK 667/1994</i>	<i>Amendment to the Dog Control by-law</i>	<i>Whole</i>
<i>PK 539/1995</i>	<i>Municipality for the area of Franschoek : By-law on the Prevention and Suppression of Nuisances</i>	<i>Whole</i>
<i>PK 180/1998</i>	<i>Stellenbosch Transitional Local Council : By-law on the Prevention and Suppression of Nuisances</i>	<i>Whole</i>
<i>PK 6011/2003</i>	<i>Stellenbosch Municipality : By-law for the Control of Certain Offences in Public Places</i>	<i>Whole</i>

7.7.2

**BY-LAW ON THE PREVENTION OF
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KEEPING OF ANIMALS**

APPENDIX 7

Stellenbosch Municipality, by virtue of the powers vested in it by section 156 (2) of the Constitution of the Republic of South Africa as amended, read with section 13 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), has made the By-law set out below:

BY-LAW ON THE PREVENTION OF PUBLIC NUISANCES AND THE KEEPING OF ANIMALS

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4. Permission to keep animals
5. Keeping of pit bulls
6. Plans for structures and management
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9. Wavering of requirements and withdrawal of permits
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29. Right of entry and inspection

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31. Transitional provisions

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33. Offences and penalties

34. Exemptions

35. Repeal of by-laws

36. Short title and commencement

1. Definitions

In this by-law, words used in the masculine gender include feminine, the singular includes the plural and vice versa, the Afrikaans text shall prevail in the event of an inconsistency between the different texts, and unless the context otherwise indicates:

“animals” means any equine, bovine, sheep, goat, poultry, camel, dog, cat or other domestic animal or bird, or any wild animal or reptile which is in captivity or under the control of a person.

“authorised official” means -

- (a) a designated person;
- (b) a member of the Service as defined in section 1 of the South African Police Service Act, 1995 (Act 68 of 1995)
- (c) a municipal police officer or a law enforcement officer appointed under any law; or
- (d) a person who has been declared a peace officer under section 334(1) of the Criminal Procedures Act, 1977 (Act 51 of 1977);

“bird” means a pigeon, peafowl, pheasant, partridge, canary, budgerigar, parrot, ostrich and any other domesticated bird or wild bird which is in captivity or under control of a person.

“Cattery” means any establishment where cats are bred or boarded.

“District municipality” means the Cape Winelands District Municipality established in terms of **section 12 of the Municipal Structures Act, 1998 (Act 117 of 1998) Provincial Notice 480 dated 22 September 2000**, as amended by **Provincial Notice 162 dated 20 August 2004**, and includes any political structure, political office bearer, councillor, duly authorised agent thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office-bearer, councillor, agent or employee.

“Dwelling house” means a single building designed for use as a residence for a single family situated on premises containing not more than two such buildings;

“dwelling unit” means an inter-connected suite of rooms including a kitchen or scullery designed for occupation by a single family, other than dwelling house, irrespective of whether such unit is a single building or forms part of a building containing two or more such units;

“guide dog” means a dog which has been trained to assist a blind or poor-sighted person and includes a service dog which has been trained to assist a person who is mentally or physically incapacitated;

“health nuisance” means any activity, condition, premises or thing which, on account of effluent, vapours, chemical effluvia, odours, noise, vibration, radiation, refuse, waste products, dirt, chemical or biochemical material, microbial infection, vermin, vegetation, overcrowding, lack of proper general hygiene, ventilation, lighting, design, situation or on

account of any other cause or practise whatsoever, is/ are in the opinion of the Cape Winelands District Municipality or a duly authorised Council employee of the District Municipality potentially injurious or dangerous to health or which is/ are offensive, including, without affecting the generality of the foregoing, any facility for the storage, distribution or handling of water that is likely to be used by man for domestic purposes or consumption, including such water itself, which is contaminated or polluted;

“**kenel**” means premises in or upon which –

- (a) boarding facilities for dogs are provided;
- (b) dogs are bred for commercial purposes;
- (c) dogs are kept for the purposes of being trained or hired out with or without handlers; or
- (d) dogs are kept for commercial security purposes;

“**municipality**” means the municipality of Stellenbosch established in terms of **section 12** of the **Local Government: Municipal Structures Act, 1998 (Act 117 of 1998)**, **Provincial Notice 5642** dated **4 December 2000** and includes any political structure, political office-bearer, councillor, or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office-bearer, councillor, or employee.

“**Municipal Manager**” means a person appointed in terms of **section 54S** of the **Municipal Systems Act, 2000 (Act 32 of 2000)** and includes any person;

- (a) acting in such position; and
- (b) to whom the municipal manager has delegated any power, function or responsibility in as far as it concerns the execution of those powers, functions or duties.

“**Owner**” means;

- (a) in relation to any animal, includes the person having possession, charge, custody or control of such animal;
- (b) in relation to a public nuisance as contemplated in **CHAPTER III: PART 1** of this by-law;
 - (i) the person or persons in whom from time to time shall be vested the legal title to any immovable property;
 - (ii) in any case where a property is subject to a registered lease, the lessee of such property;
 - (iii) in cases where the person in whom the legal title is vested is insolvent or deceased, or is of unsound mind or whose estate has been assigned for the benefit of his

creditors, the person in whom the administration of the property is vested as trustee, executor, curator, assignee or administrator;

(iv) in any case where the property is beneficially occupied under a servitude or right similar thereto, the occupier of such property.

“Permit” means the written permission granted by the Council in terms of this By-law;

“Pit bull” is defined as:

A pit bull terrier

A Staffordshire bull terrier

An American Staffordshire terrier

An American pit bull terrier

A dog that has an appearance and physical characteristics substantially similar to any of those dogs.

“Pet” means a tame animal which is kept in a household for companionship and amusement.

“Pet parlour” means an establishment where pets are groomed.

“Pet shop” means an establishment where pets are kept for trading purposes.

“Poultry” means fowl, goose, ostrich, duck, pigeon, dove, turkey, muscovy, guineafowl, peacock or peahen or bird whether domesticated or wild.

“Premises” means;

- (a) land or portion of land, whether or not a building or structure has been constructed or erected on such land or portion thereof;
- (b) a building, structure, tent or caravan and the land on which it is situated and includes any vehicles, carriage, ship or boat.

“Public nuisance” means any act, omission or condition on any premises, including any building, structure or growth thereon, which is offensive or dangerous, or which materially interferes with the ordinary comfort, convenience, peace or quiet of other people or which adversely affects the safety of the public.

“Public place” means any square, building, park recreation ground or open space which:

- (a) is vested in the municipality;
- (b) the public has the right to use; or

- (c) is shown on a general plan of a township filed in a deeds registry or a surveyor general's office and has been provided for or reserved for the use of the public or the owners or even in such township.

“Responsible authority” means the Cape Winelands District Municipality or any national or provincial department that may in terms of its powers and functions impose conditions or restrictions in respect of the keeping of animals.

“Street” means any road, street or thoroughfare or any other place (whether a thoroughfare or not) which is commonly used by public or any section thereof or to which the public or any section thereof has a right of access and includes:

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

“Structure” means any stable, shed, pigsty, kraal, aviary, paddock, covering structure, poultry house, enclosed, run, loft or building used for human shelter or the keeping or enclosing of animals.

2. APPLICATION OF BY-LAW

- (1) The provisions of **section 4(1), 15(1) and 28** are not applicable to;
- (a) premises or land which is used for bona fida agricultural purposes; or
 - (b) premises or land identified by the municipality where the keeper of animals or the operation of pet parlours, pet shops or catteries and kennels is permitted and indicated as such in an approved spatial development framework and zoning scheme.
- (2) A person who keeps animals on premises contemplated in **subsection (1)(a) and (b)**, is not exempt from the provisions of any other by-laws of the appropriate municipality or legislation with regard to the inception or bringing about of a public nuisance.

CHAPTER I: GENERAL PROVISIONS RELATING TO PUBLIC NUISANCES

3. BEHAVIOUR AND CONDUCT

(1) Notwithstanding the provisions of any other by-laws no person shall:

- (a) do work on any premises or use any building or land for purposes calculated to disfigure such premises or to interfere with the convenience or comfort of other people or to become a source of danger to any person;
- (b) carry on any trade, business, profession or hobby on any premises in the municipal are, which may in the opinion of the municipality be a source or become a source of discomfort or annoyance to other people;
- (c) deposit, leave, spill, drop or place any fruit or vegetable peels, broken bottles, glass, refuse or thing which is offensive or likely to cause annoyance, danger or injury to persons in or upon any premises, street or public place;
- (d) allow the fencing of any premises to fall into a state of disrepair or to become unsightly or dilapidated, which may in the opinion of the municipality be a source or become a source of danger, discomfort or annoyance to other people;
- (e) allow any building or structure or any portion thereof to fall into a dilapidated, neglected or unsightly state, or fail to maintain the roof water disposal system, pipes, sewers, drains, water fittings, waste water fittings, water closet fittings and all other appurtenances forming part of or attached to any building or structure in good and sound repair, or fail to maintain the walls of any building or any structure free from dampness, which may in the opinion of the municipality be a source or become a source of danger, discomfort or annoyance to other people;
- (f) use or cause or permit to be used any stoop and/or veranda of any shop or business premises for the purpose of storing, stacking, dumping, disposing, displaying or keeping articles or merchandise, which may in the opinion of the municipality be a source or become a source of danger, discomfort or annoyance to other people;
- (g) use or cause or permit any shop or business premises or vacant land adjoining such shop or business premises or any portion thereof, which is open or visible to the public for the purpose of storing, stacking, dumping, disposing, displaying or keeping ay waste material, refuse, cartons, crates, containers or other articles of a like nature, which may in the opinion of the municipality be a source or become a source of danger, discomfort or annoyance to other people;
- (h) enclose or cause or permit the enclosing of any stoop or veranda of any shop or business premises by means of movable or immovable structures, objects,

- articles or devices, otherwise than by such means as the municipality may approve;
- (i) cause or allow the disturbance of the ordinary comfort, convenience, peace or quiet of other people by the utilisation or use of electrical appliances, machinery, malfunctioning air conditioning units or similar appliances or equipment;
 - (j) permit the sounding of an alarm siren, or similar noise, from a private residence or business premises for a continuous period longer than five (5) minutes;
 - (k) permit the sounding of an alarm siren, or similar noise, from a private residence or business premises to cause a disturbance albeit intermittently, and during the hours of the night and the next day;
 - (l) defile, misuse or damage a toilet provided in a public building on public place;
 - (m) carry or convey, or cause or permit to be carried or conveyed through or in any street or public place, any objectionable material or thing, liquid or solid, which is or may become offensive or dangerous or injurious to health, unless such objectionable material or thing is covered with a suitable material to prevent the creation of any nuisance;
 - (n) accumulate, dump, store or deposit any article or thing of whatsoever nature, which in the opinion of the municipality is waste material or likely to constitute an obstruction in any street, public place or build-up or vacant premises or land, where such actions takes place with the consent of the municipality and any conditions of approval are ignored or complaints are received from the general public, the municipality may take action in terms of **subsection (2)**;
 - (o) allow any erf to be overgrown with bush, weeds or grass or other vegetation, except cultivated trees, shrubs or grass, to such an extent that it may be used as a shelter by vagrants, wild animals or vermin or may threaten the safety of any member of the community;
 - (p) by an action directly or indirectly or negligence allow that nuisance be created or continued;
 - (q) bath or wash himself or any animal or article or clothing or any other article or thing in any public stream, pool or water through or at any public hydrant or fountain or at any place which has not been set aside by the municipality for that purpose;
 - (r) in any street or public place use any abusive or threatening language or commit any act which may or is calculated to cause a breach of the public peace;
 - (s) cleanse or wash any vehicle or part in any street or public place;

- (t) discharge any firearm, air gun or air pistol on any premises, except premises or land zoned for agricultural purposes and which does not form part of a general plan for a township.
- (2)(a) In the event of a contravention of **section 3(1)(a) to (t)**, the municipality may issue a notice on the owner or occupier or the alleged offender to terminate the action or to remove the nuisance created. In the event of non-compliance with such order and without prejudice to the municipality's right to prosecute, the municipality may take the necessary steps to remove the cause or the source of the nuisance and any cost incurred in connection therewith shall be removable from the person responsible for the nuisance or the owner or occupier of the premises on which the nuisance originates or is being continued, whether or not such owner is responsible therefore.
- (b) Where a person complies with a notice issued in terms of **subsection (a)**, the municipality may require such person to apply for a certificate of compliance which will be issued by the municipality once the nuisance has been removed or the action creating a nuisance has been terminated.
- (c) Where the municipality has evidence that any vacant or dilapidated premises or land in the vicinity of a street is being used for any purposes by unauthorised persons or that any of the materials or things mentioned in **subsection 3(1)** are being dumped or deposited on such premises, it may serve notice in writing on the owner or the occupier thereof requiring him to enclose or fence it in to its satisfaction by a date specified in the notice. Every such enclosure or fence shall be not less than two metres in height and shall be of such a nature and so constructed that it will effectively prevent the entry of unauthorised persons and the dumping or depositing thereon of materials and things.
- (3) For the application of this by-law, any action or condition on any premises, including any building, structure or vegetation thereon, which in the opinion of the municipality endangers the safety of any person or property or which is untidy, annoying, troublesome, offensive or disturbing to the peace of other people, shall be considered a public nuisance.

- (4) Any person who contravenes or fails to comply with any provisions of this section or fails to comply with any notice lawfully given thereunder shall be guilty of an offence.

CHAPTER II: GENERAL PROVISION RELATING TO KEEPING OF ANIMALS

4. PERMISSION TO KEEP ANIMALS

- (1) No person shall keep or permit to be kept on any premises or property any animals, excluding pets, without the written permission of the municipality.
- (2) For the purpose of managing the keeping of animals on premises, the municipality may determine the number of bee hives, as well as the kind, number and sex of animals that may be kept and the areas within which the keeping of such animals and bees shall be prohibited.
- (3) In order to consider an application in terms of **subsection (1)**, the municipality may obtain the input or comments of the owner or occupants of surrounding premises.

5. KEEPING OF PIT BULL DOGS

A. Responsibilities of Owners

- (1) Pit bull owners will have to have their pit bulls leashed and muzzled in public.
- (2) The pit bulls be muzzled and leashed unless the dogs are on their owners' enclosed property or on enclosed property occupied by another person who consents to the pit bull being without a muzzle or leash.
- (3) Among other specific requirements, a leash may be a maximum of 1.8 metres long.
- (4) Muzzles should be humane, but strong enough and well-fitted enough to prevent the pit bull from biting, without interfering with the breathing, panting, or vision of the pit bull or with the pit bull's ability to drink water.
- (5) No person shall be in possession, own or be in control of a pit bull dog, whether in a public place, public street or a private dwelling, unless such person is above the age of 21 years of age.

B. Dog Owners' Liability

- (1) The owner of a dog is liable for damages resulting from a bite or attack and that liability does not depend on the owner's fault, negligence or knowledge of the propensity of the dog to bite or attack.
- (2) Where it is alleged that:
 - (i) a dog has bitten or attacked; or
 - (ii) the dog has behaved in a manner that poses a menace to the safety of persons or domestic animals; or
 - (iii) an owner did not exercise reasonable precautions to prevent a dog from biting or attacking or posing a menace to the safety of persons or domestic animals; or
 - (v) failing to exercise reasonable precautions to prevent a dog from biting or attacking a person or domestic animal; or
 - (iv) failing to exercise reasonable precautions to prevent a dog from behaving in a manner that poses a menace to the safety of persons or domestic animal

C. Extent of liability

The liability of the owner does not depend upon knowledge of the propensity of the dog or fault or negligence on the part of the owner, but the court shall reduce the damages awarded in proportion to the degree, if any, to which the fault or negligence of the plaintiff caused or contributed to the damages.

D. Protection of persons or property

Where a person is on premises with the intention of committing, or in the commission of, a criminal act on the premises and incurs damage caused by being bitten or attacked by a dog, the owner is not liable in terms of this bylaw.

E. Examples, measures for more effective control

- (1) Confining the dog to its owner's property.
- (2) Restraining the dog by means of a leash.
- (3) Restraining the dog by means of a muzzle.
- (4) Posting warning signs.

F. Owner to prevent dog from attacking

The owner of a dog shall exercise reasonable precautions to prevent it from,

- (a) biting or attacking a person or domestic animal; or
- (b) behaving in a manner that poses a menace to the safety of persons or domestic animals.

G. Law Enforcement officers

- (1) A designated law enforcement will be able to obtain warrants to seize a dog from a particular location where it is not desirable in the interests of public safety that the dog be so located.
- (2) *In urgent circumstances, designated peace officers will have a right of entry without warrant. Urgent circumstances include circumstances where there are reasonable grounds to believe that entry without warrant is necessary to prevent imminent bodily harm or death to any person or domestic animal seizure in public places.*

6. PLANS FOR STRUCTURES AND MANAGEMENT

- (1) An application to keep animals must be submitted on an application form obtainable from the municipality, and be accompanied by a detailed site plan indicating all existing or proposed structures and fences on the premises for which the permit is required.
- (2) Detailed plans, according to specifications obtainable from the municipality, of structures in which it is proposed to keep animals must accompany the application in **section 4** and such plans must be approved by the municipality.
- (3) Where possible, an exposition of the numbers, kinds and genders of animals must accompany the plans in **subsection (2)**

7. CONSIDERATION OF APPLICATIONS AND IMPOSITION OF CONDITIONS

- (1) The municipality may grant permission or refuse, after consideration of;
 - (a) the input or comments obtained in terms of **section 4(3)**;
 - (b) the location, geographical features or size of the premises in respect of which the application is submitted;
 - (c) the documents and expositions submitted in terms of **section 6**; or
 - (d) any other information relating to the application.

- (2) Where consent is refused, the municipality must furnish the applicant with the reasons for such refusal and at the same time advise him or her of the right appeal in terms of **section 29**.
- (3) Where consent is granted, the municipality may impose conditions.

8. VISIBILITY OF STRUCTURES ON PREMISES

All structures in which animals are kept shall be suitably screened from any street.

9. WAVERING OF REQUIREMENTS AND WITHDRAWAL OF AUTHORISATIONS

Notwithstanding the aforementioned provisions, the municipality may after considering conditions particular to the property and on condition that no objection is received from the owners or occupants of surrounding premises, waive any or all of the requirements of this part and impose other conditions if appropriate and may further withdraw any authorisation in terms of **section 7(3)** if any of the conditions therein are not adhered to.

10. VALIDITY OF AUTHORISATIONS

All authorisations to keep animals granted in terms of any by-law or regulation repealed shall be deemed to have been granted in terms of this by-law.

11. DUTIES OF OWNERS OR KEEPERS OF ANIMALS

The owner of animals or the keeper thereof;

- (a) may not cause or allow an animal to interfere with the ordinary comfort, convenience, peace or quiet of other people;
- (b) must provide such animal with bedding, shelter, water and proper food daily; and

- (c) must at all times maintain the premises on which the animals are kept, and all appurtenances in good repair and in neat condition so as to prevent the occurrence of a public nuisance.

12. ANIMALS KEPT IN AN UNSATISFACTORY MANNER

Whenever animals are kept on any premises, whether or not such premises have been approved by the municipality under this by-law, are a public nuisance, the municipality may by written notice require the owner or occupier of such premises, within a period to be stated in such notice, but not less than 24 hours after the date of such notice, to remove the cause of and to carry out such action or take such steps necessary to ensure the prevention of such nuisance.

13. EUTHANASIA OF ANIMALS

- (1) The municipality may order the destruction of an animal which are;
- (a) dangerous or ferocious
 - (b) injured or diseased to such an extent that it would be humane to do so.
- (2) Animals destroyed in terms of **section (1)** must be destroyed with such instruments or appliances and in such a manner as to inflict as little suffering as possible.

14. HAWKING OF ANIMALS

- (1) No person may hawk an animal –
- (a) in a street or public place; or
 - (b) in or from a movable structure or vehicle.
- (2) A person who contravenes any of the provisions of **section 4, 5, 7, 10, 11** as well as **subsection (1)** of this section commits an offence.

CHAPTER III: PROVISIONS RELATING TO THE KEEPING OF DOGS, CATS AND PETS

PART 1 – GENERAL PROVISIONS RELATING TO DOGS, CATS AND PETS

15. NUMBER OF DOGS AND CATS

(1) Subject to the provisions of **section 16**, no person may keep on any premises;

(a) more than two dogs; and

(b) more than two cats,

without the permission of the municipality.

(2) An application in terms of **subsection (1)**, must be submitted on an application form obtainable from the municipality and must contain an exposition of the breed, gender and number of dogs and cats applied for.

(3) A restriction imposed under **section 18** on the number of animals that may be kept on the premises does not apply for a period of 10 weeks after the birth of the litter from an animal in terms of a permit.

16. BREEDERS OF DOGS AND CATS

(1) A breeder of dogs who wishes to keep more than two dogs or a breeder of cats who wishes to keep more than two cats must obtain permission from the municipality.

(2) An application in terms of **subsection (1)** must be submitted in the form prescribed by the municipality and must contain an exposition of the race, gender and number of dogs or cats applied.

(3) Plans and specifications of structures in which it is proposed to keep the dogs and cats, as well as a site plan indicating all existing or proposed structures and

fences on the premises of which the permit is required, must accompany the application in **subsection (1)** and such plans must be approved by the municipality.

17. BREEDERS OF PETS

- (1) A person who breeds with pets must obtain the approval of the municipality.
- (2) The provisions of **section 16(2)** and **(3)** are, with the necessary adjustments applicable to an application in terms of **subsection (1)**.

18. CONDITIONS AND RESTRICTIONS

The municipality's consent in terms of **section 4, 15(1), 16(1)** and **22(1)**, shall be granted subject to such conditions and restrictions such as the municipality, in consultation with another responsible authority, may deem fit to impose.

19. WITHDRAWAL OF PERMISSION

- (1) Where a person contravenes or fails to adhere to a condition or restriction contemplated in **section 18**, the municipality may, after hearing that person, withdraw its consent and may order the removal of animals from the premises for care and safekeeping by an animal welfare organisation or pound.
- (2) Any cost incurred by the municipality for the removal and safekeeping of animals contemplated in **subsection (1)**, shall be recoverable from the owner or keeper of such animals.

20. DOGS OR CATS IN PUBLIC PLACES

- (1) The owner or keeper of a dog or cat may not bring or allow it in a street or public place; unless the dog is kept on a leash by a responsible person or the cat is under the physical control of the owner.

- (2) Except in the event of a blind person being led by a guide dog, a person in charge of a dog in the street or public place must remove any faeces left by the dog, by wrapping it in paper or plastic and disposing of it in a receptacle provided for litter or refuse.
- (3) A person who contravenes any of the provisions of **section 15, 16 or 20**, shall be guilty of an offence.

PART 2 – SPECIFIC PROVISIONS FOR DOGS

21. CONTROL OF DOGS

- (1) No person may;
- (a) permit a bitch on heat owned or kept by him or her to be in a street or public place without supervision.
 - (b) Urge a dog or attack, worry or frighten any person or animal, except where necessary for the defence of such first-mentioned person or his or her property.
 - (c) Keep a dog if the premises where such a dog is kept is not properly and adequately fenced to keep such a dog inside when it is not on a leash.
 - (d) Permit a dog owned or kept by such a person;
 - (i) to trespass on private property;
 - (ii) in any public road or place where whilst such dog suffers from an infectious or contagious disease;
 - (iii) to constitute a hazard to traffic on any public road;
 - (iv) to constitute or to his knowledge be likely to constitute a source of danger or injury to persons outside the premises on which such dog is kept;
 - (v) to be a source of danger to employees of the municipality entering upon such premises for the purpose of carrying out their duties. a notice to the effect that a dog is being kept on such premises must be displayed in a conspicuous place.

- (e) Keep any dog which;
 - (i) by barking, yelping, howling or whining;
 - (ii) by having acquired the habit of charging any vehicle, animals, poultry, pigeons or persons outside any premises where it is kept; or
 - (iii) by behaving in any other manner, interferes materially with the ordinary comfort, convenience, peace or quiet or neighbours.

- (2) The municipality may seize and impound at a place designated by the municipality, a dog which is found in a street or public place in contravention with the provisions of **section 21 (1)(d)**.

- (3) A dog impounded in terms of **subsection (2)** may be released to the owner of such dog upon payment of a fee determined by the municipality.

- (4) A dog impounded in terms of **subsection (2)**, may be sold or destroyed after having been kept in custody for seven days.

- (5) A person who contravenes any provision of this section commits an offence.

22. FENCING OF PROPERTY

- (1) No person shall keep a dog on his or her premises which are not properly and adequately fenced to keep such dog inside when it is not on a leash unless the dog is confined to the premises in some other manner, provided that such confinement is not inhumane in the assessment of the authorised official.

23. FIRE WORKS

- (1) No person may terrify or cause stress or fear to any animal with fireworks or by any other means.

24. ANIMAL CRUELTY

- (1) Any person who
 - (a) possesses, keeps, imports, buys, sells, trains, breeds or has under his or her control an animal for the purposes of fighting any other animal;

- (b) baits, provokes or incites any animal to attack another animal or to proceed with the fighting of another animal;
- (c) for financial gain or as a form of amusement promotes animal fights;
- (d) allows any of the acts referred to in paragraphs (a) to (c) to take place on any premises or place in his or her possession or under his or her charge or control;
- (e) owns, uses or controls any premises or place for the purposes or partly for the purpose of presenting animal fights on such premises or place or who acts or assists in the management of such premises or place, or who receives any consideration for the admission of any person to such premises or place; or
- (f) is present as a spectator at any premises or place where any of the acts referred to in paragraphs (b) to (e) is taking place or where preparations are being made for such acts,

is guilty of an offence and liable on conviction to a fine of R20, 000.00 (twenty thousand rand) or to imprisonment for a period not exceeding two years.

(2) In any prosecution it is presumed, unless the contrary is proved, that an animal that is found at any premises or place is the property or under the control of the owner of those premises or that place, or is the property or under the control of the person who uses or is in control of the premises or place.

CHAPTER IV: DOG KENNELS, CATTERIES, PET SHOPS AND PET PARLOURS

25. PERMISSION TO OPERATE

- (1) No kennel, cattery, pet shop or pet parlour may be operated without the permission of the municipality, which permission may be subject to conditions.
- (2) Application for permission must be done on an application form obtainable from the municipality.
- (3) The person operating a kennel, cattery, pet shop or pet parlour may not conduct the business in such a manner so as to cause any nuisance or annoyance to other people.
- (4) A person who contravenes any provision of this section commits an offence.

CHAPTER V: CO-OPERATION BETWEEN MUNICIPALITIES

26. SERVICE DELIVERY ARRANGEMENTS

In an effort to achieve optimal service delivery in terms of this by-law, the municipality may enter into agreement with the district municipality with which legislative and executive powers is shared, in respect of the following:

- (a) the practical arrangement with regard to the execution of the provisions of this by-law;
- (b) the imposition and enforcements of conditions with regard to any application in terms of this by-law, in so far as such conditions pertain to the functions and powers performed by the district municipality;
- (c) the recovery of costs and expenses related to any action in terms of this by-law;
- (d) subject to the provisions of **section 86** of the municipal structures act, mechanisms for the settlement of disputes with regard to execution of powers of functions in terms of this by-law or the matters on which have been agreed;
- (e) any other matter regarded necessary by the parties to achieve optimal service delivery in terms of this by-law.

CHAPTER VI: POWERS OF MUNICIPALITY IN CASE OF OMMISION BY DISTRICT MUNICIPALITY

27. FAILURE OR OMMISION BY DISTRICT MUNICIPALITY

- (1) If the municipality is of the opinion that optimal service delivery referred to in **section 26** in its area of jurisdiction is impede by the refusal or omission by district municipality to execute any of the practical arrangements envisaged in **section 26(a)**, it may serve written notice on such district municipality to give effect or adhere to such arrangement within reasonable time. upon failure to adhere to such notice, the municipality may proceed to give effect to such arrangement.

- (2) Any expenses or cost incurred by the municipality in giving effect to any arrangement referred to in **subsection (1)** may be recovered from the district municipality.

CHAPTER VII:

28. NOISE NUISANCE

No person shall in a public place;

- (1) cause or permit to be caused a disturbance by shouting, screaming or making any other loud or persistent noise or sound, including amplified noise or sound, causing a nuisance to other persons;
- (2) permit noise from a private residence or business to be audible in a public place, except for the purpose of loud speaker announcements for public meetings or due to actions of street entertainers;
- (3) at any time during the day or night disturb the public peace in any public or private place or premises or street by making unseemly noises or by shouting, insistent hooting, wrangling or quarrelling, or by playing loud music from any motor vehicle or vehicle, or by collecting a crowd or by organising any demonstration or by fighting or challenging to fight, or by striking with or brandishing or using in a threatening manner any stick or other weapon or by any other riotous, violent or unseemly behaviour at any time of the day or night, or by loitering in any street or public place or by gathering in crowds on pavements;
- (4) advertise wares or services in any street or public place by means of any megaphone, loudspeaker or similar device or by insistent shouting, striking of gongs, blowing of horns or ringing of bells;
- (5) in or upon any property or premises disturb the public peace in the neighbourhood of such premises by making therein or thereon any unseemly noises, or by shouting, wrangling, quarrelling and singing or by playing therein or thereon a musical instrument or use or permit to be used or any loudspeaker or other device for the reproduction or amplification of sound, in such a manner or at such a time or in such circumstances that the sound thereof is audible beyond the boundaries of such property or premises in such a manner that it creates a

public nuisance and materially interferes with the ordinary comfort, convenience, peace or quiet of other people.

CHAPTER VIII: GENERAL PROVISIONS

29. RIGHT OF ENTRY AND INSPECTION

- (1) Any duly authorised employee of the municipality is authorised to inspect any premises within the municipal area in order to determine, whether there is compliance with the provisions of this by-law.
- (2) When entering a premise in terms on **subsection (1)**, the authorised employee must on request by any person, identify him/herself by producing written proof of authorisation.
- (3) The authorised employee may be accompanied by a person reasonably required to assist in conducting the inspections.
- (4) Any person who fails to give or refuses access to any authorised employee if he requests entrance on any land or premises, or obstructs or hinders him in the execution of his duties under this by-law, or who fails or refuses to give information that he may lawfully be required to give to such employee, or who gives false or misleading information knowing it to be false or misleading, shall be guilty of an offence.

30. SERVICE OF DOCUMENTS AND PROCESS

- (1) Whenever a notice, order, demand or other document is authorised 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 person, when it has been delivered to him personally;
 - (a) when it has been left at his place of residence or business in the republic with a person apparently over the age of 16;
 - (b) when it has been posted or registered by certified mail to his/her last known residential or businesses address in republic and an acknowledgement of the posting thereof is produced;

- (c) if his address in the republic is unknown, when it has been served on his agent or representative in the republic in the manner provided by **section (a) and (b)**; or
 - (d) if his address and agent in the republic is unknown, when it has been posted in a conspicuous place on the immovable property (if any) to which it relates.
- (2) When any notice, order, demand or other document as aforesaid is authorised or required to be served on a person by reason of his being or having been the owner or occupier of or holding some other right in respect of immovable property, it shall not be necessary to name him, but shall be sufficient if he is therein described as the owner, occupier or holder of such immovable property or other right, as the case may be.

31. TRANSITIONAL PROVISIONS

A person who, at the commencement of this by-law, owns a larger number of animals than the number contemplated in **section 15**, may continue to keep such larger number of animals, but may not replace any animal in excess of that number should one or more of the animals die or be disposed of, unless permission⁹s obtained from the municipality for exceeding that number.

32. APPEAL

- (1) A person whose rights are affected by a decision taken by a political structure, political office-bearer, councillor or staff member of a municipality in terms of a power of duty delegated or sub-delegated by a delegating authority to the political structure, political office-bearer, councillor or staff member may appeal against that decision by giving written notice of the appeal and reasons to the municipal manager within 21 days of the date of the notification of the decision.
- (2) The municipal manager must promptly submit the appeal to the appropriate appeal authority mentioned in **subsection (4)**.
- (3) The appeal authority must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.
- (4) When the appeal is against a decision taken by;

- (a) a staff member other than the municipal manager, the municipal manager is the appeal authority
- (b) the municipal manager, the executive committee or executive mayor is the appeal authority, or, if the municipality does not have an executive committee or executive mayor, the council of the municipality is the appeal authority or a political structure or political office-bearer, or a councillor;
 - (i) the municipal council is the appeal authority where the council comprises less than 15 councillors; or
 - (ii) a committee of councillors who were not involved in the decision and appointed by the municipal council for this purpose is the appeal authority, where the council comprises more than 14 councillors.
- (5) An appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable period.
- (6) The provisions of this section do not detract from any appropriate appeal procedure provided for in any other application law.

33. OFFENCES AND PENALTIES

- (1) A person who -
 - (a) contravenes or fails to comply with any provisions of this By-law or with any order or notice lawfully issued thereunder commits an offence; and
 - (b) continue to commit an offence after notice has been served on him or her to cease committing such offence or after he has been convicted of such offence shall be guilty of a continuing offence.
- (2) Any person convicted of an offence under this By-law shall be liable to a fine or imprisonment for a period not exceeding two years.
- (3) Any court convicting any person of keeping any animal which is not kept under control in accordance with the provisions of the By-law may, in addition to the penalty

referred to in subsection (2), order the destruction of the animal concerned, and thereupon an authorised official may destroy such animal.

34. EXEMPTION

Notwithstanding the provisions of this by-law, the municipality may exempt any person and/or class of persons from any or all of these requirements and may impose any other requirements deems appropriate.

35. REPEAL OF BY-LAWS

The by-laws listed in **Schedule A** are hereby repealed to the extent in the third column thereof.

36. SHORT TITLE AND COMMENCEMENT

This by-law shall be known as the “By-law relating to Public Nuisance and the Keeping of Animals” and shall come into operation on the date of publication thereof in the Provincial Gazette.

SCHEDULE A

BY-LAWS OF THE DISESTABLISHED MUNICIPALITY OF STELLENBOSCH		
PN No.	Short title	Extent of repeal
<i>PK 683/1984</i>	Stellenbosch Municipality: By-law relating to the control and Keeping of Dogs	Whole
<i>PK 667/1994</i>	Amendment to the Dog Control By-law	Whole
<i>PK 539/1995</i>	Municipality for the area of Franschoek: By-law on the Prevention and Suppression of Nuisances	Whole
<i>PK 180/1998</i>	Stellenbosch Transitional Local Council: By-law on the Prevention and Suppression of Nuisances	Whole
<i>PK 6011/2003</i>	Stellenbosch Municipality: By-law for the Control of Certain Offences in Public Places	Whole

7.7.3	EVENTS POLICY
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1. PURPOSE OF REPORT

To request Council to approve and adopt the Events Policy for Stellenbosch Municipality.

2. BACKGROUND

The Events Policy, attached as **APPENDIX 1**, sets the strategic direction for Stellenbosch and its region, and aims to create mutually beneficial outcomes for the Greater Stellenbosch residents, businesses and visitors by using the platforms created by events to contribute to Stellenbosch's, growth, development and inclusivity.

Stellenbosch is known for hosting major local, national and international events. The Events Policy will assist and guide the municipality in managing event related activities in an efficient and effective manner thereby providing clarity to all role players and stakeholders. Stellenbosch Municipality would like to ensure that it becomes a town for great events for visitors to the town and the events industry, by creating stability in the town's events calendar and clearly defining processes and systems that support events. The Municipality plays an important role in: the regulations of events, partnerships with events organized in the WC024, events organization, facilitation and the provision of services at events. Currently events are regulated by the Events Act of 2010 and are applicable to events which accommodate more than 2000 people. The municipality has recently approved the Events Bylaw which was promulgated on 12 February 2016. The Events Bylaw gives the legal parameters under which the Events Policy will function in terms of processes to be followed and implemented.

3. DISCUSSION

The draft Events Policy prescribes processes to be followed by the Municipality for providing event support, commercial partnerships, event permit applications, co-ordination of the Municipality's events calendar, hospitality, guest management, ticketing, event marketing and event services.

The Municipality may from time to time choose to partner with event organizers in delivering events in Stellenbosch. This could include events with the following outcomes;

- Events that attract a high proportion of visitors to Stellenbosch.
- A media attraction, particularly international and national media.
- Events that provide the Municipality with marketing opportunities.
- Demonstrates a positive economic, social and environmental impact.
- Events that address seasonality in the Municipality's events calendar.
- Applies responsible tourism and sustainable living principles.
- Events that apply event greening principles.
- Information on trading opportunities for local traders.
- Job creation opportunities as a result of the event.
- Information on local suppliers.
- Lasting legacies from the hosting of the event.

It's important to note that should Council support the idea of partnerships as defined in the Events Policy, consideration be given to the establishment of a Special Events Committee of Council to facilitate the selection of events that the Council wishes to support.

4. LEGAL IMPLICATIONS

(Snr legal advisor Ms EA Rhoda)

Legislative Framework

- The Constitution of the Republic of South Africa: Act 108, 1995, section 156 (1) (a), read with Part B of Schedule 4
- Safety at Sports and Recreation Events Act, no.2 of 2010
- The Disaster Management Act, no. 57 of 2002
- The National Environmental Management Act, no. 107 of 1998
- Municipal Finance Management Act (MFMA), no. 56 of 2003
- Occupational Health and Safety Act, Act 85 of 1993)
- SANS 10400 of 1990 Application of National Building Regulations
- Fire Brigade Service Act (Act 99 of 1987)
- Road Traffic Act, 1996
- Land Use Planning Ordinance, no 15 of 1985
- Stellenbosch Zoning Scheme
- Regulation of Gatherings Act, 1993, no. 205 of 1993 as amended
- Dangerous Substance Act, Act 15 of 1973
- The Stellenbosch Municipality Events by-law
- Stellenbosch Municipality System of Delegations
- Integrated Development Plan
- National Building Regulations and Standard Act (Act 103 of 1977)
- Other relevant legislation

4.1 In terms of Section 11(3) of the Local Government Municipal Systems Act, 32 of 2000, a municipality exercises its executive and legislative authority by developing and adopting policies, plans, strategies, programmes, including setting targets for delivery.

4.1.1 Regulation 317 of the National Road Traffic Act, provides: 1996 (Act 93 of 1996),

Racing and sport on public roads Regulation 317.

(1) *For the purposes of this regulation the expression "race or sport" Includes:*

(a) *any race, speed trial, reliability trial, hill climbing competition or sports meeting; or*

(b) *any other activity whatsoever*

(i) *which may constitute a source of danger to traffic; or*

(ii) *which may hamper, impede or disrupt the normal flow of traffic.*

(2) *No person shall organize or take part in any race or sport on a public road, unless the prior written consent of the MEC of the province concerned has been obtained or, where the race or sport will take place wholly within the area of jurisdiction of a local authority, the prior written consent of such local authority has been obtained.*

- (3) *In granting consent in terms of sub regulation (2), the MEC or the local authority concerned, as the case may be, may*
- (a) *in addition to any requirement prescribed in these regulations, impose such further conditions as he or she or it may deem expedient;*
 - (b) *exempt any person concerned with the race or sport for the duration thereof*
 - (i) *from any provision of the Act regarding any speed limit or determine another speed limit for the road concerned;*
 - (ii) *from any other provision of the Act or from any by-law; or*
 - (c) *levy fees for defraying the expenses incurred by the Provincial Administration or local authority concerned in connection with the race or sport.*
- (4) *Any consent granted in terms of sub regulation (2) may be withdrawn at any time.*

Hindering or obstructing traffic on a public road (NRTA, Act 93 of 1996)

Regulation 319 of the said Act provides:

- (1) *No person shall wilfully or unnecessarily prevent, hinder or interrupt the free and proper passage of traffic on a public road.*
- (2) *Subject to the provisions of the Act or any other law, no person shall place or abandon or cause to be placed on abandoned on a public road any object that may endanger or cause damage to traffic on such road.*
- *A local authority may levy fees for expenses incurred from organisers of events or any other activity on public roads that may constitute a source of danger to traffic or disrupt the normal flow of traffic; and*

Section 10 (1) of the Fire Brigade Act, Act 99 of 1987 provides:

- (1) *A controlling authority may, subject to any condition contemplated in section 11 (2) (a), determine the fees payable by a person on whose behalf the service of the controlling authority is applied*
 - (a) *For the attendance of the service;*
 - (b) *For the use of the service and equipment; or*
 - (c) *For any material consumed.*
- (2) *A person on whose behalf, in the opinion of the chief fire officer concerned, a service of a controlling authority has been employed, may in writing be assessed by that chief fire officer for the payment of the fees referred to in subsection (1) or any portion thereof.*
- (3) *Any person who feels aggrieved by an assessment contemplated in subsection (2) may within 14 days after receipt of that assessment object in writing against that assessment as such or the amount thereof to the controlling authority concerned.*

- (4) *As soon as an objection contemplated in subsection (3) is received the chief executive officer of the controlling authority concerned shall without delay obtain written comment thereon from the chief fire officer and submit it together with the objection to the controlling authority, which may confirm alter or revoke the assessment.*
- (5) *A certificate purporting to be signed by a chief fire officer and in which it is certified that the assessment specified therein was made under subsection (2), shall on production thereof in a court of law be prima facie proof of the amount payable by the person mentioned therein.*

The Fire Brigade Service may levy fees as determined in the approved Council report of Fire Brigade tariffs as amended annually

- for the attendance of the service
- (b) for the use of the service and equipment; or
- (c) for any material consumed
- The tariffs are payable to the municipality

Tariffs

Chances are that there may be an increase in the demand for hosting events within the municipal jurisdiction which will result in a higher demand for service delivery by the Community and Safety Services at increasing cost. The increasing demand may have a negative influence on normal service delivery in the sense of having to pay officials overtime for the duration of these events, putting extreme financial obligation on the municipality.

It is therefore imperative that all sport and event organisers have to pay the prescribed tariffs in terms of Council's tariff policy as per Chapter 2 (4) of the Bylaw. It is advisable that the delegation is amended to make provision that the Director Community and Protection Services has the authority to partially waive or completely waive the service delivery cost for any specific event after consultation with the Municipal Manager as Accounting officer.

It is advisable that the event organiser pay the full amount of service delivery fee at least three (3) working days prior to the event to ensure that service delivery at the event will continue as planned and agreed upon. If the organiser does not pay the prescribed fees, the directorate hold the right to refuse service delivery recognizing that the department has certain legal obligations at certain event even if the organizer should refuse to pay the prescribed tariff amount. It is furthermore advisable that the event organiser be held responsible for any/ all additional charges in regards to damage incurred or for additional services rendered.

In granting permission in terms of the National Road Traffic Act (NRTA) and the Fire Brigade Act (Act 99 of 1987) the municipality may, in addition to any requirements prescribed in the Act, impose further conditions it deems expedient and relevant.

Events should be also be seen as a marketing opportunity for the municipality and must therefore be accommodated in such a way that they result in minimum nuisance to and disruption of the general public, while obtaining the maximum benefit for both the community and the municipality.

Due care must be taken to ensure that events should not place a monumental burden on municipal resources. During some of the events standby services certain actions or activities for instance the supplying of generators for power or electrical standby power or water may be requested from the Fire Brigade. There is no indication in the item whether there is currently done with cost involved or not.

The Community and Protection Services must ensure that value added service is provided to the community through organised and cost effective service delivery system, also keeping in mind that services are comprehensive in nature and include traffic management, crime prevention and by-law policing.

5. FINANCIAL IMPLICATION

None

6. COMMENTS FROM OTHER RELEVANT DEPARTMENTS

FINANCE DEPARTMENT

Finance supports the item.

RECOMMENDED

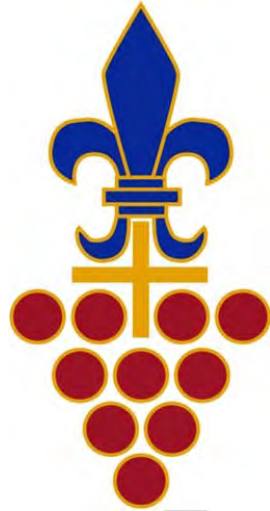
- (a) that Council considers the adoption and approval of the draft Events Policy in principle; and
- (b) that the draft Events Policy be advertised for public comment until the end of February 2017, and be re-submitted for final approval and adoption by Council.

Meeting: Ref No:	<i>4th Council: 2016-11-23 1/3/1/16</i>	Submitted by Directorate: Author: Referred from:	<i>Protection Services Acting Manager: Law Enforcement Mayco: 2016-11-16</i>
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7.7.3

EVENTS POLICY

APPENDIX 1



STELLENBOSCH MUNICIPALITY

DRAFT EVENTS POLICY

1. DEFINITIONS AND ABBREVIATIONS

For the purpose of this policy, except where clearly indicated otherwise, the words and expressions set out below have the following meaning:

Approved budget	An annual budget which is approved by a municipal council and includes such an annual budget as revised by an adjustment budget in terms of section 28.
Business events	Events where there is a business purpose for hosting. For example, a new product launch or an industry gathering which promotes investments.
By-law	Legislation passed by the council of a municipality which is binding to the municipality or persons to whom it applies.
Municipal events	Events supported, partnered or organized by Stellenbosch Municipality Event Hosting Departments or fellow departments.
Stellenbosch Municipality Event Service Departments	Municipal Departments who render services to events including but not limited to Disaster Management, Fire and Rescue Services, Traffic Services, Law Enforcement, Transport, Roads and Storm Water, Waste Management, Water Services, Electricity, Legal Services and Community Services
Stellenbosch Municipal Hosting Departments	Municipal Departments who lead, partner and host events as part of their business plans: Events Place Marketing, Strategic Facilities, Municipal Stadiums, Tourism, Arts and Culture, Economic Development, Sport and Recreation, Communications and the Mayor's office or any other department that hosts events.
Municipal Services	All services rendered by Stellenbosch Municipality to events.
Municipality	The Stellenbosch Municipality, a local Municipality constituted in terms of the Local Government: Municipal Structures Act, 1998, and the Province of the Western Cape: Provincial Notice 479/2000 dated 22 September 2000.
Community cultural events	Community based cultural events such as festivals and cultural club activities.

Community sport events	Community based events such as school sport and local and regional sporting leagues.
Commercial sponsorship agreement	An agreement concluded between the Stellenbosch Municipality and an event organizer where a financial Transfer is made by the Municipality in return for a rights package.
Commercialisation of events	Activities at events in which the Stellenbosch Municipality wishes to generate an income through new commercial initiatives.
Corporate hospitality	The provision of food, liquid refreshments (alcohol and non-alcoholic) and entertainment to the public or invited guests within a permanent or temporary demarcated hospitality area which may be located in a stadium or a venue or along a route or within the immediate or outer precincts thereof.
Council	The Council of the Stellenbosch Municipality, established by Provincial Notice 479 to 2000 issued in terms of section 12 of the Municipal Structures Act, 1998.
Delegation	In relation to a duty. Includes an instruction to perform the duty. Delegates has a corresponding meaning.
Demonstration	Any demonstration by one or more persons, but not more than 15 persons, for or against any person, cause, action or failure to take action
Environmentally sustainable	The provision of a service or the hosting of an event in a manner aimed at ensuring that risk of harm to the environment and to human health and safety is minimized. Potential benefit to the extent that it is reasonably possible and that legislation intended to protect the environment, human health and safety is complied with.
Event organizer	Any person who plans, is in charge of, manages, supervises or holds event or sponsorship rights to an event or in any manner controls or has material interest in the hosting of an event.
Event services	Goods and services required at events including but not limited to temporary fencing, temporary toilets, temporary structures, security services, etc.
Event	Sporting, entertainment, recreational, religious, cultural, exhibition, organizational or similar activities, hosted at a stadium, venue or along a route or within their respective precincts.

Functions	Parties or community activities that do not impact on Municipal Services or any applicable laws. These could be private functions, such as birthday parties or weddings, or community functions such as sports or social club get-togethers.
Director	A person appointed by the Council to head a Directorate in the Municipality and shall include any person acting in that position or to whom authority is delegated.
Executive Mayor	The person elected in terms of section 55 of the Municipal Structures Act to be the Executive Mayor of the town and shall include any person acting in that position or to whom authority is delegated.
Fundraising events	Where the sole or main purpose is a fundraising initiative for charity.
Gathering	Any assembly, concourse or procession of more than 15 persons in or on any public road as defined in the Road Traffic Act, 1989 (Act 29 of 1989), or any other public place or premises wholly or partly open to the air.
Guest management	The process of managing guests – from invitations to arrival and servicing guests at events.
Local economic development events	Events where the sole purpose is to provide opportunities for SMMEs to trade.
Mayoral committee	The committee appointed by the Executive Mayor to assist the Executive Mayor in terms of Section 60 of the Municipal Structures Act.
Mayoral events	Events supported and/or funded by the Executive Mayor's office.
National days of significance	Events held to commemorate national days. For example, World Aids Day on 1 December, International Women's Day on 9 August and Mandela day on 18 July.
Purpose built venue	Permanently constructed venues designed specifically to host events, such as stadiums, convention centres, banqueting facilities and sporting facilities.
Religious events	Events organized by religious organizations, which attract large numbers of participants, who require the event to be hosted in a stadium or similar large capacity facility. These

events may have high profile speakers but attract mainly community participants.

Rights package	A series of rights acquired by the Municipality through supporting events. The package of rights is a commercial transaction where the Municipality obtains rights to promote its brand through various event activities. For example, marketing opportunities, media opportunities and hospitality.
	Service delivery events These events celebrate milestones achieved by Council departments. For example, the opening of a new facility, handing over of housing to residence, etc.
Strategic facilities	Includes municipal properties used for Sporting, entertainment, recreational, religious, cultural, exhibition, organizational and educational activities.
Tourist	A person who spends more than 24 hours in an area outside their normal place of work or residence.
Venue owner	Any person or place, where an event is hosted, that has seated or standing spectator capacity within a permanent or temporary structure. This area or place may be erected or demarcated by an enclosed or semi-enclosed temporary or permanent structure.
Venue	Any area or place, where an event is hosted, that has seated or standing spectator capacity within a permanent or temporary structure. This area or place may be erected or demarcated by an enclosed or semi-enclosed temporary or permanent structure.
Visitors	A person who visits an attraction or destination for a day (less than 24 hours).
WC024	Includes the towns of Stellenbosch, Franschhoek and Pniel, and all the residential as well as surrounding rural areas such as Klappmuts, Groot Drakenstein, Kylemore, Jamestown, Raithby, Vlottenburg and Koelenhof.
CBO	Community Based Organization
PBO	Public Benefit Organization
Municipality	Stellenbosch Municipality
IDP	Integrated Development Plan
NGO	Non-Governmental Organization

PGWC	Provincial Government of the Western Cape
SMME	Small, medium, Micro Enterprises
SCM	Supply Chain Management

DRAFT

2. PROBLEM STATEMENT

- 2.1 Stellenbosch Municipality has a strong track record as an events destination and has hosted major local, national and international events.
- 2.2 Stellenbosch municipal area has developed a strong global brand and wishes to utilize this strength to develop as an events destination of choice and to further build the area's brand identity. This branding is critical for business perceptions about Stellenbosch Municipality as the preferred Investment Destination and Innovation Capital of South Africa.
- 2.3 The Municipality plays an important role in: the regulations of events, partnerships with events organized in the WC024, events organization, facilitation and the provision of services at events. The Events Policy is needed to improve the management of events in the Municipal area of Stellenbosch.
- 2.4 The Stellenbosch Municipality also wishes to exploit events hosted in the WC024 to achieve the Municipality objectives such as: economic growth, job creation, social inclusivity and environmental goals.

3. DESIRED OUTCOME

- 3.1 The Events Policy aims to create mutually beneficial outcomes for The Greater Stellenbosch residents, businesses and visitors by using the platforms created by events to contribute to Stellenbosch's growth, development and inclusivity.
- 3.2 The Events Policy will assist and guide the Municipality in managing event related activities in an efficient and effective manner thereby providing clarity to all role players and stakeholders. The Events policy aims to create an enabling mechanism for new approaches and initiatives to events.
- 3.3 Stellenbosch Municipality would like to ensure that the WC024 area becomes an area for memorable events for residents, the business community and visitors to the region and the events industry, by creating stability in the municipal area's events calendar and clearly defining dates of events, processes and systems that support such events.

4. STRATEGIC FOCUS AREAS (INTENT)

- 4.1 The strategic focus areas of the Municipality are enshrined in the Municipality's Integrated Development Plan (IDP) and are categorized into five pillars: Preferred Investment Destination, Greenest Municipality, Safest Valley, Dignified Living, Good Governance and Compliance.
- 4.2 Events create platforms that have the ability to support all five pillars. This policy particularly focuses on supporting the Preferred Investment Destination, Safest Valley, Dignified Living and demonstrates co-ordination of events through Good Governance and Compliance.

- 4.3 The underlying principles of the Preferred Investment Destination in relation to events is to create opportunities for co-operation, connectivity and constructive partnerships with the public and private sectors.
- 4.4 Events assist in defining market identity and the global positioning of the WC024 area as destination. A long-term event strategy can catalyze infrastructure and capacity upgrades. Events stimulate the local economy by increasing local visitor numbers.
- 4.5 The underlying principles of the Safest Valley and Good Governance and Compliance relate to the events permit process by regulating the activities at events in accordance with the Municipality's by-laws. The Municipality ensures that events comply with safety and environmental criteria as set out in the events by-law.
- 4.5 The underlying principles of Dignified Living are to enhance accessibility for Stellenbosch residents to events hosted in the WC024. These include access to Municipal support, trading, vending and other economic opportunities and the ability to attend and participate in events.

5. PURPOSE

- 5.1 The purpose of the Events Policy is to give guidance and strategic direction in terms of;
- 5.1.1 Event operations in the Municipal area of Stellenbosch.
 - 5.1.2 Strategic imperatives of the Stellenbosch Municipality as set out in the IDP.
 - 5.1.3 Latest requirements of the Hosting and Service Departments.
 - 5.1.4 Relevant legislation, specifically the Safety at Sports and Recreation Events Act, 2010.
 - 5.1.5 Promotion of co-operation and collaboration between internal and external partners.
 - 5.1.6 Promotion of a positive legacy linked to the hosting of events.
 - 5.1.7 Events which are managed in accordance with the Municipality and Province's support for the triple bottom line – Economic, Social and the Environment.
- 5.2 The Events Policy prescribes processes to be followed by the Municipality for providing event support commercial partnerships, event permit applications, co-ordination of the Municipality's events calendar, hospitality, guest management, ticketing, event marketing and event services.
- 5.3 To create a platform for the introduction of the events by-law and review thereof.

6. SCOPE OF APPLICATION

This policy is applicable to:

- 6.1 The Stellenbosch Municipality's Event Policy applies to events within the Municipal jurisdiction area, which may require the services of the Municipality. It have implications for public safety, the environment and local communities and events which occur in a public and/or private place as contemplated in the Municipality's proposed Events by-law and the Safety at Sports and Recreational Events Act, 2010.

- 6.2 Organizations and/or any of the spheres of government and across the event spectrum (cultural, business, sport etc.) and in private sector venues which impact on the public resources and have implications for community public safety and the environment.
- 6.3 Sporting, cultural and business events which may or may not impact on Municipal Services but could have a significant impact on the Municipality's objectives for tourism, events and marketing.
- 6.4 The Municipality's Events Policy does not apply to public gatherings and demonstrations as defined in the Regulation of Gatherings Act, 1993 (Act No. 205 of 1993 as amended).
- 6.5 The Municipality's Events Policy does not apply to workshops and meetings organized by Municipal departments.
- 6.6 The Municipality's Events Policy does not apply to private or community functions which do not require the services of the Municipality, nor have implications for public safety, the environment and local communities and comply with all applicable legislation.

7. REGULATORY CONTEXT

The policy is developed and guided by the following legislation and regulations:

- The Constitution of the Republic of South Africa: Act 108, 1995, section 156 (1) (a), read with Part B of Schedule 4
- Safety at Sports and Recreation Events Act, no.2 of 2010
- The Disaster Management Act, no. 57 of 2002
- The National Environmental Management Act, no. 107 of 1998
- Municipal Finance Management Act (MFMA), no. 56 of 2003
- Occupational Health and Safety Act
- Private Security Industry Regulating Authority
- National Health Act
- SANS 10400 of 1990 Application of National Building Regulations
- Fire Brigade Service Act
- Road Traffic Act, 1996
- Land Use Planning Ordinance, no 15 of 1985
- Stellenbosch Zoning Scheme
- Regulation of Gatherings Act, 1993, no. 205 of 1993 as amended
- The Stellenbosch Municipality Events by-law
- Stellenbosch Municipality System of Delegations
- Integrated Development Plan

8. ROLE PLAYERS AND STAKEHOLDERS

There are a wide variety of existing and potential stakeholders. These range from departments and agencies to other spheres of Government and the Private Sector.

The table below is an outline of the affected role-players and stakeholders:

Council	Internal
Cultural Organizations	External
Directorate: Community & Protection Services	Internal
Events Department	Internal
Economic Development	Internal
Finance Department	Internal
Legal Department	Internal
Mayor's Office	Internal
Planning and Building Development Department	Internal
Supply Chain Management Department	Internal
Sport and Recreation Department	Internal
National Government Departments	External government
Provincial Government of the Western Cape	External government
Stellenbosch Tourism	External
Communities	External
Events Industry	External
Faith Based Organizations	External
Major facility and property owners	External
Media	External
Municipal Institutes	External
Provincial Departments	External
Participants at events	External
Private sector sponsors	External
Residents	External
South African Police Services	External
Sports Federations and professional clubs	External
Tourism Industry	External
Traders (Informal)	External
Vendors / Service Providers	External

9. POLICY DIRECTIVE DETAILS

In order to promote effective management of events in the Stellenbosch Municipality the following policy directive details will apply:

9.1. CLASSIFICATION OF EVENTS

In this policy events are classified according to the desired strategic outcomes.

- | | | |
|----|-------------------------------|--|
| A. | International events | International sporting, business or cultural events that are hosted in WC024. These events may range from large scale, with global media coverage, to small events. |
| B. | Stellenbosch iconic events | Annual events on the Stellenbosch events calendar. These events attract measurable visitors and tourists to Stellenbosch and surroundings. |
| C. | Incubator events | Annual events on the Stellenbosch calendar. These events attract mainly Stellenbosch communities but show potential to attract visitors and tourists to Stellenbosch. |
| D. | Stellenbosch Community events | These events take place in a community, for community purposes and are attended mainly by the community. They may be Mayoral events, service delivery events, fundraising events, local economic development, emerging sport and cultural events, religious events and events celebrating National days of significance. |

9.1.2 The above classification is not a reference to the scale or size of events but rather to the core market of participants and spectators that the event attracts, ranging from a high proportion of visitors (e.g. International events and Stellenbosch iconic events) to mainly Stellenbosch and surrounding residents (e.g. community events.)

9.1.3 Events are also classified according to their security risk as defined in Section 2 of the Safety at Sports and Recreation Events Act, 2010 and the Stellenbosch Municipality Events By-law. These classifications are applied in the events permitting process.

9.2 MANAGEMENT OF THE MUNICIPALITY EVENTS CALENDAR

9.2.1 In order to improve planning for events, an official Stellenbosch Municipality Events Calendar will be published and updated monthly by the Communications Department.

9.2.2 The management of the calendar will be the responsibility of the Communication Department

9.2.3 All Municipal hosting departments are required to submit their event dates to the Events Department for inclusion in the Events Calendar and follow the normal application process.

9.2.4 The Communications Departments will be responsible for the development of an electronic calendar solution which will have both internal functionality for Municipal departments to interface with and an external calendar to provide information to the public.

9.2.5 Municipal hosting departments will be advised of successful inclusion or if an event presents a significant clash, in which case a mutually agreed upon solution will be found.

9.3. EVENTS SUPPORT

9.3.1 Partnership with event organizers

The Municipality may from time to time choose to partner with event organizers in delivering events in WC024.

9.3.2 Events the Municipality wishes to support

Below is a list of guidelines indicating the types of events the Municipality may wish to partner:

- A. Events that attract a high proportion of visitors to Stellenbosch.
- B. A media attraction, particularly international and national media.
- C. Events that provide the Municipality with marketing opportunities.
- D. Demonstrates a positive economic, social and environmental impact.
- E. Events that address seasonality in the Municipality's events calendar.
- F. Applies responsible tourism and sustainable living principles.
- G. Events that apply event greening principles.
- H. Information on trading opportunities for local traders.
- I. Job creation opportunities as a result of the event.
- J. Information on local suppliers.
- K. Lasting legacies from the hosting of the event.

9.3.3 Event support requirements

- 9.3.3.1 A Municipal hosting department can only contemplate supporting an event if the Municipal Hosting Department has the required funds in the approved budget.

9.3.4 Types of partnerships

- 9.3.4.1 The Stellenbosch Municipality may choose the level of partnership it wishes to enter into with an event organizer. The resulting partnership may be defined in the following categories:

- | | |
|--|---|
| A. Sponsor | The Municipality may choose to partner with an event organizer by purchasing a right package in return for a financial transfer. |
| B. Host Town | The Municipality may choose to partner with event organizers, such support to be limited to a maximum of 50% of the costs of staging the event. |
| C. Commercial Partnership Agreement | The Municipality may choose to partner with an event organizer by absorbing some of the upfront costs of staging the event and sharing in the revenue. |
| D. Event organizer | The Municipality may choose to create events to achieve strategic objectives. |
| E. Enabler | The Municipality creates an event friendly environment, enabling event organizers to obtain the necessary guidance and approvals for their events. This includes facilitating the promotion of low-carbon event delivery in keeping with the Municipality's support for developing a green economy and ensuring a positive legacy from the event. |
| F. Co-coordinator of Municipal services | The Municipal creates an enabling environment for events by creating a co-ordination function which enables event organizers to interact with all required Municipal services. |
| G. Social Economic Partnership agreement | The Municipality may choose to partner with NGO's or Non-profit organizations with the purpose to further community upliftment. |

9.3.5. Financial and legal mechanisms to facilitate partnerships with financial implications

9.3.5.1 Partnerships with events organizers can be facilitated through the following financial and legal mechanisms:

- | | | |
|----|-----------------------------|---|
| A. | Cash transfer | Facilitated through a commercial sponsorship agreement or facilitated through the Section 67 mechanism as provided for the Municipal Finance Management Act (MFMA). |
| C. | Inter-departmental transfer | Facilitates the provision of Municipal services at Municipal events. |
| D. | SCM Processes | Facilitates the provision of event services at Municipal events. |

9.3.6 Application process for event support

- 9.3.6.1 Event organizers are required to submit an application for event support to the Municipality.
- 9.3.6.2 The application should be aligned to the guidelines as outlined below.
- 9.3.6.3 Applications for event support must be submitted to the Events Department.
- 9.3.6.4 Event support applications should be made as far as possible in advance in order to facilitate the decision-making processes.
- 9.3.6.5 Event funding applications received less than 6 months before the anticipated event day will not be considered.

9.3.7 Decision making process for event support with a financial transfer

- 9.3.7.1 The decision making process will be facilitated through Council systems and structures such as Council meetings and the budget process following a system of delegations of Stellenbosch Municipality:

Type of event

9.3.7.2 Annual events

Mechanism

The Municipality's will develop a list of events that it wishes to support annually. These events will form part of the budget process.

9.3.7.3 Event support applications

All event support requests received through the event support application system will be considered by Council

9.3.8 Decision making process for event support without a financial transfer

9.3.8.1 The Municipality may receive requests for support that do not have financial implications, for example:

Type of event

9.3.8.2 Letters of support for booklets and publications

Mechanism

Requests for letters of support for publications must be sent to the Office of the Executive Mayor. Only letters signed by the Executive Mayor will be considered official.

9.3.8.3 Appearances or representation at events

Requests for appearances or representation at events should be sent to the office of the Executive Mayor.

9.3.8.4 Event permit process

An application for an event permit, must be submitted to the Events Department.

9.3.8.5 Event logistics

Event organizers, e.g. National or Provincial Departments request assistance that the Municipality events department assist them with logistics and planning for events.

9.3.9 Reporting

9.3.9.1 The Events Department will regularly provide reports to Council for supported events.

9.3.10. Guidelines for event support applications

In addition to the guidelines outlined in 9.3.2 of this document, the provision of the following pertinent information will be required in order to assess the reputational and legal risk the Municipality may expose itself to by partnering with an event:

- 9.3.10.1. Company board members and the management teams experience in organizing previous events
- 9.3.10.2 Event track record (if the event was previously organized).
- 9.3.10.3 Any research information, including economic and environmental impact studies.
- 9.3.10.4 Carbon footprint of the event, or an indication of measures to reduce energy demands / waste and to limit the impact on sensitive environments.
- 9.3.10.5 Other event partners, particularly sponsors and media partners.
- 9.3.10.6 The financial model of the event.
- 9.3.10.7 Information on the beneficiaries of the proceeds from the event including whether the fundraising purpose of the event is for profit or not-for-profit.

10. EVENT PERMITS

- 10.1 Events permits are required for hosting events in the Municipal area of Stellenbosch
- 10.2 Event organizers are required to apply for an event permit in terms of the Stellenbosch Municipality Events By-law.
- 10.3 Event organizers are required to apply for an event grading from the South African Police Service.
- 10.4 Event organizers are required to comply with all applicable laws.

11. EVENT APPLICATION TIMEFRAMES

Depending on the size, type, location, date/time, length, event location/s size of venue/s, impact or risk of the event and drawing on any assessment information as required, the following timeframes below will apply:

SIZE	CROWD	MINIMUM TIME TO AN EVENT TO SUBMIT AN APPLICATION TO THE MUNICIPALITY	<u>Appeal to be lodged by Applicant with Municipality within</u>	<u>Appeal to be decided by Stellenbosch Municipality within</u>
Small	50 ¹ to 500	10 working days (2 weeks) ³	24 hours of receipt of written notice	5 working days of receipt of written notice
Medium	500 ¹ – 2 000	20 working days (4 weeks)	24 hours of receipt of written notice	10 working days of receipt of written notice
Large/ Major	2000 ¹ – above	6 months	48 hours of receipt of written notice	20 working days of receipt of written notice

12. INTERNAL –GOVERNMENT CO-ORDINATION

12.1 Inter-governmental participation is required as event organizers often approach more than one sphere of government for support and participation in an event.

12.2 In addition, some Provincial and National Departments such as the Department of Cultural Affairs and Sport, Department of the Premier, Department of Economic Development, Department of Environmental Affairs, WESGRO, Stellenbosch Tourism, Department of Arts and Culture and many others, may provide event organizers with grants towards hosting events in the Municipal area of Stellenbosch

13. EVENT SERVICES

13.1 Municipal hosting departments may need to procure event services in support of events

13.2 Event services include but are not limited to: Fencing, private security, toilets, stage, sound and technical, electrical generators, professional event organizers, safety officers, temporary infrastructure, cleansing and waste management, volunteers, promotional clothing, staff catering, public transport provision, dedicated transport (busses), corporate gifts, venue hire, road closure adverts, road/traffic signage, professional speakers/ programme directors, entertainment and consultants for monitoring and evaluation.

13.3 Event hosting departments may request Municipal services including but not limited to: Law enforcement, traffic services, disaster management, fire services, water,

cleansing, electricity/electrical services, Community Services, poster stickers and lamp pole hiring for event flags.

- 13.4 Event hosting departments may procure event services, provided there is sufficient budget and that it is in alignment with the supply chain management process.

14. THE ROLE OF MUNICIPAL STRUCTURES AND DEPARTMENTS

14.1 Role of the Municipal hosting departments

- 14.1.1 Municipal hosting departments may initiate events
 14.1.2 Hosting departments can organize and project manage events relevant to their functional area, if the events are relevant to their business plans.

14.2 Role of Municipal service departments

- 14.2.1 To ensure that events comply with the applicable legislation.
 14.2.2 To ensure that events are safe.
 14.2.3 To ensure that access to event services is aligned with the Municipality's strategic objectives through accessibility to services.

15. IMPLEMENTATION, EVALUATION AND REVIEW

- 15.1 This policy framework is important for the management of events in the Stellenbosch Municipality. It provides an administrative procedure for the management of events.
 15.2 The events policy will be implemented once approved by Council.
 15.3 Directorates are to advise the Events Department of any blockages within the policy implementation framework.
 15.4 Changes in legislation must be taken into account for future amendments to this policy.
 15.5 Any amendments to this policy must be re-submitted to Council for review and approval.

16. EVENT TARIFFS

- 16.1 Tariffs are levied in terms of Council's budgetary process which is reviewed and approved on an annual basis and in terms of the Events By-law, Chapter 2, Regulation 4 (3).
 16.2 Fines are determined in terms of Council's Events Bylaw to ensure compliance with the Events Bylaw.

7.7.4	FESTIVE SEASON READINESS
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1. PURPOSE OF REPORT

To provide an overview of the organisational readiness for the upcoming festive season starting from November 2016 until February 2017. (See attached plans, **APPENDICES 1- 3**). The plans focus on the deployment of staff and resources in the WC024.

2. BACKGROUND

The Festive Season period, commencing in November 2016 and running well into the New Year, bring increased risk of incidents that could adversely affect public safety as well as the delivery of services by the Stellenbosch Municipality. This is mainly broad about by an influx of visitors and increased leisure activities such as events and festivities during this period.

3. DISCUSSION

The purpose of the Festive Readiness plan is to identify possible public safety and service delivery risks, and to mitigate such risks through appropriate operational and resource planning. Various risks such as road traffic accidents, safety and security at municipal facilities, fires and medical emergencies amongst others has been identified and flagged in the respective operational plans. In the unfortunate event of an unforeseen incident happening, that warrants multiple discipline coordination, a Joint Operations Committee (JOC) meeting will be activated. Our strategy is based on a twenty four hour operational vigilance with the aim of creating a safe environment, preserve life and to protect property.

4. LEGAL IMPLICATION

This item is for noting; hence no legal inputs needed due to the operational nature of the departments' plans.

5. FINANCIAL IMPLICATION

All plans are aligned with the current operational expenditure.

RECOMMENDED

that the organizational readiness plans for the 2016/17 Festive Season, **be noted.**

Meeting: Ref No:	4 th Council: 2016-11-23 17/8/5	Submitted by Directorate: Author: Referred from:	<i>Protection Services Acting Manager: Disaster Management Mayco: 2016-11-16</i>
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7.7.4

FESTIVE SEASON READINESS

APPENDIX 1

FIRE SERVICES AND DISASTER MANAGEMENT

1. Purpose

To inform Council of the operational readiness of the emergency services comprising of fire operations, fire prevention and disaster management sections, to be able to deal with the challenges that could be encountered during the coming summer festive season.

2. Fire Operations section

This section can be called upon for all major incidents will attend to emergency and non-emergency incidents and inspections in the WC024 area. These fire fighters will be on duty per shift and available on a 24 hourly basis at the two fire stations across the town. The department strives to increase its inspections to festivities and venues to ensure compliance with safety regulations. The Memorandum of Understanding and close collaboration with the CWDM, neighbouring municipalities, Wildfire and WOF will be honoured to ensure that all the incidents will be attended too.

Resources

Personnel on duty daily	14
Personnel on standby	6
Personnel available	20
Vehicles available	2x rescue/6 heavy fire fighting/2 light/4 sedans
Equipment available	2x Portable pumps, other mopping up equipment 1x canoe, 1x wetrok, 2 mobile generators

3. Fire prevention section

This section takes a proactive approach in reducing the potential hazards and risks of fire through inspections and enforcement codes, standards and regulations which are designed to provide preventative measures to reduce the start and spread of fire.

Personnel on duty daily	2
Personnel on standby	0
Vehicles	2

4. Disaster management

Disaster management will coordinate major incidents or disastrous incidents in accordance with the municipal disaster management plan. The response and recovery division is comprised of a mix group of professional and non-professional personnel dedicated to carrying out and coordinating all disaster assistance components. These include, but are not limited, hazard mitigation, public assistance, emergency response. If the need arises, the Disaster Operation Centre (DOC) can be set up at the Fire station or at Law enforcement, from where major events or incidents can be monitored. Sufficient fire and flood kits will be stored and readily available if needed.

Personnel on duty daily	3 plus 8 temporary field workers
Personnel on standby	1
Vehicles	2
Resources	Flood kits, fire kits, gas fryers

5. Response programs/Auxiliary services

5.1 Emergency broadcast

In the unlikely event of an impending flooding or emergency that warrants immediate evacuation, the community can be notified through the followings means:

- Loud hailing
- Matie FM
- Sirens from emergency vehicles
- Sms

5.2 Community emergency preparedness

Through the involvement of the Chaplaincy of the Western Cape, the resident local chaplain has actively rallied the community to assist in providing logistical support during emergency operations. They are also known as the “Friends of the Fire Services” and they will:

- Provide administrative assistance
- Collect and coordinate emergency food and stock supplies
- Assist with dissemination of information
- See to the well-being of emergency workers

6. 24 Hour Emergency contact numbers

Emergency centre	Control room operator	021 8088888
Operational Heads (Fire)	Head: Fire Operations	0826477587
Shezayd Seigels	Head: Disaster management	0820504834
Wayne Smith	Chief: Fire and Disaster	0714437337
Gerald Esau	Director: Community & Protection Services	0824744268
Daniel Solomon	Chaplain: Emergency Services	0826863205

7.7.4

FESTIVE SEASON READINESS

APPENDIX 2

LAW ENFORCEMENT

1. Introduction

Stellenbosch Municipality is located in the heart of the Cape Winelands region. It is situated about 50 km from Cape Town and is flanked by the N1 and N2 National Routes. The Municipal area covers approximately 900 square km and has a population of approximately 270 000 people and a 602 km road network.

The Municipality's area of jurisdiction includes the town of Stellenbosch and stretches past Jamestown to as far as Raithby in the South to Bottelary, Koelenhof, and Klappmuts to the North, and over Helshoogte Pass to Pniel, Kylemore, Groendal and Franschoek in the East. Apart from all formal residential areas within WC024, the Municipal area also includes a number of informal settlements.

"Making Safety everyone's responsibility" is one of our main objectives to ensure a safer WC024 area.

2. Situation

The festive season results in an influx of tourists and visitors to the Stellenbosch and Franschoek areas and its numerous tourist attractions and places of interest.

The increase in visitors and tourists increases the opportunities for criminal activities. These criminal activities are coupled with drug trafficking, use of drugs, violent crimes and alcohol abuse.

3. Mission

Through multi-disciplinary, integrated planning and co-operative governance, maintain a zero tolerance approach towards achieving a safer environment for all residents of/ and visitors to the Greater Stellenbosch Municipal area.

4. Threats

In terms of an Integrated Crime Prevention Strategy our focus will be on the following:

By-law offences;

- Drinking in public
- Drunk in public
- Public open spaces
- Urinating in public
- Illegal hawking
- Illegal dumping
- Noise nuisances
- Illegal advertising
- Loitering and begging

- Vagrants
- Land invasion
- Unsafe Municipal rental stock in specific areas
- Monitoring of dangerous dogs
- Riotous behaviour
- Illegal fireworks discharge
- Monitoring of pubs for compliance in conjunction with SAPS/ Fire Department/ Liquor Board Inspectorate

5. Operational Focus

Our operational focus will be to create a sense of safety amongst our communities and visitors as identified as a key need during the IDP public engagements. This initiative, together with our safety partners, through the Stellenbosch Safety Initiative (SSI) will be realised through the efficient deployment of Law Enforcement Officials during the festive season period and beyond.

6. Main Focus Areas (Law Enforcement)

- Land Invasion
 - Kayamandi
 - Langrug
 - Mandela City Klapmuts
 - Jamestown
 - Vlottenburg
 - Cloetesville/ Idas Valley
 - Kylemore/ Lanquedoc
 - La Motte
 - And all public open spaces
- Access control/ safeguarding
 - All Council buildings
 - Beltana
- Enforcement of By-laws
 - Stellenbosch CBD
 - Franschhoek CBD
 - Eersteriver Riverbank
 - All other areas
- High visibility foot and vehicle patrols
- Vagrants in all areas
- Informal trading

- Public Facilities
 - Jan Marais Park
 - Jonkershoek Picnic Area
 - Cloetesville Swimming Pool
 - Kayamandi Corridor
 - Mooiwater Building
 - Cultural Initiations
 - Idas Valley Dam Area
 - Franschhoek Area
 - Kayamandi Area
 - Onder-Papegaaiberg

- Dangerous dog monitoring in residential areas
 - Idas Valley
 - Cloetesville
 - Kayamandi
 - Klapmuts
 - Franschhoek
 - Jamestown
 - Kylemore and Pniel
 - La Motte/ Lanquedoc

- CCTV Monitoring
 - Suspicious behaviour/ vehicles
 - Begging and loitering
 - Criminal activities
 - Illegal gatherings

- VIP Protection
 - As and when needed by instruction of Director: Community & Protection Services

- Protection of staff
 - On request in high risk areas

- Priority days
 - 3 and 4 December 2016 – Annual Festival of Lights (Switching on of festive lights by Executive Mayor)

- 1 and 2 January 2017 – Additional Law Enforcement Officers on duty to assist with control of visitors to;
 - Jonkershoek Picnic Site
 - Cloetesville Swimming Pool

7. Transport/ Vehicles

- 5x LDV's (4x4)
- 1x Off Road Specialized 4x4
- 4x LDV's
- 2x Caddy's (7 seater)
- 2x Sedan's
- 2x Quad Bikes
- 2x Mobile Safety Kiosks

8. Communication

- Whatsapp to Management team and Mayco
- All disciplines will use the Law Enforcement radio channel
- In emergencies all staff will use the Public Safety channel as directed by Head: Law Enforcement
- Radio – Operational team

9. Deployment

- An operational deployment roster will be compiled by the Head: Law Enforcement and provided to the Director: Community & Protection Services
- Safety kiosk to be deployed on a daily basis at strategic hotspot areas

10. Command and Control

The following will apply:

- All members to be dressed accordingly in full uniform, albeit, step outs or combat unless otherwise stated. This shall include all relevant issued equipment, bullet proof vests, reflective gear and rain gear (if applicable)
- All execution of duties shall be in accordance with applicable laws
- Statistics must be compiled and forwarded to the Head: Law Enforcement on a weekly basis

11. Events during Festive Season (1 December 2016 – 15 January 2017)

- | | |
|--|---------------------|
| • Funderland Fare | 3 December 2016 |
| • Stellenbosch Cycle Tour | 4 December 2016 |
| • Stellenbosch Festival of Lights 2016 | 3 & 4 December 2016 |
| • Franschhoek Capclassique | 3 & 4 December 2016 |
| • PennyPinchers Origins Of Trails | 3 & 4 December 2016 |
| • Candy Run 2016 | 16 December 2016 |

12. Stakeholders/ Partners involvement

- Safety Forum
 - Stellenbosch Safety Initiative (SSI)
 - SAPS
 - US Campus Control
 - Traffic
 - Law Enforcement
 - Fire & Disaster
 - Thorburn
 - ADT
 - ABC/ AM Security
 - Stellenbosch Watch
 - USC Security
 - Southern Cross Security

13. Contact Personnel – Law Enforcement:

ROLE PLAYERS

COMMUNITY & PROTECTION SERVICES:

Overall in command: Director Gerald Esau
Contact No: 082 474 4268

ACTING MANAGER LAW ENFORCEMENT

Neville Langenhoven
Contact number 021 808 8441
Cellular 084 506 50605

HEAD: LAW ENFORCEMENT

Mr CM Thorpe
Contact No: 021 808 8901
Cellular No: 082 381 5555

HEAD: DISASTER MANAGEMENT

Ms Shezayd Seigels
Contact No: 021 808 8878
Cellular No: 082 050 4834

HEAD: TRAFFIC LAW ENFORCEMENT

Ms Lizelle Stroeel
Contact No: 021 808 8838
Cellular No: 082 927 1010

MANAGER: TRAFFIC SERVICES

Ms Janine Waldis

Contact No: 021 808 8815

Cellular No: 082 324 8354

MANAGER: FIRE & DISASTER MANAGEMENT

Mr Wayne Smith

Contact No: 021 808 8771

Cellular No: 071 443 7337

SAPS Stations Telephone Numbers	
Stellenbosch	021 809 5000
Kayamandi	021 889 5761
Cloeteville	021 888 5940
Klapmuts	021 875 8000
Groot Drakenstein	021 874 8000
Franschhoek	021 876 8061
Somerset West	021 850 1300

7.7.4

FESTIVE SEASON READINESS

APPENDIX 3

TRAFFIC SERVICES

1. Overview -

During the Festive Season all major routes through Stellenbosch become an access route to beaches and surrounding towns which increases vehicle and pedestrian traffic.

During this period, foreign visitors to the town increases as well as holiday makers from the rest of the country, placing a higher risk in crime opportunities and traffic volumes.

This integrated operational plan reflects on traffic law enforcement operations, communication and road safety initiatives during the festive season 2016/17.

It includes operational implementation and reports on roadside activities on all National, Provincial and the general road network in and surrounding WC 024.

The objective is to contribute to a reduction in road crashes, fatalities and trauma during this heightened period of celebrations and festivities.

Road fatalities and injuries are sudden, violent and traumatic events and the impact is long-lasting and often permanent.

The grief and distress experienced by huge number of people is all the greater because many of the victims are young and many of the crashes could and should have been prevented.

2. Operational focus areas/actions

- Pedestrians: *Jaywalking, Pedestrians disregarding road traffic signals, Drinking and walking, Pedestrian Visibility, Pedestrians after Sunset*
- Visible Traffic Policing patrols
- Vehicle Check Points - *Driver Fitness, Vehicle Fitness*
- K78 Operations
- Inter-Provincial Corridor Operations
- Speed Enforcement Operations
- Overload Control Management
- Public Transport Operations
- Moving Violations
- Fatigue Awareness Operations
- ANPR
- Driving under the influence of alcohol/drugs
- Commuter Safety
- Moving Violations
- Transportation of Illegal Substances, Illicit Cigarettes, Marine Products
- Distracted Driving
- Failure to use seatbelts/restraints

3. Operational partners

- South African Police Services – SAPS
- Emergency Medical Services – EMS
- Road Traffic Management Corporation – RTMC

- Department of Community Safety – DoCS
- National Prosecuting Authority – NPA
- Provincial Regulatory Entity – PRE
- Fire/Disaster Management
- Municipal Law Enforcement
- Road Safety Practitioners
- SANTACO

4. Operational coordination

- Traffic Chiefs Forum – TCF
- District Road Traffic Management Coordinating Committees – DRTMCC’s
- Provincial Road Traffic Management Coordinating Committee – PRTMCC
- Road Traffic Management Corporation – RTMC
- Law Enforcement Work Group – Law Enforcement Sub-working group
- Chief Director: Traffic Management
- Director: Traffic Law Enforcement
- Safely Home – Calendar
- SAPS – Prov Joints
- SAPS – Local/Clusters

5. Staff deployment strategy – (Operational plans per unit implemented)

- Intelligent deployment “With a Purpose”
- Officer Safety – Operational readiness (Buddy system)
- Shift Briefing and de-Briefing
- Operational Visits – Supervisors
- Monitoring and Evaluation – Operational Activities
- Integrated Operations
- Priority Deployment
- Operational Readiness (Accident Response Unit, Public Transport Unit, Speed & Electronic Enforcement Unit and operational traffic law enforcement shifts x 3)
- Operational staff – Information Sessions

6. Operational threats

- Natural Disasters
- Road Closures
- Traffic Volumes
- Stray Animals
- End of year parties
- Civil Disobedience/Protests
- Veld Fires
- Festive season challenges –
- School Closure
- Industry Closure
- Public Transport Operations

- Matric Results
- Pedestrian Safety
- Festivities
- Excessive Speed
- Driving under the influence of alcohol and Drugs
- Reckless and Negligent Driving
- Illegal Street Racing
- New Year's Events

7. Hazloc/routes

- R44 South – Holiday Makers

Traffic Congestion / Speed /Inconsiderate driving/ Pedestrian Safety

- R45

Speed / Pedestrian Safety / Moving Violations

- R304 & Bottelary Rd

Speed/Moving Violations / Pedestrian safety/ Public transport

- R310 Helshoogte

Speed/ Moving violations

8. Contact details

Director Community & Protection Services: Gerald Esau		
Contact Details	Land Line:	021 – 808 8437
	Cell No:	082 474 4268
	Fax No:	021 – 883 2054
	E-mail:	gerald.esau@stellenbosch.gov.za
Manager Traffic Services: Janine Waldis		
Contact Details	Land Line:	021 – 808 8815
	Cell No:	082 324 8354
	Fax No:	021 – 883 2054
	E-mail:	janine.waldis@stellenbosch.gov.za
Head Traffic Law Enforcement Lizelle Stroebel (Traffic Services)		
Contact Details	Land Line:	021 – 808 8838
	Cell No:	082 927 1010
	Fax No:	021 – 883 2054
	E-mail:	lizelle.stroebel@stellenbosch.gov.za
Superintendent Anthony Herring (Traffic Services)		
Contact Details	Land Line:	021 – 808 8812
	Cell No:	072 190 5155

	Fax No:	021 – 883 2054
	E-mail:	anthony.herring@ Stellenbosch.gov.za
Superintendent Hermien Swanepoel (Traffic Services)		
Contact Details	Land Line:	021 – 808 8824
	Cell No:	082 662 2244
	Fax No:	021 – 883 2054
	E-mail:	hermien.swanepoel@ Stellenbosch.gov.za
Manager Fire Services: Wayne Smith		
Contact Details	Land Line:	021 – 808 8771
	Cell No:	071 443 7337
	Fax No:	021 – 883 3200
	E-mail:	wayne.smith@ Stellenbosch.gov.za
Head Disaster Management: Shezayd Seigels		
Contact Details	Land Line:	021 – 808 8888
	Cell No:	082 050 4834
	Fax No:	086 574 6470
	E-mail:	shezayd.seigels@ Stellenbosch.gov.za
Communications: Vernon Bowers		
Contact Details	Land Line:	021 – 808 8172
	Cell No:	084 593 6491
	Fax No:	086 644 9528
	E-mail:	vernon.bowers@ Stellenbosch.gov.za
Stellenbosch Municipality Control Room		
Contact Details	Land Line:	021 – 808 8890/1
Cape Winelands Fire Services: Control Room		
Contact Details	Land Line	021 – 887 4446/888 5275
Cape Winelands Disaster Management: Shaun Minnies		
Contact Details	Land Line:	021 – 888 5143/888 5837
	Cell No:	082 779 9823
	Fax No:	021 – 886 7250
	E-mail:	shaunminnies@ capewinelands.gov.za
SAPS: Control Room – Col Govender		
Contact Details	Land Line:	021 – 809 5012/5015
	Cell No:	082 469 0852
SAPS: Control Room Cloetesville		
Contact Details	Land Line:	021 – 888 5940
SAPS: Control Room Franschoek		
Contact Details	Land Line:	021 – 876 8061
SAPS: Control Room Groot Drakenstein		
Contact Details	Land Line:	021 – 874 8019
SAPS: Control Room Klappmuts		
Contact Details	Land Line:	021 – 875 8000
SAPS: Control Room Somerset West		
Contact Details	Land Line:	021 – 850 1303
SAPS: Control Room Kayamandi		
Contact Details	Land Line:	021 – 889 5761

Ambulance Services: Control Room (Goodwood)		
Contact Details	Land Line:	021 – 937 0500
Metro: Control Room		
Contact Details	Land Line:	021 – 948 9900
Provincial Disaster Management JOC: Control Room		
Contact Details	Land Line:	021 – 937 0810
	Fax No:	021 – 931 9031
PAWC (District Health): Denise Johnson		
	Cell No:	084 953 6659
Acting Manager Law Enforcement: Neville Langenhoven		
Contact Details	Land Line:	021 – 808 8441
	Cell No:	084 506 5060
	Fax No:	021 – 808 8182
	E-mail:	neville.langenhoven@ Stellenbosch.gov.za
Head Law Enforcement: Cedric Thorpe		
Contact Details	Land Line:	021 – 808 8937
	Cell No:	082 381 5555
	Fax No:	021 – 808 8182
	E-mail:	cedric.thorpe@ Stellenbosch.gov.za

COMMUNITY SERVICES

SPORTS AND FACILITIES

1. INTRODUCTION

Cloetesville Swimming Pool is a community pool that is situated in Curry Street, Cloetesville in Stellenbosch. The area is about 1 hectare in size.

The Swimming Pool is managed by the Sports and Facilities Department and caters mostly for the communities of the Cloetesville and Kayamandi areas.

The pool can accommodate up to three hundred and fifty (350) people.

2. SITUATION

With the school holidays, year-end functions, festive and summer season, the pool is daily utilized by visitors who want to utilize the pool. The lack of recreational facilities leads to the over utilisation and over-crowding of the pool. This result in less people being able to travel and visit beaches due to the increase in the economy. Therefore more people use the opportunity to visit the local public Swimming Pool.

Due to this, the pool is often over utilized which send out panic alerts because of possible drowning that can happen. The appointment of lifesavers is also a problem due to budget constraints. There is also the possibility of visitors who is under the influence of substance abuse which is not always easy to control. The racial issue is a huge concern because of the diversity of the patrons using the facility.

3. MISSION

- The Department will formulate performance management standards to measure the use and output of our facilities.
- To provide formal sports participation opportunities through an integrated and sustainable club structure that is endorsed by their Sports Councils.

4. THREATS

Over-crowding and utilisation
 Gangsterism and violent attacks on staff
 Armed robbery on staff and public
 Vandalism and theft
 Racial issues
 Possible drowning
 Public drinking and substance abuse
 Undesirable water quality
 Venomous snakes entering the premises
 Sexual harassment
 Lack of competent and sustainable security

5. OPERATIONAL FOCUS

Cloetesville Swimming Pool

To promote a safe, clean, green and healthy environment, in which the citizens and visitors to the Greater Stellenbosch prefers to live and do business.

To ensure that the pump room is operated by a person equipped with the necessary skills and knowledge to maintain good water quality.

6. MAIN FOCUS AREAS

Main pool

Kiddies pool

Entrances

Pay office

Toilets / showers

Pump room

Security room

Braai spots

7. TRANSPORT / VEHICLES

One vehicle available over weekends.

Standby vehicle to transport workers after hours.

8. COMMUNICATION

Cell phones

9. DEPLOYMENT

An operational deployment roster will be compiled by the superintendent and supervisor sports.

Seasonal:

Lifesavers

Cleaners

Cashiers

Permanent staff:

Supervisors

Standby personnel

10. COMMAND AND CONTROL

All staff will be issued with the necessary identified uniform.

11. EVENTS DURING FESTIVE SEASON

Events	Dates
Family reunion application	26/11/2016
Ward year end function application	16/12/2016
Religious group application	26/12/2016

12. CONTACT PERSONNEL – SPORTS AND FACILITIES MANAGEMENT**ROLE PLAYERS****COMMUNITY AND PROTECTION SERVICES:**

Overall in command: Director Gerald Esau

Office number: 0824744268

Cellular: 021-8088437

ACTING MANAGER: COMMUNITY SERVICES

Garth Abrahams

Office number: 021-8088161

Cellular: 0716322630

HEAD: SPORTS AND FACILITIES

Garth Abrahams

Office number: 021-8088161

Cellular: 0716322630

SUPERINTENDENTL: SPORTS

Andre Gabriels

Office number: 021-8088163/8295

Cellular: 0827279705

SPORTS AND FACILITIES OFFICES

SWIMMING POOL

Office number: 021 889 6316

SPORTS OFFICE

021-8088295 / 021-8088166

8.

**ACTING MUNICIPAL
MANAGER**

MR R BOSMAN

7.8	YOUTH, SPORTS AND CULTURE: [PC: XL MDEMKA (MS)]
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NONE

8.	CONSIDERATION OF REPORTS, COMMUNICATIONS, PETITIONS AND APPLICATIONS SUBMITTED BY THE MUNICIPAL MANAGER
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8.1	SCHEDULE OF MEETINGS OF COUNCIL AND MAYORAL COMMITTEE FOR 2017
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1. PURPOSE OF REPORT

To obtain Council's approval of the schedule of meetings of Council and the Mayoral Committee for 2017.

2. BACKGROUND

Section 19 of the Local Government: Municipal Systems Act, 32 of 2000 stipulates that:

"The municipal manager of a municipality must give notice to the public, in a manner determined by the municipal council, of the time, date and venue of every -

- (a) *ordinary meeting of the council; and*
- (b) *special or urgent meeting of the council, except when time constraints make this impossible."*

Furthermore, the By-Law on the Rules of Order of Stellenbosch Council stipulates, in Rule 6, as follows:

"6. Notice of Meetings

- 6.1 The Speaker must determine the date, time and venue of meetings of the Municipal Council, and must ensure that such meetings take place at least quarterly.*
- 6.2 A separate Special Meeting of Council shall be called to approve the Annual Budget.*

3. DISCUSSION

The By-Law on the Rules of Order of Stellenbosch Council mandates the Speaker to inform all Councillors of the dates of Council meetings for the ensuing year. These Rules of Order also apply to Committees of Council.

The general pattern for setting up the monthly cycle of dates is as follows: the Mayco meeting is on the 3rd Wednesday of the month, and Council meets every last Wednesday of the month.

The draft schedule of meetings attached as **APPENDIX 1** proposes the meeting dates and times of Council and the Mayoral Committee.

RECOMMENDED

- (a) that the schedule of meetings for 2017, be approved; and
- (b) that the Municipal Manager be mandated to give notice to the wider public of the time, date and venue of the said meetings in compliance with Section 19 of the Local Government: Municipal Systems Act, 32 of 2000.

Meeting: Ref No:	<i>Council: 2016-11-23 3/4/1/1</i>	Submitted by Directorate: Author: Referred from:	<i>Office of the Municipal Manager Acting Director: Corporate & Strategic Services</i>
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SCHEDULE OF COUNCIL & MAYORAL COMMITTEE MEETINGS FOR 2017:

DATE	DAY	MEETING	TIME
RECESS: 06 DEC 2016 – 08 JAN 2017			
<u>January cycle</u>			
18 January	Wednesday	Mayoral Committee	10:00
25 January	Wednesday	5 th Council	10:00
<u>February cycle</u>			
15 February	Wednesday	Mayoral Committee	10:00
22 February	Wednesday	6 th Council	10:00
<u>March cycle</u>			
TUESDAY 21 MARCH: HUMAN RIGHTS DAY			
22 March	Wednesday	Mayoral Committee	10:00
29 March	Wednesday	7 th Council	10:00
<u>April cycle</u>			
FRIDAY 14 APRIL: GOOD FRIDAY			
MONDAY 17 APRIL: FAMILY DAY			
19 April	Wednesday	Mayoral Committee	10:00
26 April	Wednesday	8 th Council	10:00
THURSDAY 27 APRIL: FREEDOM DAY			
<u>May cycle</u>			
MONDAY 01 MAY: WORKERS' DAY			
17 May	Wednesday	Mayoral Committee	10:00
24 May	Wednesday	9 th Council	10:00

SCHEDULE OF COUNCIL & MAYORAL COMMITTEE MEETINGS FOR 2017:

<u>June cycle</u>			
FRIDAY 16 JUNE: YOUTH DAY			
21 June	Wednesday	Mayoral Committee	10:00
28 June	Wednesday	10 th Council	10:00
<u>July cycle</u>			
19 July	Wednesday	Mayoral Committee	10:00
26 July	Wednesday	11 th Council	10:00
<u>August cycle</u>			
WEDNESDAY 09 AUGUST: WOMEN'S DAY			
16 August	Wednesday	Mayoral Committee	10:00
23 August	Wednesday	12 th Council	10:00
<u>September cycle</u>			
20 September	Wednesday	Mayoral Committee	10:00
SUNDAY 24 / MONDAY 25 SEPTEMBER: HERITAGE DAY			
27 September	Wednesday	13 th Council	10:00
<u>October cycle</u>			
18 October	Wednesday	Mayoral Committee	10:00
25 October	Wednesday	14 th Council	10:00
<u>November cycle</u>			
22 November	Wednesday	Mayoral Committee	10:00
29 November	Wednesday	15 th Council	10:00

8.2	ACTING ARRANGEMENTS IN THE ABSENCE OF THE EXECUTIVE MAYOR AND DEPUTY EXECUTIVE MAYOR
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1. PURPOSE OF REPORT

For Council to approve the nomination of an Acting Executive Mayor in the absence of the Executive Mayor and the Deputy Executive Mayor.

2. BACKGROUND

The standard legal practice for the acting arrangements of the Executive Mayor is that the Deputy Executive Mayor exercises the powers and performs the duties of the Executive Mayor if the Executive Mayor is absent or not available.

It can however be anticipated that there will be occasions when the Executive Mayor and Deputy Executive Mayor will be away from office at the same time.

In order to therefore proactively put measures in place to deal with instances as described above, it will be prudent for Council to consider a nomination of an Acting Executive Mayor to act in these instances.

RECOMMENDED

that Council nominates Councillor PW Biscombe (Portfolio Chairperson: Human Settlements) to act as Executive Mayor in the absence of the Executive Mayor and Deputy Executive Mayor.

Meeting: Ref No:	4 th Council: 2016-11-23 4/4/1	Submitted by Directorate: Author: Referred from:	<i>Office of the Municipal Manager Acting MM: (R Bosman)</i>
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8.3	FIXING OF CONTRAVENTION LEVY IN TERMS OF SECTION 40(3) OF THE LAND USE PLANNING ORDINANCE 15 OF 1985 IN RESPECT OF THE FARM NO 1353/1, PAARL DIVISION AS WELL AS THE DETERMINATION OF A DEEMED ZONING IN TERMS OF SECTION 40(4)(C) OF THE LAND USE PLANNING ORDINANCE 15 OF 1985
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1. PURPOSE OF THE REPORT

This report was compiled by the Manager: Land Use Management (the Manager) to be considered by Council after re-consideration for the following matters:

- 1.1. The fixing of a Contravention Levy in terms of Section 40(3) of the Land Use Planning Ordinance No. 15 of 1985 (the "LUPO") payable by the owner (Brashville Properties 51 (Pty - "Brashville") Ltd) of Farm No. 1353/1, Paarl Division (the "Property").
- 1.2. The determination of a deemed zoning of a portion of the Property in terms of section 40(4)(c) of the LUPO.

2. BACKGROUND

The factual background to this matter will be evident for the members of the COUNCIL from the **APPENDICES** available for perusal and the members are requested to have due and proper regard to all the appendices. It should be noted that although appendices 1 to 7 are not referred to in the body of this document under the section background, such appendices still form an integral part of this report.

Summary of the background to this report is recorded in the paragraphs below:

- 2.1 On 28 April 2009, the Provincial Minister for Local Government, Environmental Affairs and Development Planning ("the MEC") approved Brashville's application for rezoning in terms of Sections 16 and 42 of the LUPO, ("rezoning approval") subject to inter alia the following conditions:

"2.1 the approval applies only to the rezoning in question, as indicated on the proposed site development plan attached, and shall not be construed as authority to depart from any other legal prescriptions or requirements.

2.11...all final building plans be submitted to the Franschhoek Aesthetic Committee [FAC], or any similar body nominated by Council, for recommendation before submission to council for approval."

- 2.2 On 7 December 2009, Brashville applied to the Municipality for an amendment to the MEC's conditions of approval, in terms of section 42(3)(a) of LUPO, "so as to amend the Site Development Plan (SDP) previously approved to allow for the expansion of the guesthouse on the property". The SCA observed in this regard that Brashville now sought to erect six self-standing structures which would give it ten

additional suites and that the revised site development plan thus differed entirely from the original one.

- 2.3 On 8 December 2009, Brashville commenced clearing the relevant site on the farm in preparation for construction works in accordance with the revised SDP.
- 2.4 On 18 December 2009, the Municipality purported to amend the MEC's condition of rezoning by substituting the original site development plan with an amended site development plan. On the same day, however, the Municipality served an "illegal building / cease works order" on Brashville for want of approved building plans. The notice instructed Brashville to submit building plans for approval within 30 days and to cease building operations. On 4 January 2010, Brashville undertook to stop operations until the plans had been approved.
- 2.5 Brashville thereafter submitted building plans to the Municipality, on 6 January 2010, which was approved on 12 January 2010 ("the first building plan decision").
- 2.6 On 22 January 2010, the legal representative for Jean-Phillipe Colmant (the owner of Portion 1 of the Farm No. 1447, situated in the Municipality for Stellenbosch, Division Paarl), Anne Gillian Stone (the owner of Portion 3 of Farm No. 1643, situated in the Municipality for Stellenbosch, Division Paarl) and La Bourgogne Farm (Pty) Ltd (the owner of Farm 1106 and Portion 3 of Farm 1654 in the Municipality Stellenbosch, Division Paarl) (hereinafter referred to as "the Applicants") launched urgent interdict proceedings in the Western Cape High Court in order to interdict Brashville from continuing with further building work on the farm ("the first interdict application").
- 2.7 On 28 January 2010, and pursuant to the first interdict application, Brashville agreed to not undertake further building work without providing the Applicants with one month's prior notice, and to apply to the Provincial Minister for an amendment of the conditions of the rezoning approval (in order to construct the guest houses in terms of an amended site development plan), alternatively, for the rezoning of the farm.
- 2.8 Brashville thereafter made an application to the MEC for the amendment of the relevant condition of approval, alternatively, for rezoning. The MEC refused this application, and stated by letter dated 25 March 2011 that the Municipality should advise Brashville to apply for a contravention levy in terms of section 40 of LUPO for the structures already constructed on the farm. The Municipality thereafter instructed Brashville to apply for a contravention levy ("the contravention levy decision").
- 2.9 Brashville paid a contravention levy in the amount of R51 910,08, to the Municipality, and on 20 July 2011, the Municipality approved and/or reinstated Brashville's building plans ("the second building plan decision").
- 2.10 On 25 July 2011, Brashville allegedly commenced with building work, but, however, failed to give the Applicants one month's notice of its intention to commence, as required by the order taken by agreement

pursuant to the first interdict application. Brashville thereafter advised that it would commence with building work on 25 August 2011.

- 2.11 On 25 August 2011, the Applicants launched an application for a final interdict, and for an interim interdict pending a review application to be instituted in due course ("the second interdict application"). The Applicants elected not to persist with the second interdict application, as they considered the building work on the farm to have advanced too far, and instead focused on the review application.
- 2.12 The Applicants' review application was heard on 9 October 2011 in the Western Cape High Court and judgment was thereafter granted in favour of the Applicants.
- 2.13 Brashville appealed to the SCA in respect of the following three decisions of the Municipality which the Western Cape High Court had set aside:
- The approval of Brashville's building plans on 12 January 2010 (i.e. the first building plan decision).
 - The decision of the Municipality to instruct Brashville to apply for the determination of a contravention levy (i.e. the contravention levy decision).
 - The decision taken by the Municipality on 20 July 2011 to re-approve Brashville's building plans following payment of the contravention levy (i.e. the second building plan decision).
- 2.14 The SCA handed down judgment on 6 May 2014 and held inter alia as follows:
- The first building plan decision was challenged on the basis that inter alia there was no compliance with condition 2.11 of the Provincial Minister's rezoning approval. The Municipality failed to ensure that the original condition, viz, the submission of plans to the Franschhoek Aesthetics Committee [replaced by the PAC], was fulfilled. As this condition was peremptory, the first building plan decision fell to be set aside.
 - The Municipality's decision to instruct Brashville to apply for a contravention levy was pursuant to an instruction the Municipality received from the MEC, and that the Municipality did not apply its mind to the legal alternatives prescribed by section 40 of LUPO. The contravention levy decision was set aside on this basis.
 - Both the Municipality and Brashville conceded that if the contravention levy decision was set aside, then the second building plan decision must also be set aside. The SCA found this concession to have been properly made.
- 2.15 On 16 January 2015 the Director: Planning and Economic Development considered an Application (on CD as **APPENDIX 8**) in terms of Section 40(1)(a) of the LUPO, that allows the Municipality to exercise its discretion and decide whether it will instruct the owner to rectify the contravention or to submit an application for the

determination of a contravention levy on or to apply for a departure on the Property the report dated the 16th of January 2015 deals with all the relevant information which assisted the Director: Planning & Economic Development to take all relevant factors into consideration and to exercise his discretion to instruct Brashville to apply for the determination of a contravention levy.

- 2.16 The decision from the Director that Brashville must apply for a contravention levy was conveyed to them by registered mail dated 21 January 2015 (on CD as **APPENDIX 9**).
- 2.17 Werksmans Attorneys (“Werksmans”) who represented Jean-Phillipe Colmant (the owner of Portion 1 of the Farm No. 1447, Paarl Division), Anne Gillian Stone (the owner of Portion 3 of Farm No. 1643, Paarl Division) and La Bourgogne Farm (Pty) Ltd (the owner of Farm 1106 and Portion 3 of Farm 1654, Paarl Division) was also notified per registered mail, dated 21 January 2015, of the instruction to Brashville properties to apply for the determination of a contravention levy (on CD as **APPENDIX 10**).
- 2.18 On 10 February 2015, Mr J P du Plessis from Du Plessis, Hofmeyr, Malan Land and Law specialists (“du Plessis”), Brashville’s attorney, responded in writing to the decision of the Director: Planning and Economic Development. The said letter contained an application for determination of payment of a contravention levy of R100,00 (one hundred rand). (distributed on CD as **APPENDIX 11**).
- 2.19 On 9 April 2015 and 13 July 2015 (“Werksmans”) requested written reasons explaining the justification for allowing Brashville to apply for a contravention levy determination as well as clarification on the procedures followed to reach the decision. (distributed on CD as **APPENDIX 12**).
- 2.20 On 8 July 2015, Mr JP du Plessis from Du Plessis expressed their concern on the letter from Werksmans. (distributed on CD as **APPENDIX 13**).
- 2.21 On 15 July 2015, the Director: Planning and Economic Development replied in writing with additional further comments to Werksmans explaining the reasons for the determination of the contravention levy for portion 1 of the Farm 1353, Paarl Division of Brashville Properties (Pty) Ltd. (distributed on CD as **APPENDIX 14**).
- 2.22 The application of Brashville for the determination of a contravention levy was internally processed by the Municipality, during which process certain concerns were raised regarding the incidental legal complexities, including the factors and criteria to be considered by Council when determining the amount of a contravention levy and the basis upon which Council must determine a deemed zoning as envisaged in terms of Section 40(4)(c) of LUPO.
- 2.23 Due to concerns regarding the incidental legal complexities of the matters at hand, it was decided by the Municipality to appoint Smith Tabata Buchanan Boyes (“STBB”) to provide legal assistance. Such appointment was done in the course of April 2016.

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- 2.24 On 22 June 2016 Werksmans addressed a letter to the Director: Planning and Economic Development of the Stellenbosch Municipality in which their concerns regarding the matter was set out in some detail. (distributed on CD as **APPENDIX 15**).
- 2.25 On 14 July 2016 Mr Truter of Werksmans addressed an email to Mr Swart of STBB in which he set out the grievances of his client pertaining to the matter. (distributed on CD as **APPENDIX 16**).
- 2.26 On 25 July 2016 STBB on behalf of the Municipality sent out a Compliance Notice to the land owner regarding unlawful uses on the Property. (distributed on CD as **APPENDIX 17**).
- 2.27 On 10 August 2016 Du Plessis a letter to STBB in which they set out the position of the land owner with regard to the issues at hand. (distributed on CD as **APPENDIX 18**).
- 2.28 On 17 August 2016 STBB addressed a letter to Du Plessis referring to the Municipality's Compliance Notice dated 25 July 2016. (distributed on CD as **APPENDIX 19**).
- 2.29 On 1 September 2016 Du Plessis addressed further correspondence to STBB regarding the position of its client. (distributed on CD as **APPENDIX 20**).
- 2.30 On 9 September 2016 STBB addressed a letter to inter alia Werksmans as well as other interested and affected parties, granting such parties the opportunity to make representations regarding the deemed zoning. (distributed on CD as **APPENDIX 21**).
- 2.31 On 21 September 2016 Du Plessis addressed certain correspondence to STBB regarding their client's land use on the relevant property. (distributed on CD as **APPENDIX 22**).
- 2.32 Comments were received from interested and effected parties (distributed on CD as **APPENDIX 23**).

3. ITEMS FOR CONSIDERATION

- 3.1 On 8 November 2015 COUNCIL resolved that this matter be referred back to the COUNCIL after outstanding information has been obtained.
- 3.2 The COUNCIL must make a recommendation to the Municipal Council regarding the determination of the amount of the Contravention Levy payable by the owner of the Farm No. 1353/1, Paarl Division as envisaged in terms of Section 40(3)(a) of LUPO.
- 3.3 The COUNCIL must also make a recommendation to Council regarding the determination of the deemed zoning of the Property as envisaged in terms of Section 40(4)(c) of LUPO.

4. PROPERTY INFORMATION

Farm number	1353/1, Paarl Division
Location	±1km south of Franschhoek Town, with access off a private road (Verdun Road) that links up with Divisional Road No. 26. (APPENDIX2)
Zoning/Zoning Scheme	Agricultural Zone I with a spot zoning for Residential Zone V for a guesthouse / Section 8 Zoning Scheme Regulations
Current Land Use	Agriculture & Guest accommodation
Unauthorized land use/building work	Yes / Yes
Property size	4,08ha
Applicant	DHM Land Law Specialists
NHRA Applicable	
Title deed conditions	None

5. DISCUSSION REGARDING THE DETERMINATION OF THE CONTRAVENTION LEVY AMOUNT

5.1. The relevant provisions of Section 40 of the LUPO states as follows:

“40. Rectification of contraventions.—

(1)(a) If a building or any part thereof was erected in contravention of section 39 (2) (a), the local authority shall serve an instruction (hereinafter referred to as the instruction) on the owner concerned—

(i) to rectify such contravention before a date specified in the instruction, being not more than six months after the date of the instruction or, at the option of the said council,

(ii) to apply for the determination of a contravention levy, or in terms of section 15 for a departure, before a date specified in the instruction, being not more than thirty days after the date of the instruction.

(d) The Administrator shall thereupon, having regard to all the facts and after consultation with the council concerned reconsider the state of affairs and make a final decision—

(i) in relation to the existence or the nature and extent of the contravention, and

(ii) whether the contravention shall be rectified or a contravention levy paid.

(e) If the Administrator decides in terms of paragraph (d) (ii) that a contravention shall be rectified, he shall fix the period within which the contravention shall be rectified.

(2) Any amount spent by a local authority in terms of subsection (1) shall be recoverable by that local authority from the owner.

(3)(a) *If a contravention levy is to be paid in terms of subsection (1) (d) (ii), the Administrator shall after consultation with the local authority concerned fix such levy and notify the owner and local authority concerned there anent.*

(b) *Such a contravention levy shall become due and payable—*

(i) *in one capitalised sum on or before such date, or*

(ii) *periodically at such intervals as the Administrator may determine and may be calculated with retrospective effect from the date on which the erection of the building or part thereof concerned commenced.*

(4)(a) *The owner on the date when the instruction is served shall be liable for the payment of the contravention levy.*

(b) *Prior to the transfer of the land concerned the contravention levy shall be capitalised.*

(c) *When a contravention levy is capitalised, the land concerned shall be deemed to be zoned in accordance with the utilisation thereof as determined by the council concerned.*

5.2 Section 40 does not in specific terms prescribe what factors are to be taken into account in determining the amount of a contravention levy. Bearing in mind that the contravention levy is to apply in circumstances where a building has been constructed in contravention of the zoning scheme and that the result of the imposing and capitalizing of the contravention levy will lead to a deemed zoning to be granted by Council in accordance with the utilization of the land, the members of the COUNCIL are requested to specifically have regard to the following factors:

5.2.1 The nature, extent and circumstances of the contravention of the zoning scheme;

5.2.2 The benefit conferred on the offender as a result of achieving rezoning via the contravention levy;

5.2.3 The broader planning and land use consequences of the building standing and the property being rezoned.

5.2.4 All these aspects are dealt with at length in the **APPENDICES** attached hereto.

5.3 In view of his report of 12 February 2016 the Manager specifically considered the contemplated utilization of the Property not to be undesirable.

5.3.1 The contemplated utilization of the land can be considered to be desirable in view of the following factors:

5.3.1.1 Extend of structures;

5.3.1.2 Position of flood line;

5.3.1.3 Guest Houses are characteristic of all rural areas within the jurisdiction of the Municipality;

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- 5.3.1.4 Guest Houses attract tourists and provides an additional form of capital input and income to sustain agricultural activities;
- 5.3.1.5 No loss of productive agricultural land;
- 5.3.1.6 Investment by tourists without compromising or destroying the agricultural character of the property and the surrounding area.
- 5.4 RECOMMENDED REGARDING DETERMINATION OF AMOUNT OF CONTRAVENTION LEVY:
- 5.4.1 Having considered all the relevant detail and the following specifics, a contravention levy amount can be determined.
- 5.4.2 The guest house is located in an area where buildings proliferated Since 2004. Neighboring properties added tourist facilities accommodation and agricultural related buildings.
- 5.4.3 Tourism activities and movement are of similar scale and significance in the area as agriculture, with no less than 18 guest accommodation establishments within a 1 000 m radius of the property more than 20 individual properties within a 500 m radius.
- 5.4.4 The contravention levy determined in 2011 amounted to R 51 910,08 and was determined prior to the beneficial use of the property as a guest accommodation establishment and considering the time lapse and the roughly 770 m² of building development at the heart of the matter of the illegal use, then a determination of value must be significantly more than the previous amount.
- 6. DISCUSSION REGARDING DETERMINATION OF DEEMED ZONING OF THE PROPERTY**
- 6.1 Once a contravention levy amount has been capitalized, the Municipality will have to determine the deemed zoning of the Property, in terms of Section 40(4)(c) of the LUPO. The determination of the amount of the contravention levy and the determination of the deemed zoning can be done simultaneously by the Municipality during the same meeting, however the contravention levy is firstly determined where-after the deemed zoning of the Property can be attended to. Only once such zoning determination has been done by the Municipality can a building application such as the current one of Brashville be considered. This application will be considered by the delegated official in terms of the Municipal system of delegations.
- 6.2 When the Municipality determines the zoning of the Property, it must grant the most restrictive zoning permitting of the utilization of the land concerned either in conjunction with a departure or not. Section 14(3) of LUPO states as follows:
- “(3) When land is deemed to be zoned as contemplated by sub section (1), (2), (4)(d) or 5 of this section or section 16(2)(b) or 40(4)(c), the most restrictive zoning permitting of the*

utilization of the land concerned either in conjunction with a departure or not, as the council concerned may determine, shall be granted."

6.3 The LUPO does not prescribe a specific process to be followed when the Council of the Municipality must determine a deemed zoning of a property, but the High Court in the matter of Hangklip Environmental Action Group vs Minister of Agriculture, Environmental Affairs and Development Planning, Western Cape and others (7139/03) [2007] ZAWCHC 41 (15 June 2007) laid down the following principles applicable to zoning determinations in accordance with the utilisation and associated utilisation of the land in question on any given date:

6.3.1 The determination of "utilisation" of the land entails a purely factual enquiry into the purpose for and the manner in which the land is actually being used.

6.3.2 Once the Municipality has finally "determined" the "utilisation" of the land, it must then grant a deemed zoning to the property as envisaged in terms of Section 40(4)(c) of the LUPO.

6.3.3 In terms of Section 14(3) of the LUPO, the Municipality must grant the most restrictive zoning permitting of the "utilisation" of the land, either in conjunction with a departure or not.

6.4 In the LUPO "utilisation" is defined as follows:

"in relation to land means the use of land for a purpose or the improvement of land, and 'utilise' has a correspondending meaning".

6.5 Council must note that the zoning determination in this matter relates to that part of the Property being utilized for purposes of a guest house, as indicated on the attached 'as built' building plans submitted by Brashville to the Municipality. This will be the land concerned in respect of which the zoning determination must be undertaken by Council.

6.6 RECOMMENDED REGARDING DETERMINATION OF DEEMED ZONING.

6.6.1 The only appropriate zoning for the property in keeping with the requirement to limit it to the most restrictive zoning is a special zone. Previously a zoning of Residential Zone 5 was granted, however this zoning is not appropriate in rural areas. Instead, a special zone permitting the development as it exists would be more appropriate.

6.6.2 There is little or no objection to the use of the property as a guest accommodation establishment, as even the objectors indicate that the originally approved SDP with two wings to the house would be acceptable. The guest accommodation use is desirable as has been confirmed on more than one

occasion, contrary to the comment in the Werksmans' submission in the Annexure.

6.6.3 The remaining portion of the property should be used for agricultural purposes only, with no building development in order to retain the overall character of the property.

RECOMMENDED

- (a) that approval be granted that in terms of Section 40(3)(a) and (b)(ii) of LUPO a contravention levy of R250 000,00 (two hundred and fifty thousand rand) be paid on Farm No. 1353/1, Paarl Division, quarterly in four equal portions over a period of one year from date of final notification of Council's resolution. That the amount of R51 910,08 (Fifty one thousand nine hundred and ten rand and eight cent) already paid by the property owner as a contravention levy to the Municipality's reinstatement of Brashville's building plans on 20 July 2011, be credited from the abovementioned amount of R250 000,00;
- (b) that, in terms of Section 40(4) of the LUPO the zoning of the property be splinted into a developed portion of 14 500 m² zoned Special zone Lavender Farm and the remaining area that remains Agricultural Zone 1:
- (i) The use permitted in the Special Zone Lavender Farm be limited to current development consisting of:
- parking for 16 vehicles and loading areas
 - access road;
 - recreation space; facilities and landscaping;
 - 10 guest cottages linked by covered walkways;
 - house and tourist facilities; and
 - related outbuildings, as shown on Munnik Visser Architects plan M-202 DWG001 Rev A dated 04/12/2009;
- (ii) The portion zoned Agricultural Zone 1 may not be developed or improved by buildings without the prior consideration of an application for amendment of the zoning of the property;
- (c) that building plans be submitted in terms of the National Building regulations and Building Standards Act, 103 of 1977 which will be considered in terms of the said requirements, inclusive of prior circulation for comment to the FAC; and
- (d) that this approval applies only to the application in question and shall not be construed as authority to depart from any legal prescriptions or requirements.

APPENDICES

APPENDIX 1: Conditions of Approval

APPENDIX 2: Locality Map

APPENDIX 3: Representation submitted by DHM Land Law Specialists obo Brashville 51 (Pty) Ltd

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- APPENDIX 4:** Comment of representation submitted by the Franschhoek Valley Conservation Trust
- APPENDIX 5:** Comment of representation submitted by Werksmans obo JP Colmant; AG Stone & la Bourgogne farm
- APPENDIX 6:** Report by Western Cape Minister of Local Government, Environmental Affairs & development Planning dated 23 March 2011
- APPENDIX 7:** Site Development Plan indicated area that must be used in order to determine the contravention levy
- APPENDIX 8:** Report dated 16 January 2015 to the Director: Planning and Economic Development
- APPENDIX 9:** Decision of the Director: Planning and Economic Development, dated 21 January 2015
- APPENDIX 10:** Further correspondence, dated 21 January 2015, to Werksmans with regards to the decision of the Director: Planning and Economic Development
- APPENDIX 11:** Reply from Du Plessis, Hofmeyr, Malan Land and Law Specialists dated 10 February 2015 and the responses from the Franschhoek Valley Conservation Trust dated 13 February 2015 and Werksmans dated 13 February 2015
- APPENDIX 12:** Request for reasons, dated 9 April 2015 and 13 July 2015 from Werksmans
- APPENDIX 13:** Letter from Du Plessis, Hofmeyr, Malan Land and Law Specialists dated 8 July 2015
- APPENDIX 14:** Reasons for decision of determination for contravention levy conveyed to Werksmans, dated 15 July 2015
- APPENDIX 15:** Letter from Werksmans, dated 22 June 2016
- APPENDIX 16:** Email correspondence from STBB to Werksmans dated 14 July 2016
- APPENDIX 17:** Compliance Notice from STBB to the land owner, dated 25 July 2016
- APPENDIX 18:** Law Specialists to STBB, dated 10 August 2016
- APPENDIX 19:** Letter from Du Plessis, Hofmeyr, Malan Land and Law Specialists, dated 17 August 2016
- APPENDIX 20:** Letter from Du Plessis, Hofmeyr, Malan Land and Law Specialists, dated 1 September 2016
- APPENDIX 21:** Letter from STBB to Franschhoek Trust and Ratepayers Association, Werksmans and Franschhoek Tatler, dated 9 September 2016

APPENDIX 22: Letter from Du Plessis, Hofmeyr, Malan Land and Law Specialists to STBB dated 21 September 2016

APPENDIX 23: All comments received:

Franschhoek Trust and Ratepayers Association – Dated 26 September 2016

Barry Phillips – Dated 2 October 2016

Werksmans Attorneys – Dated 13 October 2016

APPENDIX 24: Only Site-plan and unit plan of building plans – BP/09/1812 - 2009

APPENDIX 25: Comments from the Franschhoek Aesthetics Committee: Only Site-plan and unit plan of building plans BP/12/4245 – 2012

3RD COUNCIL MEETING: 2016-10-26: ITEM 8.6

Before the matter was debated, Councillor SR Schäfer recused himself.

RESOLVED (majority vote)

that this matter be referred back for further deliberation, and that the compact disc containing the information be distributed to all the Councillors within seven days.

KINDLY NOTE: THE ITEM WITH APPENDICES 1-25 WERE DISTRIBUTED ON A CD TO ALL COUNCILLORS ON 2016-11-02

FURTHER COMMENTS BY THE DIRECTOR: PLANNING AND ECONOMIC DEVELOPMENT

Appendix 26 is the Legal comments received from Smith Tabata Buchanan Boyes Attorneys which refers to the recommendation for Council.

APPENDIX 26: Legal comments received from Smith Tabata Buchanan Boyes including related comments:

26.1 Site Development Plan (Appendix 3)

26.2 A letter of the Director of Planning addressed to the attorneys Du Plessis Hofmeyer Malan (DHM) dated 24 October 2014

26.3 The letter in terms of which the Director of Planning initiated a process in terms of Section 3 of the Promotion of Administrative Justice Act, dated 17 November 2014 (including letter from DHM dated 10 November 2014)

- 26.4 Three emails of Werksmans Attorneys dated, 17 December 2014, containing submissions and Annexures (Annexure a-b, Annexure c-d, Annexure e-g, also including submission of Franschhoek Trust and Ratepayers Association dated 17 December 2014 – Annexure A “sense of place”)
- 26.5 The letter of the Franschhoek Trust and Ratepayers Association, dated 3 April 2016 and addressed to Cllr Serdyn in her capacity as Chairperson of the Planning Committee
- 26.6 Aerial photograph indicating the most restrictive zoning

RECOMMENDED

- (a) that approval be granted that in terms of Section 40(3)(a) and (b)(ii) of LUPO a contravention levy of R250 000,00 (two hundred and fifty thousand rand) be paid on Farm No. 1353/1, Paarl Division, quarterly in four equal portions over a period of one year from date of final notification of Council's resolution. That the amount of R51 910,08 (Fifty one thousand nine hundred and ten rand and eight cent) already paid by the property owner as a contravention levy to the Municipality's reinstatement of Brashville's building plans on 20 July 2011, be credited from the abovementioned amount of R250 000,00;
- (b) that, in terms of Section 40(4) of the LUPO the zoning of the property be split into a developed portion of 5854 m² zoned Residential Zone V and the remaining area that remains Agricultural Zone 1:
- (i) the use permitted in the Residential Zone V be limited to the land as shown on the attached aerial photograph, (Appendix 26.6 Stellenbosch Municipality, La Lavanda Guesthouse Portion 1 of Farm 1353) and the current development consisting of:
- parking for 16 vehicles and loading areas
 - access road;
 - recreation space; facilities and landscaping;
 - 10 guest cottages linked by covered walkways;
 - house and tourist facilities; and
 - related outbuildings, as shown on Munnik Visser Architects plan M-202 DWG001 Rev A dated 04/12/2009
- (ii) the portion zoned Agricultural Zone 1 may not be developed or improved by buildings without the prior consideration of an application for amendment of the zoning of the property;
- (c) that building plans be submitted in terms of the National Building Regulations and Building Standards Act, 103 of 1977 which will be considered in terms of the said requirements, inclusive of prior circulation for comment to the FAC;
- (d) that this approval applies only to the application in question and shall not be construed as authority to depart from any legal prescriptions or requirements.

Meeting: Ref No:	4 th Council: 2016-11-23 PL1353/1P	Submitted by Directorate: Author: Referred from:	<i>Economic Development & Planning Dir: Plan & Econ Dev: (D Lombaard) 3rd Council: 2016-10-26</i>
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8.4	STRUCTURING OF COUNCIL: ESTABLISHMENT OF SECTION 79 -/ STATUTORY COMMITTEES
8.4.1	APPOINTMENT OF COUNCILLORS TO SERVE ON THE LOCAL LABOUR FORUM

1. PURPOSE OF REPORT

For Council to consider the appointment of Councillors to serve on the Local Labor Forum.

2. BACKGROUND

The termination of the 2011-2016 Council's term of office necessitates the appointment of Councillors to represent the Employer on the Local Labour Forum.

As per the SALGBC Main Collective Agreement, the Employer representatives shall consist of at least 2 (two) Councillors, and Management.

During the previous term of office, 6 (six) Councillors were appointed to serve on the Local Labour Forum.

3RD COUNCIL MEETING: 2016-10-26: ITEM 8.1.5

RESOLVED (majority vote)

that this item be referred back to allow the Administration to obtain a legal opinion and the applicable Terms of Reference.

The following Councillors requested that their votes of dissent be minuted:

Councillors F Adams; GN Bakubaku-Vos (Ms); FT Bangani-Menziwa (Ms); DA Hendrickse; LK Horsband (Ms); N Mananga-Gugushe (Ms); LM Mqeqeba; MD Oliphant; RS Nalumango (Ms); N Sinkinya (Ms) and P Sitshoti (Ms).

FURTHER COMMENTS BY THE MUNICIPAL MANAGER

Input received from Senior Legal Advisor : EA Rhoda

Section 33 of the Labour Relations Act provides for the appointment of designated agents in a bargaining council to promote, monitor and enforce compliance with any collective agreements in that council. Accordingly, the Legal and Compliance Manager and Compliance Inspector, as well as certain other staff of the council, have been appointed designated agents by the Department of Labour to carry out the functions mentioned.

The legal and compliance department or designated agents may issue 'compliance orders' requiring any person bound by a collective agreement to comply with the collective agreement within a specified period. The council may

refer any unresolved dispute concerning compliance with any provision of a collective agreement to arbitration by an arbitrator appointed by the council or, if the dispute concerns a non-party, to the CCMA. Arbitrators have the powers like those of the CCMA commissioners, and may order payment of any amount owing in terms of a collective agreement; impose fines for the failure to comply with a collective agreement; charge an arbitration fee or order a party to pay the costs of the arbitration; confirm, vary or set aside a compliance order issued by a designated agent; or make any other appropriate award. Such awards have the status of an order of the labour court.

In terms of **Clause 11.8.1.3** of the **SALGBC Main Collective Agreement**, the following is prescribed:

“Employer representatives shall consist of at least 2 (two) Councillors and of Management (as set out in clause 11.8.1.6) except where the Local Labour Forum is seventy five (75) members; (three-a-side), councillors shall be at least one third of the delegation”

Clause 11.8.1.6 of the same Collective Agreement furthermore prescribes that:

“The representatives on each side in each employer shall be constituted locally in a Local Labour Forum on the following basis by combining the membership of the trade unions:

11.8.1.6.1 up to 75 members: 3-a-side;

11.8.1.6.2 from 76 to 250 members: 5-a-side;

11.8.1.6.3 from 251 to 500 members: 8-a-side;

11.8.6.1.4 from 501 to 1000 members: 10-a-side; and

11.8.6.1.5 more than 1000 members: 12-a-side”

The Local Labour Forum is a statutory Committee and in terms of **Clause 11.3.8.5** of the **SALGBC Main Collective Agreement** it is stated that:

“Local Labour Forum shall meet at least once a month unless by mutual agreement of the Parties it is agreed not to meet”

Matters referred to the Local Labour Forum must resort under one of the categories as prescribed in terms of **Clause 11.8.2** of the **SALGBC Main Collective Agreement** namely:

The Local Labour Forum shall have the powers and functions of negotiating and/or consulting –

11.8.2.1.1 *On matters of mutual concern pertaining to the workplace and which do not form the subject matter of negotiations at the Council or its Divisions;*

11.8.2.1.2 *On such matters as may from time to time be referred to such forum by the Council or its Divisions;*

11.8.2.1.3 *Provided that it may not negotiate on any matter, which has been reserved for exclusive bargaining in the Council or the Divisions;*

11.8.2.1.4 *Concluding of Minimum Service Agreement.*

Clause 11.8.2 of the **SALGBC Main Collective Agreement** furthermore prescribes that: *“Disputes over what is negotiable, what are the matters that are for consultation and over whether a specific process constitutes sufficient consultation are to be resolved through the dispute resolutions mechanism of the Council”*

The Roles and Responsibilities of the Local Labour Forum are set out in the Main Collective Agreement and can be seen in **APPENDIX 1**.

RECOMMENDED

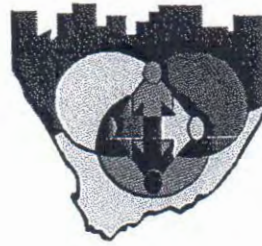
that Council nominates Councillors to serve on the Local Labour Forum.

Meeting: Ref No:	<i>Council: 2016-11-23 3/3/3/6/4</i>	Submitted by Directorate: Author: Referred from:	<i>Office of the Municipal Manager Acting MM: (R Bosman) Council: 2016-10-05</i>
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8.4.1

**APPOINTMENT OF COUNCILLORS
TO SERVE ON THE LOCAL LABOUR
FORUM (LLF)**

APPENDIX 1



SOUTH AFRICAN LOCAL GOVERNMENT BARGAINING COUNCIL

(hereinafter referred to as "the Council")

MAIN COLLECTIVE AGREEMENT

In accordance with the provisions of the Labour Relations Act, 1995 made and entered into by and between the:-

SOUTH AFRICAN LOCAL GOVERNMENT ASSOCIATION

(hereinafter referred to as "SALGA")

and

INDEPENDENT MUNICIPAL AND ALLIED TRADE UNION

(hereinafter referred to as "IMATU")

and

SOUTH AFRICAN MUNICIPAL WORKERS' UNION

(hereinafter referred to as "SAMWU")

(IMATU and SAMWU will together be referred to as the "Trade Unions")

Handwritten signatures:
/ S.M.K.
P.S.M.

11.8 LOCAL LABOUR FORUM

11.8.1 Composition

- 11.8.1.1 At every *employer* a *Local Labour Forum* shall be established with equal representation from the *trade unions* and the employer.
- 11.8.1.2 The *trade unions'* representation shall be divided in proportion to their respective membership in that employer.
- 11.8.1.3 *Employer* representatives shall consist of at least 2 (two) Councillors and of Management (as set out in clause 11.8.1.6.) except where the Local Labour Forum is seventy five (75) members; (three-a-side), councillors shall be at least one third of the delegation.
- 11.8.1.4 Up to 2 (two) *trade union officials* or *office bearers* may attend such meetings with prior notice to the *employer* and up to 2 (two) SALGA representatives may attend with prior notice to the *trade unions*.
- 11.8.1.5 In metropolitan areas the metropolitan division of the *Council* shall not serve as the *Local Labour Forum* and shall establish *Local Labour Forums* at a departmental or other suitable level as may be decided by that *division of the Council*.
- 11.8.1.6 The representatives on each side in each *employer* shall be constituted locally in a Local Labour Forum on the following basis by combining the membership of the *trade unions*:
- 11.8.1.6.1 up to 75 members: 3-a-side;
- 11.8.1.6.2 from 76 to 250 members: 5- a-side;
- 11.8.1.6.3 from 251 to 500 members: 8- a-side;
- 11.8.1.6.4 from 501 to 1000 members: 10-a-side; and
- 11.8.1.6.5 more than 1000 members: 12-a-side.

11.8.2 Powers and Functions

- 11.8.2.1 The *Local Labour Forum* shall have the powers and functions of negotiating and/or consulting:
- 11.8.2.1.1 On matters of mutual concern pertaining to the workplace and which do not form the subject matter of negotiations at the *Council* or its Divisions;
- 11.8.2.1.2 On such matters as may from time to time be referred to such forum by the *Council* or its Divisions;

11.8.2.1.3 Provided that it may not negotiate on any matter, which has been reserved for exclusive bargaining in the *Council* or the Divisions;

11.8.2.1.4 Concluding of *Minimum Service Agreements*.

11.8.2.2 Disputes over what is negotiable, what are the matters that are for consultation and over whether a specific process constitutes sufficient consultation are to be resolved through the dispute resolution mechanism of the *Council*.

11.8.3 Meetings of Local Labour Forum

11.8.3.1 Parties to the Local Labour Forum may agree to convene a pre-local labour forum meeting to narrow the issue, finalise agendas and deal with technical matters.

11.8.3.2 The position of chairperson and vice-chairperson of the meeting shall rotate annually between the *Parties*.

11.8.3.3 The chairperson and vice-chairperson shall be elected at the first meeting of the *Year*.

11.8.3.4 The Parties shall each have a delegation leader who shall ensure order within his or her delegation.

11.8.3.5 *Local Labour Forums* shall meet at least once a month unless by mutual agreement of the *Parties* it is agreed not to meet.

11.8.3.6 The agenda for any ordinary meeting shall be jointly compiled through consultation with all parties 7 (seven) days prior to the ordinary meeting date provided that new items may be raised in any meeting under adoption of agenda if they are of an urgent nature.

11.8.3.7 Any *Party*, for reasons of urgency, may request a special meeting of the *Local Labour Forums* on 48 hours' notice.

11.8.4 Sub-Committees of Local Labour Forums

11.8.4.1 The composition of sub-committees of *Local Labour Forums* shall be in compliance with those provisions governing the *Local Labour Forum* provided that by mutual agreement, up to 2 (two) technical advisors per *Party* may be invited by the *Party* concerned where the topic is such as to warrant their presence.

11.8.4.2 A *Local Labour Forum* shall consider the establishment of the following sub-committees for purposes of preparatory consultation:

- 11.8.4.2.1 Human Resource Development Committee, which shall be responsible for consultation and technical preparatory work on education and training, employment equity and all such other related human resources issues;
- 11.8.4.2.2 Workplace and Services Restructuring Committee, which shall deal with all proposed changes relating to any service restructuring including the introduction of new technology, proposals for privatisation or alternative methods of service delivery or other work re-organisation proposals;
- 11.8.4.2.3 Basic Conditions Committee, which shall deal with any other matters relating to working conditions, arrangement of working hours, health and safety proposals.
- 11.8.4.3 Should any *Local Labour Forum* decide that sub-committees are either unnecessary or that some additional sub-committees are required, they may so disestablish or establish such sub-committees as the case may be.
- 11.8.4.4 The number and nature of sub-committees shall be reported to the relevant division of the *Council* on a quarterly basis.
- 11.8.4.5 The locus of the negotiation of agreements and legally required consultation on all matters is the *Local Labour Forum* and it may not divest or delegate such power to a sub-committee.

12. ESSENTIAL SERVICES

12.1 Procedure

- 12.1.1 The Minimum Level of Services in the designated essential services shall be determined by collective agreement in terms of the provisions of the Act.
- 12.1.2 In the event that the *Parties* have failed within the specified period to reach agreement, the matter shall be dealt with in terms of the applicable dispute procedure as per the Act.
- 12.1.3 The Council shall set guidelines Annexure 4 for the conclusion of *Minimum Service Collective Agreements*, from time to time, which guidelines must be taken into account by the *Parties* when concluding the *Minimum Service Collective Agreements*. Such guidelines shall include a procedure for resolution of disputes in respect of the *Minimum Service Collective Agreements*.
- 12.1.4 In the event that, during the course of a strike affecting the operations of any *employer*, a *Party* (which for the purpose of this clause shall be the individual local authority) asserts that a service or services not designated as essential have become an *essential service* due to circumstances, the *Parties* shall meet within 24 hours of written notice by any of them to the

8.5	APPOINTMENT OF REPRESENTATIVES ON SALGA – WESTERN CAPE
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1. PURPOSE OF REPORT

For Council to appoint representatives and secundi to serve on the various SALGA Provincial Working Groups.

2. BACKGROUND

The Council must appoint representatives to serve on the various SALGA provincial working groups.

The following are the SALGA Working Groups on which nominated councillors from Stellenbosch Municipality should serve:

SALGA Provincial Working Groups	
1	Economic Development and Planning
2	Municipal Finance
3	Community Development
4	Human Resource Development and Collective Bargaining
5	Municipal Infrastructure and Related Services [which includes] – <ul style="list-style-type: none"> • Climate Change, Environmental Affairs and Sustainability • Municipal Infrastructure Planning • Municipal Trading Services
6	Governance, Intergovernmental and International Relations

3RD COUNCIL MEETING: 2016-10-26: ITEM 8.3**RESOLVED** (majority vote)

that this item be referred back to allow the Administration to obtain a legal opinion and the applicable Terms of Reference.

The following Councillors requested that their votes of dissent be minuted:

Councillors F Adams; GN Bakubaku-Vos (Ms); FT Bangani-Menziwa (Ms); DA Hendrickse; LK Horsband (Ms); N Mananga-Gugushe (Ms); LM Maqeba; MD Oliphant; RS Nalumango (Ms); N Sinkinya (Ms) and P Sitshoti (Ms).

FURTHER COMMENTS BY THE ACTING MUNICIPAL MANAGER

“The South African Local Government Association (SALGA) is an autonomous association of municipalities with its mandate derived from the Constitution of the Republic of South Africa. This mandate defines SALGA as the voice and sole representative of local government. SALGA interfaces with parliament, the National Council of Provinces (NCOP), cabinet as well as provincial legislatures.

The association is a unitary body with a membership of 257 municipalities, with its national office based in Pretoria and offices in all nine provinces. The strength of SALGA lies in the intellectual capital they have acquired through their people over the years and their values to be Responsive, Innovative, Dynamic and Excellent underpin all that we do. Their mission to be consultative, informed, mandated, credible and accountable ensures that they remain relevant to their members and provide value as they continuously strive to be an association that is at the cutting edge of quality and sustainable services.

Their Role

In line with its mandate SALGA has set out its role to:

- Represent , promote and protect the interests of local government
- Transform local government to enable it to fulfill its developmental role
- Raise the profile of local government
- Ensure full participation of women in local government
- Perform its role as an employer body
- Develop capacity within municipalities “

Attached as **Appendix 1** find the Constitution of SALGA highlighting the Name, Role and Mandate; Membership; Governance Structures; Provisions applicable to Provincial Members; General Rules of Procedure and Miscellaneous Provisions.

Appendix 2 highlights the SALGA Governance Framework whereby a clear indication is given to SALGA's structures, Roles and Responsibilities as well as the Purpose and objectives of the SALGA Working Groups.

RECOMMENDED

that Council nominates Councillors to serve on the SALGA Provincial Working Groups:

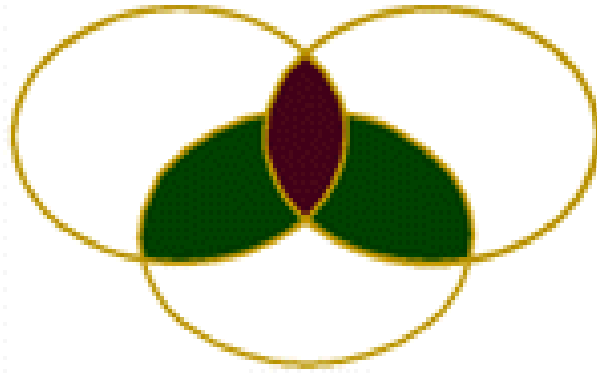
SALGA PROVINCIAL WORKING GROUP	
1	Economic Development and Planning
2.	Municipal Finance
3.	Community Development
4.	Human Resource Development and Collective Bargaining
5.	Municipal Infrastructure and Related Services (which include) : <ul style="list-style-type: none"> • Climate Change, Environmental Affairs and Sustainability • Municipal Infrastructure Planning; • Municipal Trading Services
6.	Governance, Intergovernmental and International Relations

Meeting: Ref No:	4 th Council: 2016-11-23 3/6/3	Submitted by Directorate: Author: Referred from:	Office of the Municipal Manager Acting MM: (R Bosman) 3 rd Council: 2016-10-26
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8.5

**APPOINTMENT OF REPRESENTATIVES
ON SALGA – WESTERN CAPE**

APPENDIX 1



CONSTITUTION OF

SALGA

South African Local Government Association

RECOGNISED IN TERMS OF SECTION 2 (1) (A) OF THE ORGANISED
LOCAL GOVERNMENT ACT, 1997 (ACT NO. 52)

As amended and adopted by the National Conference

11 September 2012



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PREAMBLE

We, the representatives of Local Government:

- 1.1 Declare that we will respect and uphold the Constitution of our country;
- 1.2 Appreciate that the text of the Constitution of the Republic of South Africa, Act 108 of 1996, as amended, and in particular, section 40 thereof constitutes government as national, provincial and local spheres of government which are distinctive, independent and interrelated;
- 1.3 Commit ourselves to deepening democracy, promote racial, gender and all other forms of equality, and the empowerment of the people of our country through local government;
- 1.4. Recognise that the local government elections held during the years 1995,1996 and 2000 represent the beginning of democratic local government which needs to be both strengthened and deepened;
- 1.5. Commit ourselves to the principles and values of inclusivity, unity, consultation, respect, mutual trust and good faith, and loyalty in our relations both with internal and external stakeholders; and
- 1.6. Consider it necessary for local government to be able to speak with a single authoritative voice.

Now therefore resolve to establish the South African Local Government Association (“SALGA”) as mandated in terms of section 163 of the Constitution of the Republic of South Africa Act No.108 of 1996, as amended.

SCHEDULE A**PART I: DEFINITIONS, INTERPRETATION AND PRELIMINARY****1. DEFINITIONS, INTERPRETATION AND PRELIMINARY**

The headings to the articles in this constitution are for the purpose of convenience and reference only and shall not be used in the interpretation, nor to modify or amplify the terms of, this constitution nor any clause hereof. Unless a contrary intention clearly appears -

- 1.1 Words importing any one gender include the other genders, the singular include the plural and *vice versa*, and natural persons include created entities (corporate or unincorporated) and *vice versa*;
- 1.2 The following terms shall have the meanings assigned to them hereunder and cognate expressions shall have a corresponding meaning, namely –
 - 1.2.1 “Act” means the Organised Local Government Act, 52 of 1997;
 - 1.2.2 “administration” means the day to day administration of the affairs of SALGA from time to time;
 - 1.2.3 “Associate member” means an organisation which is not a municipality or a provincial association, but is strongly concerned with or involved in local government matters and complies with such criteria as may be determined by the National Executive Committee from time to time;
 - 1.2.4 “member” means any member of SALGA recognised in terms of article 4 of this constitution;
 - 1.2.5 “Minister” means the Minister responsible for Local Government or his or her successor in title;
 - 1.2.6 “National Conference” means a duly constituted National Conference of SALGA as provided herein;
 - 1.2.7 “National Members Assembly ” means a duly constituted National Members Assembly of SALGA;
 - 1.2.8 “National Executive Committee” means a duly elected and constituted National Executive Committee of SALGA;
 - 1.2.9 “Office Bearers” means the Chairperson and 3 Deputy Chairpersons duly elected by the National Conference in terms of article 13 hereof;
 - 1.2.10 “organisation” means SALGA;
 - 1.2.11 “provincial association” means any provincial local government association which has constituted itself in terms of this constitution;

- 1.2.12 “provincial member” means any provincial association which is affiliated to SALGA;
- 1.2.13 “SALGA” means the South African Local Government Association recognised by the Minister in terms of section 2(1)(a) of the Act.
- 1.2.14 “Working Groups” means the governance structure established to make strategic and policy recommendations to the National Executive Committee or Provincial Executive Committee, as the case may be.
- 1.3 any reference to an enactment is as at the date of signature thereof and as amended or re-enacted from time to time;
- 1.4 if any provision in a definition is a substantive provision conferring rights or imposing obligations on any party, notwithstanding that it is only in the definition clause, effect shall be given to it as if it were a substantive provision in the body of the constitution;
- 1.5 when any number of days is prescribed in this constitution, same shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a Saturday, Sunday or public holiday, in which case the last day shall be the next succeeding day which is not a Saturday, Sunday or public holiday;
- 1.6 where figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail;
- 1.7 expressions defined in this constitution shall bear the same meaning **as in the** schedules or annexures to this constitution which do not themselves contain their own definitions;
- 1.8 where any term is defined within the context of any particular article in this constitution, the term so defined, unless it is clear from the article in question that the term so defined has limited application to the relevant clause, shall bear the meaning ascribed to it for all purposes in terms of this constitution, notwithstanding that that term has not been defined in this interpretation article.

PART II – NAME, ROLE AND MANDATE OF SALGA

2. NAME AND STATUS

- 2.1. The name of this association shall be the South African Local Government Association, hereinafter referred to as SALGA.
- 2.2. SALGA is an association not for gain. **It is a juristic person recognised in terms of section 2(1)(4) of the Act** with the power to own property, sue and be sued in its own name.
- 2.3. The liability of the members, **where applicable, in view of article 7.1 below**, shall be limited to the payment of membership fees and levies as determined by the National Executive Committee from time to time in terms of this constitution.

3. ROLE AND MANDATE

The role and mandate of SALGA is to:

- 3.1. Represent, promote and protect, the interests of local government in the intergovernmental system;
- 3.2. Transform local government to enable it to fulfil its developmental role;
- 3.3. Enhance the role and status of its members as provincial representatives and consultative bodies of local government;
- 3.4. Enhance the role and status of municipalities;
- 3.5. Develop common approaches for local government as a distinct sphere of government;
- 3.6. Enhance cooperation, mutual assistance and sharing of resources among municipalities;
- 3.7. Find solutions for problems relating to local government generally;
- 3.8. Ensure the full participation of women in organised local government, including striving for parity (fifty percent) of representation in SALGA's governance structures;
- 3.9. Increase knowledge sharing and improve the communications capacity as well as vertical and horizontal connectivity of organised local government and municipalities;
- 3.10. Be the National Employers' Association representing all municipal members and, by agreement, associate members;
- 3.11. Regulate the relationship between its members and their employees within the meaning of section 213 of the Labour Relations Act 66 of 1995, as amended;
- 3.12. Encourage the settlement of disputes among **its** members and between them and their employees or trade unions through co-operative governance or labour law principles;

- 3.13. Affiliate with and participate in the affairs of any international organisation, that will serve the interests of the members;
- 3.14. To ensure that South African local government plays a critical role in furthering Africa's development at regional, continental and international levels; and
- 3.15. Do such lawful things as may appear to be in the interest of the organisation and its members which are not inconsistent with the objects or any matter specifically provided for in this constitution.

PART III: MEMBERSHIP

4. MEMBERSHIP

- 4.1. SALGA shall have the following categories of members:
 - 4.1.1 Municipalities established in terms of the Municipal Structures Act, Act 117 of 1998;
 - 4.1.2 Provincial associations; and
 - 4.1.3 Associate members.
- 4.2 Any application, whether for admission or readmission to membership of SALGA shall be lodged in writing with the Chairperson or a person duly delegated by the Chairperson for consideration by the National Executive Committee together with the annual membership fee, **where applicable**.
- 4.3 The National Executive Committee shall consider every application for membership within a period of 6 (six) weeks of receipt thereof by the Chairperson or a person duly delegated by the Chairperson and shall accordingly advise each applicant of the outcome of its application.
- 4.4 An applicant to whom admission to membership is refused shall be provided with reasons for such refusal and shall be entitled to a refund of the membership fee paid.
- 4.5 In the event of such refusal, the applicant concerned shall have a right of appeal to the next National Members Assembly or National Conference (whichever occurs first), which shall have the power to confirm or reverse the decision of the National Executive Committee.
 - 4.5.1 Such an appeal shall be in writing and shall be submitted to the Chairperson or a person duly delegated by the Chairperson 4 (four) weeks before the National Members Assembly or National Conference (whichever occurs first).
 - 4.5.2 The decision of the National Members Assembly or National Conference shall be final and binding on the applicant.
- 4.6 Every member shall notify the Chairperson or a person duly delegated by the Chairperson, in writing, of its postal address and any change thereof within 4 (four) weeks of the date on which the change occurred.
- 4.7 A member may resign by giving not less than 3 (three) months' written notice to the National Executive Committee or a person duly delegated by the National Executive Committee, provided

that no resignation shall take effect until all money due by the member concerned to SALGA has been paid in full.

4.8 Any member who has resigned or been expelled from SALGA may be readmitted to membership on such terms and conditions as the National Executive Committee may deem fit.

5. MEMBERS' COMPACT

- 5.1. Members shall, subject to this Constitution, be entitled to participate in the various activities and programmes of SALGA.
- 5.2. Members shall have equal access to information, data and documentation on local government matters, the activities and decisions of SALGA.
- 5.3. Members shall abide by this Constitution and the resolutions of its constitutional decision-making structures, and shall promptly comply with all membership obligations due in terms hereof.
- 5.4. Disputes between SALGA and any member or members must be declared in writing and set out the grounds of the dispute and proposed resolutions. Dispute resolution procedures must be provided for in the Rules of Procedure annexed to this Constitution.

6. CODE OF CONDUCT

- 6.1. All members, without exception, must abide by the Constitution of SALGA and this Code of Conduct.
- 6.2. This Code of Conduct shall be applicable to all members, without exception.
- 6.3. The National Executive Committee or a Provincial Executive Committee **shall** establish *ad hoc* Disciplinary Committees for the purpose of enforcing the Code of Conduct and disciplining members.
- 6.4. A member shall be entitled to appeal the decisions of a Disciplinary Committee to the National Executive Committee or Provincial Executive Committee, as the case may be. The National or Provincial Executive Committee, in such case, **may** establish an appeals committee to consider the appeal.
- 6.5. In exceptional situations arising out of serious breaches of this Constitution or Code of Conduct, the National Executive Committee itself may exercise jurisdiction to investigate and determine a complaint.
- 6.6. Disciplinary proceedings against a member shall be confined to violations of the SALGA Constitution or Code of Conduct, or the commission of offences.
- 6.7. All disciplinary proceedings shall be conducted in accordance with annexure F.

- 6.8. A serious offence shall be committed by any member who prejudices the integrity or repute of the organisation, its personnel or its operational capacity.
- 6.9. The following shall also be regarded as serious offences, without prejudice to the right of the National Executive Committee to add to this category of offences:
- 6.9.1. Impeding the activities of the organisation;
 - 6.9.2. Misappropriation of the funds of the organisation or destruction of its properties;
 - 6.9.3. Creating division within the membership ranks of SALGA;
 - 6.9.4. Deliberately disrupting meetings and interfering with the orderly functioning of the organisation.
- 6.10. If, in the opinion of the National or Provincial Executive Committee, as the case may be, in exercising its right to invoke disciplinary proceedings under this Constitution, a member is guilty of the following offences, disciplinary proceedings may follow:
- 6.10.1. Bringing the organisation into disrepute or manifesting a flagrant violation of the moral integrity expected of members or conduct unbecoming that of a member;
 - 6.10.2. Sowing racism, sexism, tribal chauvinism, religious and political intolerance, regionalism or any form of discrimination;
 - 6.10.3. Behaving in such a way as to provoke serious divisions or a break-down of unity in the organisation;
 - 6.10.4. Undermining the respect for or impeding the functioning of the structures of the organisation.
- 6.11. Penalties for proven violations of the Constitution, principles, norms and decisions of SALGA shall include reprimand, payment of compensation and/or the performance of useful tasks, suspension and expulsion.
- 6.12. The National Executive Committee or Provincial Executive Committee, as the case may be, having regard to the nature and seriousness of an alleged violation or offence by a member, may summarily suspend the membership of any member pending the preparation of a charge against the member and the finalisation of disciplinary proceedings against such member. The member shall be informed of such suspension.
- 6.13. The temporary suspension shall lapse if no disciplinary proceedings are instituted against the member within 30 days of the date of the temporary suspension. Such disciplinary proceedings shall be attended to as quickly as possible and completed within a reasonable period.

7. MEMBERSHIP FEES AND LEVIES

- 7.1. Each member, except a provincial association, shall be liable to pay an annual membership fee and/or levies.
- 7.2. Membership fees and levies determined in terms of article 7.1 above shall be due and payable by members on **1 April but before 31 July of that calendar year** and shall be payable to SALGA at its national office.

- 7.3. The National Executive Committee, in consultation with Provincial Executive Committees, shall formulate a policy to regulate the determination of membership fees and may amend that policy as and when the need arises.
- 7.4. The National Executive Committee shall further determine the fees due by each category of member (or the formula in terms of which such levies are calculated, as the case may be) on a multi-year basis, which shall be reviewed annually and which shall be circulated to all members by no later than the last day of December of the year prior to which the new levies will be applicable.
- 7.5. In addition to membership fee or levy payable in terms of article 7.1 above, a member shall also be liable for the payment of such other fees as may be prescribed in terms of the rules governing any fund.
- 7.6. All money received by SALGA from membership fees, levies and other sources shall be used in pursuance of its objectives as set out in article 3 above.

8. PARTICIPATION AND VOTING

- 8.1. Each member shall be represented in the National Conference or National Members Assembly by a number of delegates who will be entitled to vote in accordance with the formula to be determined by the National Executive Committee, in consultation with Provincial Executive Committees, and who shall present their credentials as such to the Secretariat at the commencement of the session, including identifying the voting member(s) of the delegation who shall exercise the right to vote.
- 8.2. Each member shall be entitled to vote in the National Conference and National Members Assembly of SALGA in accordance with a formula to be determined by the National Executive Committee, in consultation with Provincial Executive Committees.
- 8.3. Notwithstanding the above, each member shall be entitled to at least one vote in the National and Provincial Conferences and Members' Assemblies' of SALGA.
- 8.4. A member may send such additional delegates, up to a maximum prescribed by the National Executive Committee, who may attend the National Conference or Members Assembly as observers, but may not vote.
- 8.5. Each member shall be entitled, through its representatives, to participate in sessions of the National Conference or National Members Assembly by speaking, expressing its opinions and submitting proposals.
- 8.6. Associate members shall enjoy no voting rights in the National Conference and the National Members Assembly.
- 8.7. A member who fails to pay levies shall remain a member with lesser rights, surrender voting rights and the right to have any of its councillors in executive positions of SALGA, until all due membership levies have been paid.

PART IV: GOVERNANCE STRUCTURE OF SALGA

9. GOVERNANCE STRUCTURE

The governance of SALGA is **vested and executed** by:

- 9.1 National Conference;
- 9.2 National Members Assembly;
- 9.3 National Executive Committee;
- 9.4 National Office Bearers;
- 9.5 National Working Groups.

10. NATIONAL CONFERENCE

- 10.1. The ultimate authority of SALGA shall reside in its National Conference.
- 10.2. SALGA shall within a period of **90 (ninety) days** after every **general local government election** hold a meeting of members to be known and described in the notice calling such meeting as the National Conference.
- 10.3. The National Conference **shall**:
 - 10.3.1. Elect the members of the National Executive Committee;
 - 10.3.2. Establish and review SALGA's oversight bodies as may be required by law; and
 - 10.3.3. Consider audited financial statements in respect of the previous year, approve the programme of action, business plan and the budget of SALGA as approved by the National Executive Committee in respect of the ensuing year and review SALGA's financial performance.
- 10.4. Every National Conference shall be held at a venue as resolved by the National Executive Committee.
- 10.5. The proceedings of the National Conference shall be regulated in terms of the procedure laid down in annexure "A" hereto.

11. NATIONAL MEMBERS ASSEMBLY

- 11.1. SALGA shall **at least once in between National Conferences, but no later than 30 months after the last National Conference**, hold a meeting of members to be known and described in the notice calling such meeting as the National Members Assembly.
- 11.2. The National Members Assembly shall, except for the provisions in articles 10.3.1 and 10.3.2 above, exercise the authority of SALGA between National Conferences.
- 11.3. The National Members Assembly shall:-
 - 11.3.1. act in accordance with the directions of the National Conference;
 - 11.3.2. consider audited financial statements in respect of the previous year;

- 11.3.3. adopt SALGA's programme of action, business plan and the budget as approved by the National Executive Committee;
 - 11.3.4. adopt positions on key policy and legislative matters impacting on local government, for implementation by the National Executive Committee;
 - 11.3.5. review SALGA's financial performance;
 - 11.3.6. consider reports from the working groups and oversight bodies; and
 - 11.3.7. deal with any other issues emanating from the provisions of this constitution.
- 11.4. Notwithstanding anything contained in article 10.2 above, the National Executive Committee **shall** call a National Members Assembly:
- 11.4.1. at the written request of the majority of provincial associations containing the reasons for such a request and setting out the matters to be discussed at the proposed meeting; or
 - 11.4.2. if it resolves that there are special circumstances which require a National Members Assembly .
- 11.5. Every National Members Assembly shall be held at a venue as resolved by the National Executive Committee.
- 11.6. The proceedings of the National Members Assembly shall be regulated in terms of the procedure laid down in annexure A hereto.

12. THE NATIONAL EXECUTIVE COMMITTEE

- 12.1. The National Executive Committee shall exercise the authority of SALGA between National Conferences and National Members Assemblies.
- 12.2. The National Executive Committee shall consist of:
- 12.2.1. The Chairperson of SALGA;
 - 12.2.2. 3 (three) Deputy Chairpersons;
 - 12.2.3. 6 (six) additional members;
 - 12.2.4. Provincial Chairpersons of SALGA, **who shall be ex-officio members of the National Executive Committee;** and
 - 12.2.5. The Head of Administration, who shall have no vote.
- 12.3. The National Executive Committee may co-opt no more than 3 (three) further additional members.
- 12.4. The National Executive Committee **shall**:
- 12.4.1. Meet at least once every three months and when the need arises;
 - 12.4.2. Exercise day-to-day executive authority;
 - 12.4.3. Act in accordance with the directions of the National Conference or National Members Assembly;
 - 12.4.4. Submit a report of its activities during the previous financial year to the National Conference or National Members Assembly, whichever occurs first; and

- 12.4.5. Develop, review **and adopt** SALGA's administrative policies.
- 12.5. An **extended National Executive Committee**, comprising of all National Executive Committee and Provincial Executive Committee members, **shall** be convened **annually**, except in the year that the National Conference or National Members Assembly is scheduled.
- 12.6. At least **fifty percent plus one** (50% + 1) of the National Executive Committee members must be present to form a quorum.
- 12.7. **The National Executive Committee shall have the power from time to time to:**
- 12.7.1. acquire and control property;
 - 12.7.2. open any banking account and invest money;
 - 12.7.3. determine the signatories required for the operation of any banking account;
 - 12.7.4. appoint the head of administration, who will also act as a secretary in terms of section 95 of the Labour Relations Act No. 66 of 1995, as amended;
 - 12.7.5. make representations to both the provincial and national governments;
 - 12.7.6. develop the criteria for associate membership;
 - 12.7.7. recruit, appoint, promote and discharge employees;
 - 12.7.8. take disciplinary action against any employee;
 - 12.7.9. establish and maintain any non-contributory or contributory pension, superannuation, provident and benefit funds for the benefit of employees of SALGA;
 - 12.7.10. provide for pensions, gratuities and allowances to and make payments for or towards the insurance of any persons who are employees or ex-employees of SALGA and the wives, widows, families and dependants of such persons;
 - 12.7.11. establish and review the Working Groups as deemed necessary;
 - 12.7.12. appoint the chairpersons of the National Working Groups from amongst the additional and/or co-opted members;
 - 12.7.13. stipulate that the holder of an office from amongst the office bearers shall attend exclusively to the business of SALGA, during such period, or for a minimum amount of time during a period, and on such conditions as to payment or otherwise, as may be determined by it from time to time; and
 - 12.7.14. determine representation of SALGA in all national intergovernmental structures and other national forums. Such representatives shall table reports to the National Executive Committee at least quarterly.
- 12.8. **Representation of SALGA in National Council of Provinces**
- 12.8.1 Each provincial association shall nominate no less than three (3) councillors for designation as representatives to participate in the National Council of Provinces, in accordance with the provisions of section 3 of the Act.
 - 12.8.2 The National Executive Committee shall, in accordance with section 3(2)(a) of the Act, from among the provincial nominees, designate nine (9) members (one per province), and a national office bearer, as Organised Local Government's ten (10)

representatives in the National Council of Provinces, giving effect to section 163 (b)(ii) of the Constitution of the Republic of South Africa, Act 108 of 1996.

12.8.3 The Head of Administration shall, in accordance with section 3(3) of the Act, communicate the designation to the Secretary of the National Council of Provinces.

12.9 The National Executive Committee **may**, from time to time:

12.9.1 establish sub-committees for such time and on such terms and limitations as it may deem fit, and delegate any of its powers or functions, to such sub-committees to assist the National Executive Committee in the execution of its duties, in accordance with the delegations framework of the organisation.

12.9.2 entrust to and confer upon any of the governance structures or functionaries, including the administration, such of the powers vested in it as it may deem fit and as set out in the delegations framework of the organisation;

12.9.3 revoke or vary any or all of the powers so delegated.

12.10 The governance structures or functionaries, including the administration, granted powers pursuant to the provisions in terms hereof shall not be regarded as an agent or delegate of the National Executive Committee, and after such powers have been conferred by the National Executive Committee, shall be deemed to derive such powers directly from this clause.

12.11 Save as aforesaid, the meetings and proceedings of a committee consisting of more than 1 (one) member shall be governed by the provisions of this constitution regulating the meetings and proceedings of the National Executive Committee.

12.12 Every member of the National Executive Committee shall be indemnified by SALGA against all liability incurred in his capacity as such, in defending any proceedings, whether civil or criminal, in which judgment is given in his favour, or in which he is acquitted.

12.13 The proceedings of the National Executive Committee shall be regulated in accordance with the procedure laid down in annexure C hereto.

13 **ELECTION OF NATIONAL EXECUTIVE COMMITTEE**

13.1 Every National Conference shall elect the following **members of the National Executive Committee**, who shall be councillors:-

13.1.1 the Chairperson;

13.1.2 3 (three) Deputy Chairpersons; and

13.1.3 6 (six) additional members.

13.2 The nomination and election procedure of the National Executive Committee is set out in annexures B and C, Schedule B of this Constitution.

13.3 The National Executive Committee members shall serve as such until the election of the ensuing National Executive Committee at the National Conference, irrespective of whether or not members are re-elected as councillors.

- 13.4 Before a general local government election, a National Executive Committee member will lose his or her position *ipso facto* if he or she ceases to be a councillor.
- 13.5 Any vacancy, which occurs in the office of any of office bearers and/or additional members between National Conferences, shall be filled by the National Executive Committee.

14 OFFICE BEARERS

- 14.1 There shall be a Chairperson and three Deputy Chairpersons.
- 14.2 Collectively they constitute the **office bearers**.
- 14.3 The three Deputy Chairpersons must be comprised of a representative from each category of municipality; and must be from different provinces to ensure representivity.
- 14.4 The duties of the **office bearers** are to:
- 14.4.1 Oversee the implementation of decisions of the National Conference, National Members Assembly and the National Executive Committee by all SALGA governance structures and functionaries;
 - 14.4.2 Present reports on the state and performance of the governance structures of the organisation;
 - 14.4.3 Ensure the implementation and management of the Members' Compact as provided in this Constitution;
 - 14.4.4 Present reports on enforcement of the Code of Conduct by relevant SALGA structures;
 - 14.4.5 Ensure effective relationship building with members and resolution of disputes between SALGA and members;
 - 14.4.6 Politically oversee the development and execution of the SALGA Strategic Plan for term of National Executive Committee;
 - 14.4.7 Be politically responsible for communication between the organisation, its members and stakeholders;
 - 14.4.8 Be politically responsible for overseeing fundraising and sponsorship plans for SALGA events; and
 - 14.4.9 Perform such other functions as delegated by National Executive Committee **in accordance with delegations framework of the organisation**.

14.5 **CHAIRPERSON**

The Chairperson shall:

- 14.5.1 preside at all meetings of the National Conference, National Members Assembly and National Executive Committee;
- 14.5.2 be the custodian of the decisions taken by the National Conference, National Members Assembly and National Executive Committee;

- 14.5.3 Present to the National Conference, National Members Assembly and extended National Executive Committee a comprehensive report on the state and performance of the governance structures of the organisation;
- 14.5.4 sign minutes of the meetings;
- 14.5.5 delegate such other functions as are necessary to the Deputy Chairpersons;
- 14.5.6 perform such other duties as may be associated with this office;
- 14.5.7 represent SALGA at all formal or ceremonial occasions; and
- 14.5.8 perform such other functions as may be delegated by the National Executive Committee from time to time.

14.6 DEPUTY CHAIRPERSONS

The Deputy Chairpersons shall:

- 14.6.1 carry out such functions as are delegated to them by the Chairperson in terms of 15.5.5 above;
- 14.6.2 carry out the functions outlined in 15.4; and
- 14.6.3 act as Chairperson in the event that the Chairperson is unable to fulfil his or her obligations for a temporary period.

15 DISQUALIFICATION AND PRIVILEGES OF NATIONAL EXECUTIVE COMMITTEE MEMBERS

- 15.1 A member of the National Executive Committee shall cease to hold office as such if –
 - 15.1.1 (s)he is medically certified to be of unsound mind; or
 - 15.1.2 if (s)he infringes any of the provisions of this constitution, including the Code of Ethics for NEC members set out in Annexure D; or
 - 15.1.3 (s)he is removed from office by a resolution of the National Executive Committee; or
 - 15.1.4 (s)he resigns his or her office by not less than 30 (thirty) days' written notice to the chairperson or a person duly delegated by the chairperson; or
 - 15.1.5 **(s)he ceases to be a councillor** ; or
 - 15.1.6 (s)he fails to attend 3 (three) consecutive meetings of the National Executive Committee without leave of absence from the National Executive Committee; or
 - 15.1.7 a notice removing him or her from office is signed by members who hold not less than 51% (fifty one per cent) of the total voting rights of all the members of the National Conference who are at that time entitled so to attend and vote and is delivered to SALGA or lodged at its registered office.
- 15.2 No member of the National Executive Committee may be removed from office unless he or she has been afforded an opportunity to state his or her case.
- 15.3 Disciplinary proceedings concerning National Executive Committee members shall be dealt with in accordance with the provisions of annexure D (Code of Ethics).

16 NATIONAL WORKING GROUPS

- 16.1 Composition and quorum

- 16.1.1 The Working Groups (national and provincial) are established by the National Executive Committee, with the chairperson of the Working Groups appointed from amongst the additional National Executive Committee members.
- 16.1.2 In determining the number of Working Groups, the National Executive Committee shall have due regard to the key functional areas of local government.
- 16.1.3 The National Working Groups shall comprise of the Chairperson and all provincial working group chairpersons of that portfolio.
- 16.1.4 A quorum of **forty percent (40%)** shall apply in National Working Group meetings.

16.2 **Purpose, objectives and functions**

16.2.1 The key purpose and objective of working groups is to:

- 16.2.1.1 facilitate coordination, consultation and inclusive decision-making between SALGA and its members;
- 16.2.1.2 serve as a forum through which organised local government members can consult with one another, at a political level, to contribute in so far as providing ideas, advice, political insight and support on the assigned areas of focus to SALGA's political governance structures, namely the National Executive Committee.

16.2.2 The functions of the Working Groups are to:

- 16.2.2.1 discuss and develop policies, strategies and programmes to address critical local government issues;
- 16.2.2.2 monitor the process of local government policy conceptualisation, design and implementation;
- 16.2.2.3 effect meaningful participation of Working Group members in political and intergovernmental structures as mandated by SALGA;
- 16.2.2.4 within the Strategy of SALGA, facilitate the determination of organised local government priorities, which should be pursued in the short, medium and long term; and
- 16.2.2.5 make strategic and policy recommendations to the National Executive Committee.

PART VI: PROVISIONS APPLICABLE TO PROVINCIAL MEMBERS

17 MEMBERSHIP

Municipal members of SALGA shall *ipso facto* be members of the provincial association for the province in which they are situated.

18 PROVINCIAL GOVERNANCE STRUCTURE

The governance of Provincial Members is **vested and executed** by:

- 18.1 Provincial Conference;
- 18.2 Provincial Members Assembly;
- 18.3 Provincial Executive Committee;
- 18.4 Provincial Office Bearers;
- 18.5 Provincial Working Groups.

19 PROVINCIAL CONFERENCE

- 19.1 The ultimate authority of the provincial member shall reside in its Provincial Conference.
- 19.2 The provincial members shall within a period of **60 (sixty)** days after every **general local government election** hold a meeting of members to be known and described in the notice calling such meeting as the Provincial Conference. Such Provincial Conference shall be held **at least 30 (thirty) days before** the National Conference.
- 19.3 The Provincial Conference **shall**:
 - 19.3.1 Elect the members of the Provincial Executive Committee;
 - 19.3.2 Establish and review provincial oversight bodies as required by law; and
 - 19.3.3 Approve the provincial programme of action, business plan and budget in respect of the ensuing year.
- 19.4 Every Provincial Conference shall **elect** the following members of the Provincial Executive Committee, who shall be councillors:
 - 19.4.1.1 The Chairperson;
 - 19.4.1.2 Three (3) Deputy Chairpersons; and
 - 19.4.1.3 Six (6) additional members.
- 19.5 Every Provincial Conference shall be held at a venue as resolved by the Provincial Executive Committee.
- 19.6 The provisions of article 8, regulating participation and voting in SALGA governance structures, shall apply *mutatis mutandis* to provincial members.
- 19.7 The proceedings of the Provincial Conference shall be regulated in terms of the procedure laid down in annexure A in the Rules of Procedure, *mutatis mutandis*.

20 PROVINCIAL MEMBERS ASSEMBLY

- 20.1 A provincial member shall, at least once a year, hold a meeting of members to be known and described in the notice calling such meeting as the **Provincial Members Assembly**. In the year of a National Members Assembly, such meeting must be held **at least 30 (thirty) days** before the National Members Assembly.
- 20.2 The Provincial Members Assembly shall, except for the provisions of articles 20.3.1 and 20.3.2, exercise the authority of the provincial member between Provincial Conferences.
- 20.3 The Provincial Conference **shall**:
- 20.3.1 Act in accordance with the directions of the Provincial Conference;
 - 20.3.2 Adopt the provincial member's programme of action, business plan and budget in respect of the ensuing year;
 - 20.3.3 Consider reports from the provincial working groups and oversight bodies; and
 - 20.3.4 Deal with any other issues emanating from the provisions applicable to provincial members in this Constitution.
- 20.4 Every Provincial Members Assembly shall be held at a venue as resolved by the Provincial Executive Committee.
- 20.5 The provisions of article 8, regulating participation and voting in SALGA governance structures, shall apply *mutatis mutandis* to provincial members assemblies.
- 20.6 The proceedings of the Provincial Members Assembly shall be regulated in terms of the procedure laid down in annexure A in the Rules of Procedure annexed to this Constitution, *mutatis mutandis*.

21 PROVINCIAL EXECUTIVE COMMITTEE

- 21.1 The Provincial Executive Committee shall exercise the authority of the Provincial member between Provincial Conferences and Provincial Members Assemblies.
- 21.2 The Provincial Executive Committee shall consist of:
- 21.2.1 Chairperson;
 - 21.2.2 Three (3) deputy chairpersons; and
 - 21.2.3 Six (6) additional members.
- 21.3 The Provincial Executive Committee may co-opt no more than 3 (three) further additional members.
- 21.4 In electing Provincial Executive Committee members, the following principles shall apply:
- 21.4.1 All categories of municipalities prevalent in a province must be represented on the Provincial Executive Committee.

- 21.4.2 The 3 (three) deputy chairpersons must also be representative of the categories of municipality prevalent in the province.
- 21.5 The Provincial Executive Committee **shall**:
- 21.5.1 Meet at least once every three months and when the need arises;
- 21.5.2 Exercise day-to-day executive authority of the provincial member;
- 21.5.3 Act in accordance with the directions of the Provincial Conference or Provincial Members Assembly;
- 21.5.4 Submit a report of its activities during the previous financial year to the Provincial Conference or Provincial Members Assembly; and
- 21.5.5 Cause reports of its activities in the province to be tabled quarterly at the National Executive Committee.
- 21.6 **The Provincial Executive Committee shall have the power to:**
- 21.6.1 Exercise oversight of the provincial administration, including human resource management, supply chain management, business planning and the provincial budget, **to the extent set out in the delegations framework of the organisation.**
- 21.6.2 Determine representation of SALGA in all provincial intergovernmental structures and other provincial forums.
- 21.6.2.1 Such representatives shall table reports to the Provincial Executive Committee in accordance with the Governance Framework.
- 21.6.3 Make representations to provincial government.
- 21.6.4 Appoint the chairpersons of Provincial Working Groups from amongst additional or co-opted members.
- 21.6.5 Provincial Executive Committees may also create such other sub-committees and as may be necessary to assist it in the execution of its duties, as outlined in this Constitution, Delegations Framework and Governance Framework of SALGA.
- 21.6.6 Every member of the Provincial Executive Committee shall be indemnified by SALGA against all liability incurred in his or her capacity as such.
- 21.6.7 The proceedings of the Provincial Executive Committee shall be regulated in accordance with the procedure laid down in the Rules of Procedure annexed to this Constitution.
- 21.6.8 The provisions of articles 14 and 15 shall apply *mutatis mutandis* to provincial members.
- 21.6.9 The Provincial Executive Committee shall serve until the next ensuing Provincial Conference, irrespective of whether or not members are re-elected as councillors.
- 21.6.10 During the term of office of the Provincial Executive Committee, other than during the transition period immediately after a general local government election, any loss of the position of councillor by a Provincial Executive Committee member shall *ipso facto*, and without conditions, result in the immediate termination of membership of the Provincial Executive Committee.
- 21.6.11 Any vacancy, which occurs in the office of any of the office bearers and/or additional members, shall be filled by the Provincial Executive Committee.

22 PROVINCIAL WORKING GROUPS

22.1 Composition and quorum

- 22.1.1 The Provincial Working Groups are established by the Provincial Executive Committee, with the chairperson of the Working Groups appointed from amongst the Provincial Executive Committee members.
- 22.1.2 Each provincial member shall be entitled to representation on each Provincial Working Group.
- 22.1.3 The quorum for Provincial Working Groups shall be **forty percent (40%)** of the total number of provincial members that must be present.

22.2 Purpose, objectives and functions

- 22.2.1 The key purpose and objective of working groups is to:
 - 22.2.1.1 facilitate coordination, consultation and inclusive decision-making between SALGA and its provincial and municipal members;
 - 22.2.1.2 serve as a forum through which organised local government members can consult with one another, at a political level, to contribute in so far as providing ideas, advice, political insight and support on the assigned areas of focus to SALGA's political governance structures, namely the Provincial Executive Committee.
- 22.2.2 The functions of the Working Groups are to:
 - 22.2.2.1 discuss and develop policies, strategies and programmes to address critical local government issues in the province;
 - 22.2.2.2 monitor the process of local government policy conceptualisation, design and implementation in the province;
 - 22.2.2.3 effect meaningful participation of Working Group members in provincial intergovernmental structures as mandated by SALGA;
 - 22.2.2.4 within the provincial strategy of SALGA, facilitate the determination of organised local government priorities, which should be pursued in the short, medium and long term; and
 - 22.2.2.5 make strategic and policy recommendations to the Provincial Executive Committee.

SCHEDULE B**PART VII: GENERAL RULES OF PROCEDURE AND MISCELLANEOUS PROVISIONS****23 RIGHT OF MEMBERS TO INSPECT BOOKS OF SALGA**

The books of account and other books and documents of SALGA shall be kept at the registered office of SALGA and, subject to the reasonableness as to the time and manner of inspecting same that may be imposed by a resolution of the National Executive Committee, shall be open to inspection of the members during the hours of business.

24 NOTICES

- 24.1 A notice by SALGA to any member shall be regarded as validly given, if sent by **prepaid** post or transmitted by telegram, telex or telefax to its registered address.
- 24.2 Any notice, if given by registered post, shall be deemed to have been served on the day following that to which the letter or envelope containing such notice is posted.

25 COPIES OF CONSTITUTION AND INSPECTION THEREOF

- 25.1 A copy of this constitution and of every amendment thereto or any amended constitution, shall at all times during normal business hours be available for inspection by SALGA members at its registered office and on its website.
- 25.2 Any member shall be entitled to receive from SALGA a copy of this constitution and of every amended constitution thereto on making request thereof to SALGA.

26 AMENDMENT OF CONSTITUTION

- 26.1 This constitution may be amended by the national conference only if:
- 26.1.1 21 (twenty one) days written notice of the proposed amendment or amendments is given to all members; and
- 26.1.2 approved by two thirds of the **members** entitled to be present and vote at the National Conference.
- 26.2 During the year of the National Conference when the SALGA Constitution is eligible for review and is amended, and such amendment has an impact on the structures or composition of the governance structures at provincial or national level, the National Executive Committee, in consultation with Provincial Executive Committees, must adopt transitional arrangements aimed at giving effect to the approved amendments.
- 26.3 The business of a National and Provincial Conference in such case shall be conducted in accordance with the provisions of the Constitution in effect at the time of the National or Provincial Conference.

- 26.4 No amendment shall be of any force or effect until certified in terms of subsection (3) of section 101 of the Labour Relations Act. 66 of 1995, as amended.

27 DISSOLUTION OR WINDING UP OF SALGA

- 27.1 SALGA may only be dissolved or wound up for whatever reason by a resolution passed by at least two thirds of the members entitled to be present and vote at the National Conference.
- 27.2 The chairperson or a deputy chairperson shall within 7 (seven) days from the date of the dissolution or winding up submit to the Labour Court a resolution approving the dissolution or winding up of SALGA and request the Labour Court to grant an order in terms of section 103 of the Labour Relations Act 66 of 1995, as amended.
- 27.3 The chairperson or a deputy chairperson shall within 7 (seven) days from the date of the appointment of a liquidator by the Labour Court in terms of section 103(3) of the Labour Relations Act 66 of 1995, as amended, deliver to the said liquidator:
- 27.3.1 all books of accounts of SALGA showing the assets and liabilities together with the register of members showing, for the 12 (twelve) months prior to the date on which the resolution for the dissolution or winding-up was passed, the membership fees paid by each member and its last known registered address; and
- 27.3.2 all unexpended funds, assets and all other documents of SALGA.
- 27.4 The liquidator may divide amongst the members the whole or any part of the assets of SALGA (whether they shall consist of property of the same kind or not) and may, for such purpose, set such values as he deems fair upon any property to be divided as aforesaid and may determine how such division shall be carried out as between the members.
- 27.5 After the payment of all the liabilities of SALGA any assets that cannot be disposed of in accordance with the provisions of 28.4 above shall be realised by the liquidator and the proceeds shall, in the sole discretion of the liquidator, either be paid to the Commission for Conciliation Mediation and Arbitration in accordance with section 103(5) of the Labour Relations Act 66 of 1995, as amended, or to any entity with similar objects to SALGA or to both.
- 27.6 The liability of each member shall be limited to the amount of subscription fees and levies due by it to SALGA in terms of this constitution as at the date of dissolution or winding up.
- 27.7 Notwithstanding anything contained in 28.6 above, if the assets of SALGA are on dissolution or winding up insufficient to cover all money due to its employees, each member shall be liable to contribute a proportionate share of the remaining deficit.

28 GENERAL RULES OF PROCEDURE

- 28.1 The Rules of Procedure, annexed to this Constitution, shall regulate:
- 28.1.1 Proceedings at the National Conference and National Members Assembly (Annexure A);
 - 28.1.2 Conduct of elections to SALGA governance structures (Annexure B);
 - 28.1.3 Proceedings of the National Executive Committee (Annexure C);
 - 28.1.4 Code of Ethics for National and Provincial Executive Committee members, and employees of SALGA (Annexure D);
 - 28.1.5 Dispute resolution procedures between SALGA and its members (Annexure E); and
 - 28.1.6 Disciplinary Procedures (Annexure F).
- 28.2 The Rules of Procedure may be amended by the National Conference in accordance with article 26.

**ANNEXURE A: PROCEEDINGS AT THE NATIONAL CONFERENCE AND NATIONAL MEMBERS
ASSEMBLY**

1. In this annexure, the “constitution” means the constitution of SALGA.
2. Every National Conference and National Members Assembly shall be called by 21 (twenty one) clear days' notice in writing at the least setting out the agenda for the meeting. The accidental omission to give notice of a National Conference or National Members Assembly to, or the non-receipt of notice of such a meeting by, any member entitled to receive notice shall not invalidate the proceedings of that meeting.
3. Any additional matter not appearing in the notice calling for the National Conference or National Members Assembly contemplated in 2 above may be placed on the agenda of a National Conference or National Members Assembly upon 7 (seven) days' written notice to all members on the written request of any member, which request shall have been received by the Chairperson or a the person duly delegated within a period of 14 (fourteen) days before the date of the meeting.
4. A matter which has not been placed on the agenda of the National Conference or National Members Assembly may be discussed by that meeting only if the majority of members consent thereto.
5. Each member shall be entitled to so many delegates at the National Conference and National Members Assembly as determined by the National Executive Committee in accordance with article 8.
6. All delegates appointed by municipal members or provincial members to attend a National Conference or National Members Assembly shall be municipal councillors.
7. The quorum at the National Conference or National Members Assembly shall be a majority of members entitled to attend and vote at the meeting.
8. If, within the time period as may be determined by the National Executive Committee from the appointed time for the meeting, a quorum is not achieved, the meeting, in case of a National Members Assembly convened upon the requisition of members, shall be dissolved.
 - 8.1. In any other case it shall stand adjourned to the same day in the next month, or if that day be a public holiday, to the next succeeding day other than a public holiday.
 - 8.2. If, at such adjourned meeting, a quorum is not present within the time period determined by the National Executive Committee from the time appointed for the meeting then the members present shall be a quorum.
9. The Chairperson shall preside as chairperson at every National Conference or National Members Assembly. If at any National Conference or National Members Assembly the Chairperson is not present within the time period determined by the National Executive Committee after the time appointed for holding the meeting, or is unwilling or unable to act as such, a Deputy Chairperson shall act as the chairperson of the meeting, or if none of the deputy chairpersons are present within the

time period determined by the National Executive Committee or is unwilling to act as chairperson, the members present shall choose any delegate present to be chairperson of the meeting.

10. The chairperson may, with the consent of any National Conference or National Members Assembly at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, to deal with any business left unfinished at the meeting from which the adjournment took place. It shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.
11. At any National Conference or National Members Assembly a resolution put to the vote of the meeting shall be decided on a show of hands (or the use of assistive devices for that purpose).
12. A declaration by the chairperson that a resolution has been carried, or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the minute book of SALGA, shall be conclusive evidence of the number of the votes recorded in favour of, or against, such resolution.
13. No objection shall be raised as to the admissibility of any vote except at the meeting or adjourned meeting at which the vote objected to is or may be given or tendered and every vote not disallowed at such meeting shall be valid for all purposes. Any such objection shall be referred to the chairperson of the meeting, whose decision shall be final and conclusive.
14. In the case of an equality of votes, the chairperson of the meeting shall be entitled to a second or casting vote.
15. Notwithstanding anything contained in this annexure, the head of administration shall act as the chairperson of the meeting at the National Conference during the election of office bearers but shall have no vote.
16. In any ballot conducted in connection with any election of office bearers, the candidates, up to the required number, receiving the highest number or votes shall be declared elected.
17. The National Executive Committee shall be bound to take action according to the decision of a majority of the members or delegates voting.

ANNEXURE B: CONDUCT OF ELECTIONS TO SALGA GOVERNANCE STRUCTURES

1. In the election of the National Executive Committee and Provincial Executive Committee, the following process shall apply:
 - 1.1 National Conference voting delegates will vote only for the directly elected National Executive Committee members, being 4 (four) candidates for the office bearers, namely the **Chairperson and three (3) Deputy Chairpersons**, and the six (6) additional members.
 - 1.2 All categories of municipality must be represented among the **office bearers**.
 - 1.3 Thus, every vote at the National Conference to elect the **Deputy Chairpersons** must include a metropolitan, district and local representative.
 - 1.4 All four (4) members of the **office bearers** must be from different provinces.
 - 1.5 In the event that a provincial chairperson is elected at the National Conference to be national **Chairperson**, (s)he shall automatically relinquish chairpersonship of the Province.
 - 1.6 But for Provincial Chairpersons, who are *ex officio*, **no member of a Provincial Executive Committee may hold dual portfolio's ie. be a Provincial and National Executive Committee member at the same time.**
 - 1.7 If a Provincial Executive Committee member is directly elected as a member of the National Executive Committee, such member shall relinquish (automatically) his or her provincial position.
2. The election of directly elected members shall be conducted in accordance with the voting procedures outlined in annexure A.

ANNEXURE C: PROCEEDINGS OF THE NATIONAL EXECUTIVE COMMITTEE

1. In this annexure, the "Constitution" means the constitution of SALGA.
2. The Chairperson, on the requisition of any member of the National Executive Committee shall, at any time, summon a meeting of the National Executive Committee.
3. The National Executive Committee may meet together for the despatch of business, adjourn and otherwise regulate its meetings as it deems fit.
4. Unless otherwise resolved by the National Executive Committee, all its meetings shall be held at SALGA's registered office.
5. The Chairperson shall have a second or casting vote at the meeting of the National Executive Committee.
6. The head of administration shall have no vote in the proceedings or decisions of the National Executive Committee.
7. The National Executive Committee may determine what period of notice shall be given of its meetings and may determine the means of giving such notice, which may include telephone, telegram, telex or telefax. It shall not be necessary to give notice of a meeting of the National Executive Committee to any of its members for the time being absent from the Republic.
8. A quorum of the National Executive Committee shall consist of the majority of the members constituting it.
9. Subject to this Constitution-
 - 9.1. a resolution in writing, including through the medium of telefax, signed by the members of the National Executive Committee for the time being present in the Republic and, being not less than are sufficient to form a quorum, shall be as valid and effectual as if it had been passed at a meeting of the National Executive Committee duly called and constituted; and
 - 9.2. in the case of matters requiring an urgent resolution or, if for any reason it is impracticable to meet as contemplated herein or pass a resolution as contemplated in 9.1 hereof, proceedings may be conducted by utilising conference telephone facilities, provided that the required quorum is met.
 - 9.2.1. A resolution agreed to during the course of such proceedings shall be as valid and effectual as if it had been passed at a meeting of the National Executive Committee duly called and constituted.
 - 9.2.2. The Chairperson shall as soon as is reasonably possible after such meeting has been held, be notified thereof by the relevant parties to the meeting, and the Chairperson shall prepare a written minute thereof.
 - 9.3. No member unable to attend a National Executive Committee meeting shall be entitled to appoint a proxy in his stead.

- 9.4. If at any meeting of the National Executive Committee the Chairperson is not present within the time period as may be determined by the National Executive Committee in the circumstances after the time appointed for holding it, one of the Deputy Chairpersons shall act as the chairperson of the meeting or, if none of them are also not present within the time period determined by the National Executive Committee, the members present may choose one of their number to be chairperson of the meeting.
- 9.5. The provisions hereof shall apply *mutatis mutandis* to Provincial Executive Committees.

ANNEXURE D: CODE OF ETHICS FOR ELECTED NATIONAL AND PROVINCIAL EXECUTIVE COMMITTEE MEMBERS AND DEPLOYED REPRESENTATIVES OF SALGA

1. This Annexure sets out the Code of Ethics and procedures for breaches of thereof for elected National and Provincial Executive Committee members and deployed representatives of SALGA.
2. Elected National and Provincial Executive Committee members and deployed representatives of SALGA **must**:
 - a. Be true and faithful to SALGA and uphold the highest ideals of honour and integrity in order that SALGA may merit the respect and confidence of all stakeholders and the public;
 - b. obey, respect, uphold, promote and maintain the Constitution of the Republic of South Africa, the constitution of SALGA and all other laws of the Republic,
 - c. effectively and efficiently work with governmental agencies, political subdivisions and other organizations in order to further the interest of the local government;
 - d. discharge the duties and functions as the representatives of SALGA diligently and to the best of their knowledge and ability; and
 - e. devote themselves to the wellbeing of SALGA and all of its members.
3. Elected National and Provincial Executive Committee members and deployed representatives of SALGA **may not**:
 - a. divulge directly or indirectly any confidential information entrusted to them by virtue of their position at SALGA;
 - b. engage in outside interests that are not compatible with the impartial and objective performance of their duties;
 - c. improperly influence or attempt to influence other elected members or representatives from member municipalities to act in their own personal benefit; nor
 - d. accept anything of value from any source which is offered to influence their actions as representatives of SALGA.
4. When becoming aware of a possible violation of one or more of the obligations under 2 or 3 above, the National Executive Committee or Provincial Executive Committee, as the case may be, may institute disciplinary proceedings against the National or Provincial Executive Committee member or deployed representatives of SALGA and duly inform the municipality whom such National or Provincial Executive Committee member or deployed representative of SALGA is representing.
5. The National Executive Committee or Provincial Executive Committee shall establish *ad hoc* disciplinary committees to deal with such cases.
6. The National Executive Committee or Provincial Executive Committee, as the case may be, may suspend the relevant National or Provincial Executive Committee member or deployed representative of SALGA to allow the disciplinary proceedings to take its course.
7. National Executive Committee and/ or Provincial Executive Committee members, as the case may be, may not discuss or divulge information with anyone about pending or ongoing ethics cases. Failure to

observe this may result in such National Executive Committee or Provincial Executive Committee member being in breach of this Code and liable to disciplinary action.

8. If any National or Provincial Executive Committee member or deployed representative of SALGA is found, in terms of the outcomes of the disciplinary proceedings, to be unfit to hold SALGA office or be deployed as a SALGA representative, the National or Provincial Executive Committee member or deployed representative of SALGA may appeal as follows:
 - a. In the event of a Provincial Executive Committee member found guilty of breaching this Code, such member shall be entitled to appeal to the National Executive Committee, whose decision shall be **final and binding**.
 - b. In the event of a National Executive Committee member or deployed representative of SALGA found guilty of breaching this Code, such member or deployee shall appeal to an *ad hoc* appeals committee established by the National Executive Committee which must comprise of at least:
 - i. The Chairperson; and
 - ii. Two (2) Deputy Chairpersons.
 - c. If the Chairperson or a Deputy Chairperson is charged with violation of this Code, the *ad hoc* disciplinary committee and the appeals committee (if required) must comprise of at least:
 - i. Two (2) members from among the office bearers; and
 - ii. Three (3) provincial Chairpersons, excluding the provincial Chairperson representing the province where such individual's member municipality is situated.
9. The National Executive Committee or Provincial Executive Committee must inform the relevant member (Provincial Association or municipal member, as the case may be) or deployee of the outcome of the disciplinary proceedings and that such individual is unfit to hold SALGA office or be deployed as a SALGA representative.
10. In such case, the National Executive Committee may invite the Provincial Association to nominate another person to fill the vacancy (if a provincial representative) or may fill the vacancy at the next sitting of the extended National Executive Committee meeting or National Members Assembly (for directly elected members), whichever comes first.
11. The Provincial Executive Committee may fill the vacancy in accordance with article 21.6.11.

ANNEXURE E: DISPUTE RESOLUTION PROCEDURES

1. This Annex sets out an internal dispute resolution procedure to resolve disputes between SALGA and its members regarding their “rights, duties, or liabilities” in terms of this Constitution. This procedure is an “internal” dispute resolution mechanism and must be distinguished from “alternative” dispute resolution.
2. Its purpose is to provide a mechanism for members to resolve disputes with the Association, and does not apply to disputes between members, save as provided for below.
3. The procedure may be invoked by a provincial member or any individual municipal member with either its provincial association or the national association directly. Parties to a dispute must attempt to resolve such dispute speedily and in good faith.
4. In accordance with the provisions of article 5 (Members Compact), disputes between SALGA and its members shall be resolved as follows:
5. Disputes between member municipalities and provincial associations
 - 5.1 In the first instance, municipal members shall have the right to approach its provincial association raising its concerns, in writing, with regard to the alleged non-fulfillment of such member’s rights, or obligations imposed on the provincial association in terms of articles 19, 20 and 21 in terms of this Constitution.
 - 5.2 A copy of the letter must be submitted to the national Association for its notification.
 - 5.3 Within 30 days of receiving the notification of concern, the provincial association must respond, in writing, to the concerns raised, including proposed steps or actions to address same.
 - 5.4 If, after a period of 60 days, the member’s concerns have not been addressed to its satisfaction, such member shall have the right to declare a formal dispute with the provincial association.
 - 5.5 Such dispute must be declared in writing and set out the grounds for the dispute, including steps taken in attempting to address the concerns so raised. A copy of the dispute declared shall be forwarded to the national association for its notification by fax, mail or email.
 - 5.6 Within 30 days of the dispute being declared in writing and received by the provincial association, a meeting between the provincial association and municipal member to discuss the grounds for the dispute, present their responses and proposed steps to resolve same must be duly convened.
 - 5.7 The provincial association in such instance shall be represented by the provincial Chairperson or one of the Deputy Chairpersons.
 - 5.8 In the event that the grounds for the dispute are not addressed within 60 days, the member shall have the right to appeal to the full Provincial Executive Committee.

5.9 In the event that the dispute is still not resolved thereafter, the member shall have recourse to the National Executive Committee, who shall be represented by one of the office bearers.

6. Disputes between municipal members and provincial associations with the National Association

6.1 In the case of either a provincial member or municipal member, both shall have the right to approach the national association raising its concerns, in writing, with regard to the alleged non-fulfillment of its rights, or obligations imposed on the national association in terms of articles 10, 11, 12 and 13 in terms of this Constitution.

6.2 In the case of a municipal member, a copy of the letter must be submitted to the provincial Association for its notification.

6.3 Within 30 days of receiving the notification of concern, the national association must respond, in writing, to the concerns raised, including proposed steps or actions to address same.

6.4 If, after a period of 60 days, the member's concerns have not been addressed to its satisfaction, such member shall have the right to declare a formal dispute with the national association.

6.5 Such dispute must be declared in writing and set out the grounds for the dispute, including steps taken in attempting to address the concerns so raised.

6.6 Within 30 days of the dispute being declared in writing and received by the national association, a meeting between the national association and municipal or provincial member must be duly convened to discuss the grounds for the dispute, present their responses and proposed steps to resolve same.

6.7 The national association in such instance shall be represented by one of the office bearers.

6.8 In the event that the grounds for the dispute are not addressed within 60 days to the member's satisfaction, the member shall have the right to appeal to the full National Executive Committee.

6.9 If the member (who has invoked the procedure) requests the participation of a mediator, the association should work with the member to select a mediator.

ANNEXURE F: DISCIPLINARY PROCEDURES

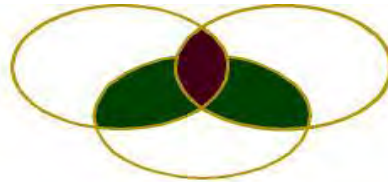
1. This Annex gives effect to article 6 and provides for disciplinary procedures to be followed in accordance with article 6.7.
2. The *ad hoc* disciplinary committees which shall be established by the National Executive Committee or Provincial Executive Committee, as the case may be, **must** consist of:
 - a. In the case of the National Executive Committee -
 - i. One (1) office bearer;
 - ii. One (1) provincial Chairperson; and
 - iii. One (1) additional member of the National Executive Committee.
 - b. In the case of a Provincial Executive Committee -
 - i. One (1) office bearer; and
 - ii. Two (2) additional members of the Provincial Executive Committee.
3. If a member has been summarily suspended in accordance with the provisions of article 6.12, disciplinary proceedings must be instituted against such member within 30 days of the suspension.
 - a. A notice of suspension, stating the nature of the charges as well as a date for preliminary hearing of the matter must be communicated to the member concerned within 30 days of suspension.
 - b. A member shall be entitled to call witness(es) in support of its case when appearing before a Disciplinary Committee contemplated in article 6.3.
4. As provided for in article 6.4, a member shall be entitled to appeal the decisions of a Disciplinary Committee to the National Executive Committee or Provincial Executive Committee, as the case may be. The National or Provincial Executive Committee, as the case may be, may establish an appeals committee to consider the appeal.
5. The member concerned shall lodge notice of any such appeal, including the grounds upon which its appeal is founded, with the Chairperson or a person duly delegated by the Chairperson, or Provincial Chairperson or a person duly designated by the provincial Chairperson, as the case may be, in writing within 14 (fourteen) days of the date on which the decision of the National Executive Committee or Provincial Executive Committee was communicated to it.
6. As provided for in article 6.4, save for suspension or expulsion of a member, the decision of the National Executive Committee or Provincial Executive Committee is **final and binding**.
7. A member may be suspended or expelled from SALGA if it violates the Code of Conduct set out in article 6.
8. Any member, **who** has been suspended or expelled by the National Executive Committee, shall have a right to appeal against such suspension or expulsion to the extended National Executive Committee, National Members Assembly or National Conference (whichever occurs first).

9. A member shall cease to be entitled to any benefits of membership, including but not limited to the right to vote during meetings in the period in which it is under suspension in terms of this constitution.
10. The member concerned shall lodge notice of any such appeal, including the grounds upon which its appeal is founded, with the Chairperson or a person duly delegated by the Chairperson in writing within 14 (fourteen) days of the date on which the decision of the National Executive Committee was communicated to it.
11. The extended National Executive Committee meeting, National Members Assembly or National Conference (whichever occurs first) shall appoint an *ad hoc* committee to consider the appeal.
 - a. The committee so appointed shall submit a report with its recommendation(s) to the extended National Executive Committee, National Members Assembly or National Conference (whichever appointed it).
 - b. The decision of the extended National Executive Committee, National Members Assembly or National Conference (whichever deals with the matter) shall be final and binding on the member concerned.
12. Upon the expulsion of a member, all money due and owing by such member to SALGA shall become payable within a period of 30 (thirty) days of such expulsion. If a member in question fails to make such payment to SALGA within the period contemplated herein, the National Executive Committee may take such steps **as** it deems necessary to recover such money.

8.5

**APPOINTMENT OF REPRESENTATIVES
ON SALGA – WESTERN CAPE**

APPENDIX 2



SALGA

South African Local Government Association

**SALGA GOVERNANCE
FRAMEWORK**

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1. DEFINITION OF GOVERNANCE

- 1.1. “The means by which direction and control are applied to stewardship of an organisation’s assets – tangible and intangible, financial and non-financial – in pursuit and delivery of the primary objectives of sustainable value creation”.

The King Report 1998

2. GOVERNANCE FRAMEWORK OBJECTIVES

- 2.1. To clarify the roles and responsibilities of political and administrative governing bodies within SALGA.
- 2.2. To outline the mandating and reporting between national and provincial offices.

3. SCOPE

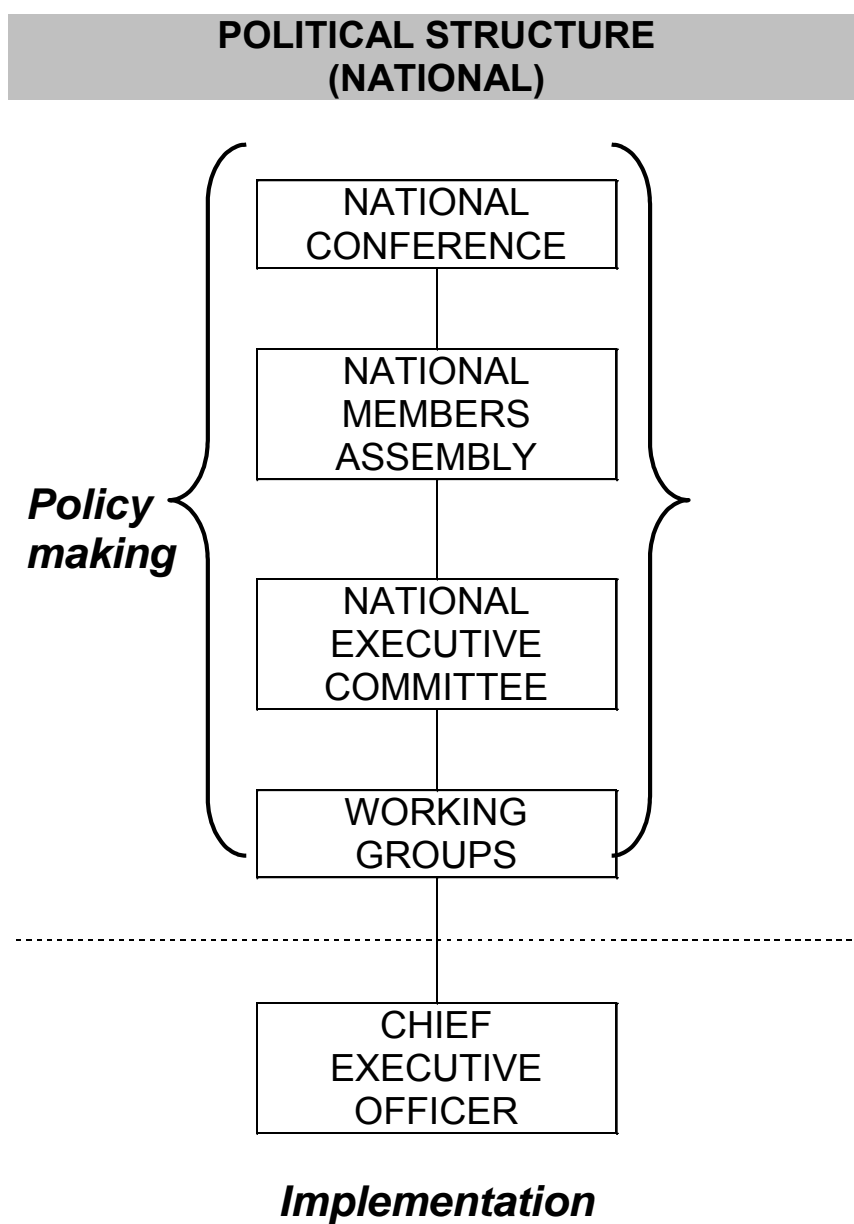
- 3.1. The Governance framework deals with the roles and responsibilities of the following:
 - 3.1.1. National Political Governing Bodies
 - 3.1.2. Provincial Political Governing Bodies
 - 3.1.3. SALGA Working Groups

4. GOOD GOVERNANCE PRINCIPLES

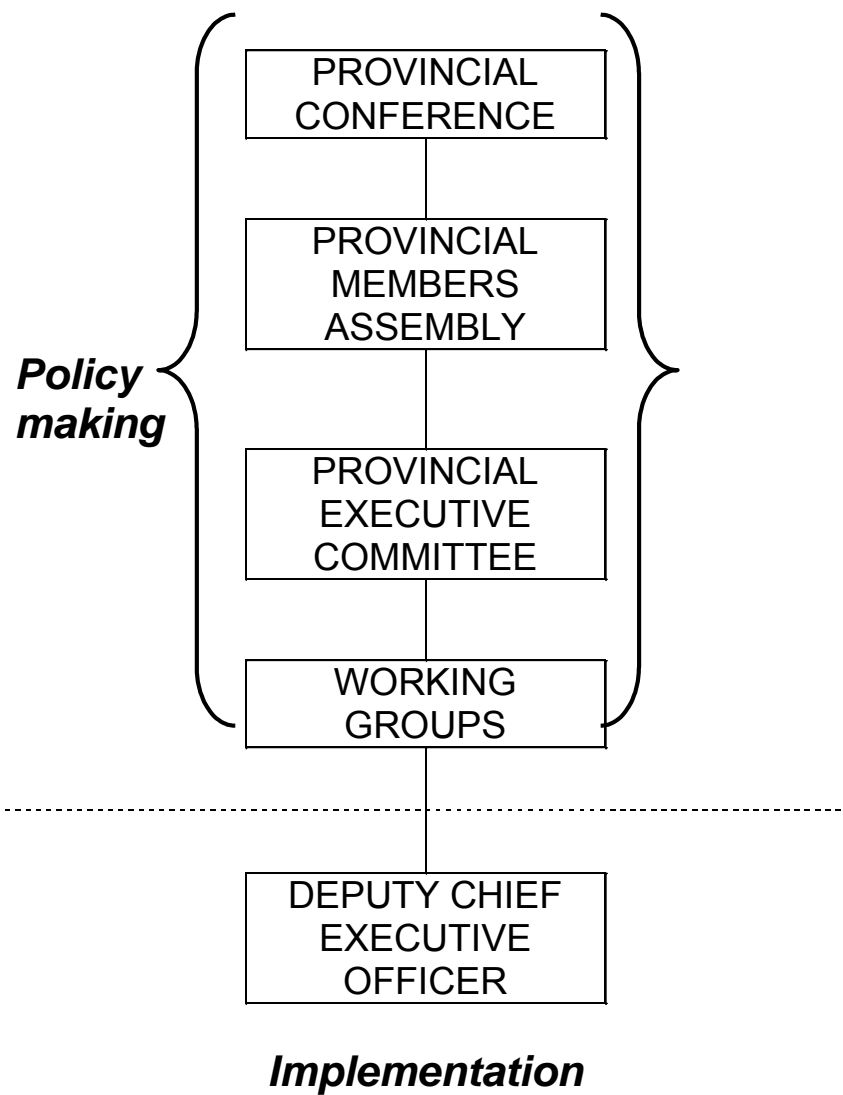
- 4.1. SALGA seeks to build an organisation which is:
 - 4.1.1. Accountable
 - 4.1.2. Transparent
 - 4.1.3. Responsive and Client-focused
 - 4.1.4. Participatory
 - 4.1.5. Consensus-orientated
 - 4.1.6. Follows the rule of law
 - 4.1.7. Promotes equity and inclusivity
 - 4.1.8. Promotes efficient and effective service delivery
 - 4.1.9. Promotes subsidiarity within the context of strategic alignment
 - 4.1.10. Exercises a clear separation of powers between political and administrative structures
 - 4.1.11. Comply with the current trends of Good Corporate Governance
 - 4.1.12. Promotes administrative justice and Batho Pele principles

5. SALGA STRUCTURES

5.1. Political Structure



**POLITICAL STRUCTURE
(PROVINCIAL)**



6. ROLES AND RESPONSIBILITIES OF NATIONAL POLITICAL GOVERNING BODIES

The SALGA Constitution outlines the following roles and responsibilities for SALGA's political governing bodies:

6.1. The National Conference

- 6.1.1. The National Conference is the highest decision-making body of SALGA and the ultimate authority of SALGA resides in the National Conference. Its powers and duties are to:
 - 6.1.1.1. Elect the members of the National Executive Committee.
 - 6.1.1.2. Establish and review SALGA's oversight bodies as may be required by law; and
 - 6.1.1.3. Consider audited financial statements in respect of the previous year, approve the programme of action, business plan and the budget of SALGA as approved by the National Executive Committee in respect of the ensuing year and review SALGA's financial performance.

6.2. The National Members Assembly

- 6.2.1. The ultimate authority of SALGA in between National Conferences shall reside in the National Members Assembly. Its powers and duties are to:
 - 6.2.1.1. Act in accordance with the directions of the National Conference;
 - 6.2.1.2. Consider audited financial statements in respect of the previous year;
 - 6.2.1.3. Adopt SALGA's programme of action, business plan and the budget of SALGA as approved by the National Executive Committee;
 - 6.2.1.4. Review SALGA's financial performance;
 - 6.2.1.5. Consider reports from the working groups and oversight bodies; and
 - 6.2.1.6. Deal with any other issues emanating from the provisions of this constitution.

6.3. The National Executive Committee

6.3.1 The National Executive Committee shall consist of:

- 6.3.1.1. the Chairperson of SALGA; 3 Deputy Chairpersons and 6 Additional Members who are elected separately by the National Conference;
- 6.3.1.2. Provincial Chairpersons of SALGA who are ex-officio members of the National Executive Committee; and
- 6.3.1.3. The head of the administration.
- 6.3.2. The National Executive Committee may co-opt no more than 3 (three) additional members.
- 6.3.3. The National Executive Committee shall:
 - 6.3.3.1. Meet at least once every two months and when the need arises;
 - 6.3.3.2. Exercise day-to-day executive authority;
 - 6.3.3.3. Act in accordance with the directions of the National Conference or National Members Assembly;
 - 6.3.3.4. Submit a report of its activities during the previous financial year to the National Conference or National Members Assembly, whichever occurs first; and
 - 6.3.3.5. Develop, review and adopt SALGA's administrative policies.
- 6.3.4. The National Executive Committee shall have the power from time-to time to:
 - 6.3.4.1. acquire and control property;
 - 6.3.4.2. open any banking account;
 - 6.3.4.3. invest money;
 - 6.3.4.4. appoint the head of administration, who will also act as a secretary in terms of section 95 of the Labour Relations Act No. 66 of 1995, as amended;
 - 6.3.4.5. make representations to both the provincial and national governments;
 - 6.3.4.6. develop the criteria for associate membership;
 - 6.3.4.7. do all such things as are necessary for the exercise of the power and authority described in clause 9.3.7 of the SALGA constitution;

- 6.3.4.8. determine the signatories required for the operation of any banking account;
- 6.3.4.9. recruit, appoint, promote and discharge employees;
- 6.3.4.10. take disciplinary action against any employee;
- 6.3.4.11. establish and maintain any non-contributory or contributory pension, superannuation, provident and benefit funds for the benefit of employees of SALGA;
- 6.3.4.12. give pensions, gratuities and allowances to and make payments for or towards the insurance of any persons who are employees or ex-employees of SALGA and the wives, widows, families and dependants of such persons;
- 6.3.4.13. establish and review the Working Groups as deemed necessary;
- 6.3.4.14. appoint each of the additional members to Chairpersonship of a specific Working Group;
- 6.3.4.15. stipulate that the holder of an office from amongst the office bearers shall attend exclusively to the business of SALGA, during such period, or for a minimum amount of time during a period and on such conditions as to payment or otherwise as may be determined by it from time to time; and
- 6.3.4.16. exclusively determine representation of SALGA in all Intergovernmental structures and other forums. Such representatives shall table reports to the National Executive Committee at least quarterly.

6.4. The Office Bearers

- 6.4.1. The Office Bearers shall consist of:
 - 6.4.1.1. The Chairperson of SALGA; and
 - 6.4.1.2. The 3 Deputy Chairpersons of SALGA.
- 6.4.2. The duties of the office-bearers are as follows:

CHAIRPERSON

The chairperson shall: -

1. preside at all meetings of the National Conference, National Members Assembly and National Executive Committee;
2. be the custodian of the decisions taken by the National Conference, National Members Assembly and National Executive Committee;
3. enforce observance of this constitution by the members, delegates and office bearers;
4. sign minutes of the meetings;
5. delegate such other functions as are necessary to the deputy chairpersons;
6. perform such other duties as may be associated with this office;
7. represent SALGA at all formal or ceremonial occasions; and
8. perform such other functions as may be delegated by the National Executive Committee from time to time.

DEPUTY CHAIRPERSONS

The deputy-chairpersons shall:-

1. carry out such functions as are delegated to them by the Chairperson in terms of 5 above; and
2. represent the Chairperson in carrying out such of the Chairperson's duties as may be required by him or her from time to time.

7. ROLES AND RESPONSIBILITIES OF PROVINCIAL POLITICAL GOVERNING BODIES

7.1. The Provincial Conference

- 7.1.1. The ultimate authority of the provincial member resides in its Provincial Conference. Its powers and duties are to:
 - 7.1.1.1. Elect the members of the Provincial Executive Committee; and
 - 7.1.1.2. Establish and review SALGA's oversight bodies as may be required by law.

7.2. The Provincial Members Assembly

- 7.2.1. The ultimate authority of the provincial member in between Provincial Conferences shall reside in the Provincial Members Assembly. Its powers and duties are to:
 - 7.2.1.1. act in accordance with the directions of the Provincial Conference;
 - 7.2.1.2. adopt SALGA's programme of action, business plan and the budget of SALGA as approved by the National Executive Committee;
 - 7.2.1.3. consider reports from the working groups and oversight bodies; and
 - 7.2.1.4. deal with any other issues emanating from the provisions of this constitution.

7.3. The Provincial Executive Committee

- 7.3.1. The Provincial Executive Committee shall consist of:
 - 7.3.1.1. the chairperson; 3 deputy chairpersons and 6 additional Members who are elected separately by the Provincial Conference;
- 7.3.2. The Provincial Executive Committee may co-opt no more than 3 (three) additional members.
- 7.3.3. The Provincial Executive Committee shall:
 - 7.3.3.1. Meet at least once every two months and when the need arises;
 - 7.3.3.2. Exercise day-to-day executive authority in the province;
 - 7.3.3.3. Act in accordance with the directions of the Provincial Conference or Provincial Members Assembly;
 - 7.3.3.4. Submit a report of its activities during the previous financial year to the Provincial Conference or Provincial Members Assembly, whichever occurs first;
 - 7.3.3.5. Develop, review and adopt SALGA's administrative policies; and
 - 7.3.3.6. Cause reports of activities in the province to be tabled at least quarterly at the National Executive Committee.
- 7.3.4. The Provincial Executive Committee shall have the power from time-to time to:
 - 7.3.4.1. make representations to both the provincial and national governments;
 - 7.3.4.2. do all such things as are necessary for the exercise of the power and authority described in clause 9.3.7 of the SALGA constitution;
 - 7.3.4.3. establish and review the Working Groups as deemed necessary;
 - 7.3.4.4. appoint each of the additional members to Chairpersonship of a specific Working Group;
 - 7.3.4.5. stipulate that the holder of an office from amongst the office bearers shall attend exclusively to the business of SALGA, during such period, or for a minimum amount of time during a period and on such conditions as to payment or otherwise as may be determined by it from time to time; and

8. RELATIONSHIP BETWEEN NATIONAL AND PROVINCIAL BODIES

- 8.1.1. The SALGA Constitution regulates the relationship between SALGA and its provincial members in that all provincial members shall have constituted themselves in terms of the constitution of SALGA and be affiliated to SALGA.
- 8.1.2. Provincial Executive Committee shall cause reports of activities in the province to be at least tabled quarterly at the National Executive Committee.

9. SALGA WORKING GROUPS

9.1. Purpose and Objectives

- 9.1.1. Working Groups are structures of the NEC, that deal with political detail on behalf of the NEC and their main purpose is to encourage, ensure and promote local government matters which, *inter alia*, will include:
 - 9.1.1.1. Cooperative governance;
 - 9.1.1.2. Consultation and coordination; and
 - 9.1.1.3. Participative decision-making.
- 9.1.2. The Working Groups, within their derived mandate, must develop policies, strategies and programmes to address critical local government issues; and
- 9.1.3. Working groups must serve as a forum through which organized local government can consult on a political level in order to contribute towards the creation of democratic and economically viable local government.

9.2. Competencies of National Working Groups

- 9.2.1. The role of the working groups is limited to:
 - 9.2.1.1. Providing ideas, advice, contacts, political insight and support on the assigned areas of focus to SALGA,s political governance structures, both provincially (PEC) and nationally (NEC);
 - 9.2.1.2. Making policy recommendations to the NEC;
 - 9.2.1.3. Monitoring the process of policy conceptualization, design and implementation;
 - 9.2.1.4. Effect meaningful Participation of Working Group members in political and intergovernmental structures as mandated by the SALGA leadership;
 - 9.2.1.5. Identify any potential problems and conflicts with the intention of finding acceptable and lasting solutions; and
 - 9.2.1.6. Facilitate the determination of local government priorities, which should be addressed in the short, medium and long terms.

9.3. Competencies of Provincial Working Groups

- 9.3.1. The role of the working groups is limited to:
 - 9.3.1.1. Providing ideas, advice, contacts, political insight and support on the assigned areas of focus to SALGA,s political governance structures at provincially level;
 - 9.3.1.2. Making policy recommendations to the PEC;
 - 9.3.1.3. Monitoring the process of policy conceptualization, design and implementation;
 - 9.3.1.4. Effect meaningful Participation of Working Group members in political and intergovernmental structures as mandated by the SALGA leadership;
 - 9.3.1.5. Identify any potential problems and conflicts with the intention of finding acceptable and lasting solutions; and
 - 9.3.1.6. Facilitate the determination of local government priorities, which should be addressed in the short, medium and long terms.

9.4. Establishment of Working Groups

- 9.4.1. The Executive Committee at National or Provincial level must establish working groups to deal with the implementation of the SALGA's programmes and any other matters of concern to local government.
- 9.4.2. The National Executive Committee shall determine the number of working groups based on, *inter alia*, the key functional areas of local government and cluster the work of the working groups at national and provincial level to facilitate strategic alignment.

9.5. Composition and Membership of National Working Groups

- 9.5.1. The Chairperson of a National Working Group shall be appointed by the National Executive Committee from the additional members and/or the co-opted members.
- 9.5.2. Each provincial member shall be entitled to a minimum of 1 (one) and a maximum of 2 (two) representatives on a SALGA National Working Group, one of which must be the Provincial Chairperson of the related working group at provincial level.
- 9.5.3. Municipal members shall also be entitled to directly nominate representatives to serve on a National Working Group.
- 9.5.4. In order to ensure that the size of national working groups remains at a manageable level, the National Executive Committee shall be entitled to select from the list of municipal nominees based on the following criteria:
 - 9.5.4.1. Level of subject expertise or experience.
 - 9.5.4.2. Equitable geographic representation.
 - 9.5.4.3. Equitable category (A,B or C) representation.
- 9.5.5. The term of office of working group members shall coincide with that of SALGA Office Bearers.
- 9.5.6. A vacancy that occurs in the working group shall be filled by the National Executive Committee after receiving new nominations from the provincial or municipal member concerned.

9.6. Composition and Membership of Provincial Working Groups

- 9.6.1. The Chairperson of a Provincial Working Group shall be appointed by the Provincial Executive Committee from the additional members and/or the co-opted members.
- 9.6.2. Each municipality shall be entitled to nominate 1 (one) representative to serve on Provincial Working Group.
- 9.6.3. In order to ensure that the size of provincial working groups remains at a manageable level, the Provincial Executive Committee shall be entitled to select from the list of municipal nominees based on the following criteria:
 - 9.6.3.1. Level of subject expertise or experience.
 - 9.6.3.2. Equitable geographic representation.
 - 9.6.3.3. Equitable category representation.
- 9.6.4. The term of office of working group members shall coincide with that of Provincial Office Bearers.
- 9.6.5. A vacancy that occurs in the working group shall be filled by the Provincial Executive Committee after receiving new nominations from the municipality concerned.

9.7. Roles and Responsibilities of the Chairpersons of Working Groups

- 9.7.1. To chair the meetings of the working group.
- 9.7.2. To liaise with the working group co-ordinator regarding the agendas of the working group meetings and the implementation of working group programmes.
- 9.7.3. To direct any concerns regarding the operation of the working group to the Head of Administration at national or provincial level respectively or his/her nominee.
- 9.7.4. To report to the National Executive Committee (National Working Group) and Provincial Executive Committee (Provincial Working Group) respectively, on the recommendations and activities of the working group.
- 9.7.5. In the absence of the Chairperson, the remaining members of the working group shall elect another member to act as a chairperson until the Chairperson is available.

9.8 Working Groups and functional areas

1. Economic Development, Planning and Environment Working Group

- Integrated development planning (IDPs, GDS, NSDP)
- Town planning & land use management;
- ASGISA & JIPSA;
- Tourism;
- Air pollution, environmental and waste management;
- Local economic development;
- ICT (as relate to economic development); and
- Climate Change and Local Agenda 21.

2. Municipal Finance and Corporate Admin Working Group

- Intergovernmental fiscal policies
- Municipal finance:
 - Credit control
 - Revenue generation
 - Municipal finance management
- Municipal capital projects
- Infrastructure investment
- Internal HR
- Risk Management
- Compliance Management
- Admin and facilities
- Occupational Health and Safety
- Communications

3. Social Development; Health and Safety Working Group

- HIV/Aids awareness
- Sport and Recreation
- Health
- Poverty Alleviation
- Arts and Culture
- Public Safety
 - Local crime prevention;
 - Disaster Management;
 - Policing and law enforcement;
 - Emergency and fire services
- Youth development programmes
- Children and the elderly
- Gender mainstreaming
- Disability

4. Municipal Services and Infrastructure Working Group

- Water and Sanitation Services
- Energy and Electricity
- Municipal Entities
- Housing
- Transport
- Basic Service Provision and Infrastructure
- Cemeteries
- Public Works

5. Human Resource Development Working Group

- HIV/Aids policy at the workplace
- Labour relations matters
- Capacity development
- LGSETA
- Organisational development: LR Implications
- Restructuring of municipalities
- Institutional issues relating to Municipal Service Partnerships

6. Governance, Intergovernmental Relations and International Relations Working Group

- Constitutional matters
- Local Government legislation
- Powers and functions of municipalities
- Traditional leaders
- Intergovernmental relations policy issues
- Demarcation issues
- Elections
- Municipal by-laws
- Public participation
- Roles of elected municipal representatives
- Research and Comparative learning
- Councillor support e.g. Remuneration issues
- Municipal International Relations
- Role of SALGA in the Continent
- Support for organised local government in the Continent
- UCLGA, UCLG, SADC, NEPAD, AU imperatives.
- Parliamentary and Legislative matters.

10. SALGA REPRESENTATION

The Organised Local Government Act 52 of 1997 determines procedures by which local government may:-

- Designate representatives to participate in the National Council of Provinces; and
- Nominate persons to the Financial and Fiscal Commission.

In addition the SALGA constitution, as amended, makes specific provision for the National Executive Committee to “exclusively determine representation of SALGA in all Intergovernmental structures and other forums” and that “such representatives shall table reports to the National Executive Committee at least quarterly”.

10.1 Criteria for deployment

The following criteria or principles informs the NEC when deploying representatives:-

- Relevant exposure of deployee to functional area;
- NEC members to be deployed in various national IGR and other structures (MinMECs);
- PEC members to be deployed in various provincial IGR and other structures (MuniMECs);
- In addition to attending technical provincial and national IGR structures (i.e. Technical MinMECs & Technical MuniMECs), Executive Directors and Deputy CEOs to provide technical support to deployees in provincial and national IGR structures;

- Where the Chairperson, at both provincial and national level, is invited as a member of an IGR structures, in addition to being invited as the Chairperson of SALGA, such Chairperson must request his municipality to delegate another councillors to represent the municipality; and
- For every IGR structure 2 councillors plus an alternate shall be appointed as SALGA representatives.

10.2 National Executive Committee Deployment to Provinces

In order to ensure that the NEC consistently provides political support to provinces, the NEC deploys members of the NEC (one per province) to play this role in specific provinces.

11 MANDATING

11.1 SALGA Position (policy, programmes, legislation, regulations)

From a SALGA National perspective, a full mandating process can be described and illustrated thus:

1. Develop a submission/position paper;
2. Submit to EMT for comment, and revise if necessary;
3. Submit to provincial offices for provincial input, and revise if necessary;
4. Submit to national working group for consideration, and revise if necessary with clear recommendations;
5. Submit to NEC for approval, and revise if necessary; and
6. Submit to political/technical structure for consideration.

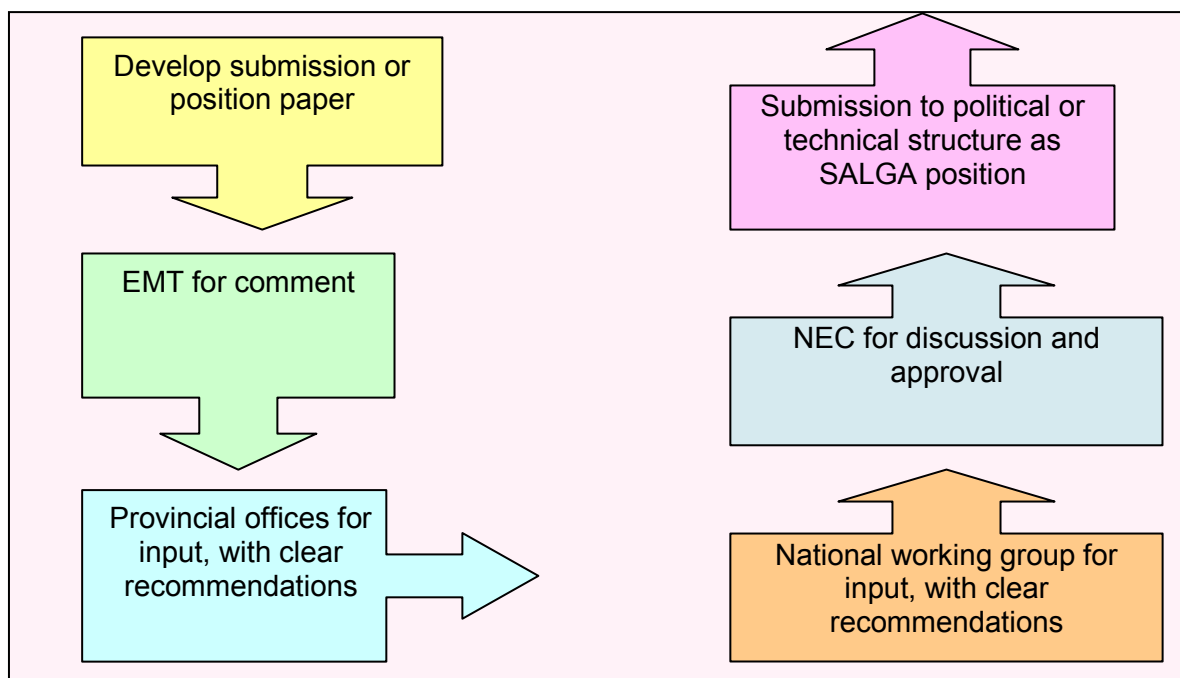


Figure 1: SALGA National perspective of a full mandating process

The provincial component within the mandating process can be illustrated thus:

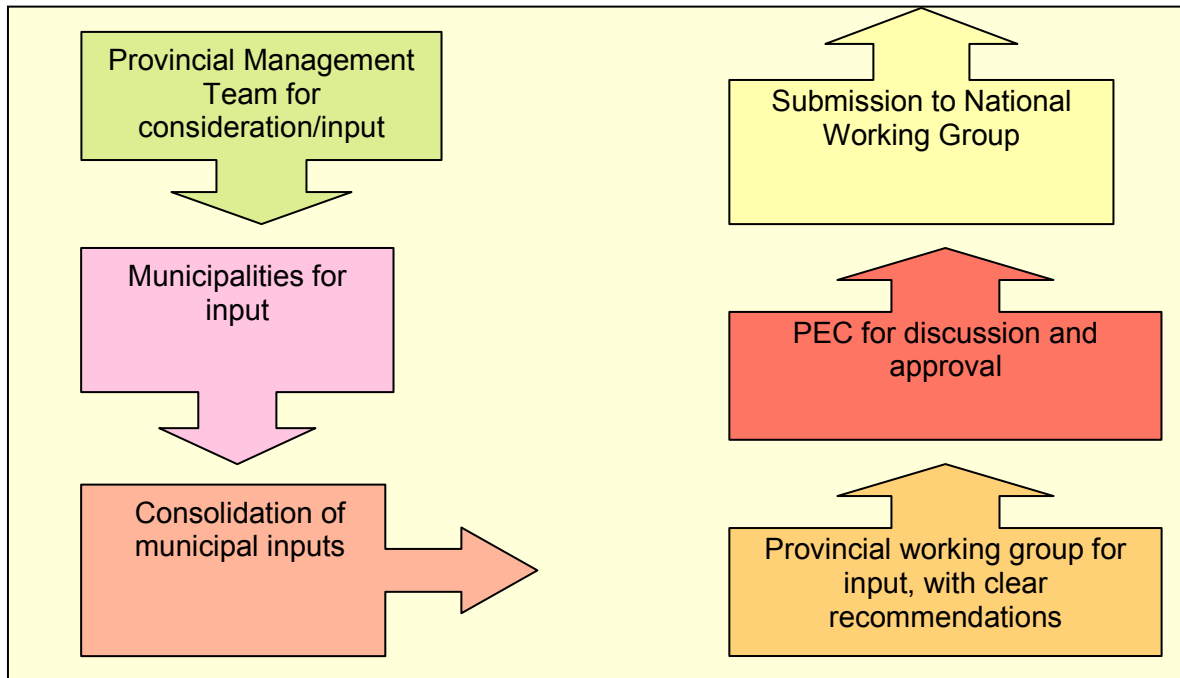


Figure 2: SALGA provincial component of mandating process

11.2 Mandating to IGR and other structures

11.2.1. Submissions to political structures

Submissions to political structures such as PCC, Budget Forum, MinMecs, national or provincial parliaments, Premiers' Intergovernmental Forums, and MEC/Municipal forums must be preceded by a full mandating process. Where time constraints will render the full mandating process impractical, the draft submission or position paper must be submitted to the Working Group Chairperson for input and thereafter to the NEC or PEC, as the case may be, for final approval. This process can be illustrated thus:

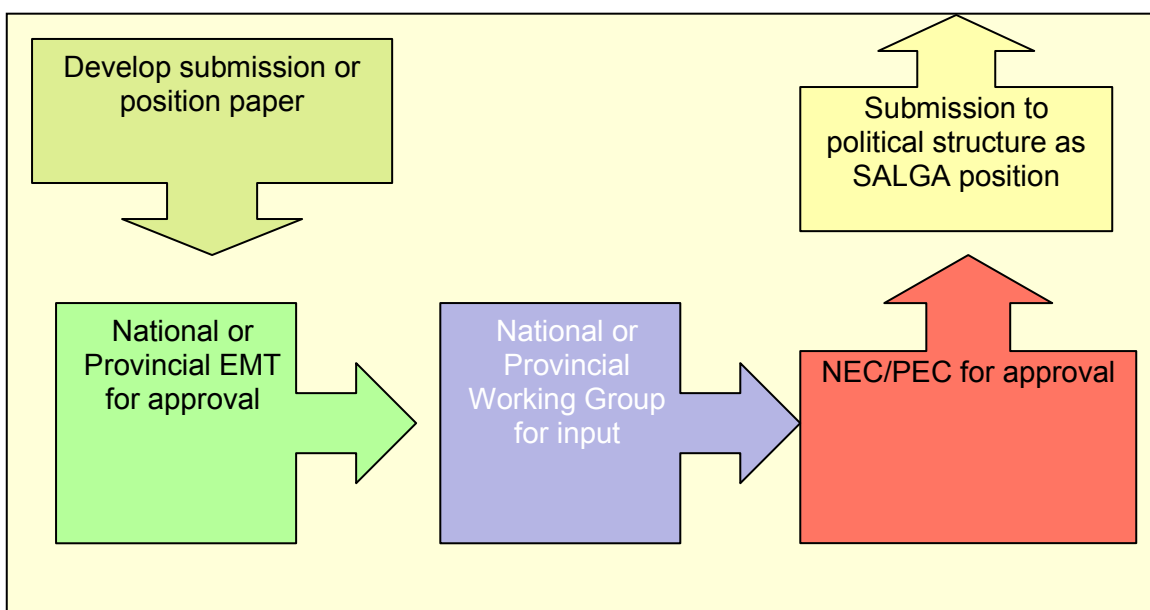


Figure 3: Structured Mandating Process for submission to Political Structures

11.2.2. Submissions to technical structures

Submissions to technical structures such as Technical PCC, Technical MinMecs, Premiers' Technical Intergovernmental Forums, national or provincial government departments, and MEC/Municipal technical forums must be preceded by the full mandating process with the express understanding that it will not be required to be finally approved by the NEC or PEC as the case may be. Where time constraints will render this mandating process impractical, the draft submission or position paper must be submitted to the relevant Working Group chairperson for input, after which the required mandating process must be followed for ratification purposes.

This process can be illustrated thus:

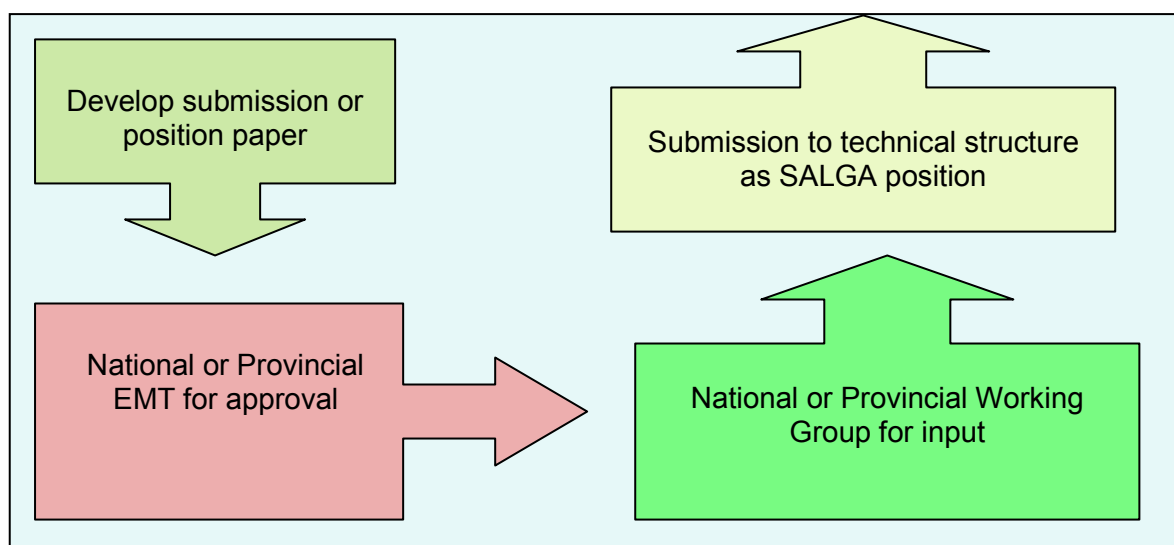


Figure 4: Mandating Process for submission to Technical Structures

12 Reporting

12.1 Reporting by SALGA representatives (deployees)

There are two levels of reporting that must be observed for purposes of maintaining the integrity of the advocacy and lobbying role of SALGA. First, the internal reporting to the organisational executive structures, namely the NEC/PEC and the EMT (national and provincial) must be complied with. This includes the mandatory reporting of provinces to the NEC. Second, the external reporting to the organisational membership, namely the municipalities, must be complied with.

12.1.2 Internal reporting

The rationale behind internal reporting is to reconcile the mandate with the message that was delivered and to reflect on how the message was received. For reporting from a political structure, the political representative is required to report to the NEC or PEC on a quarterly basis, as the case may be, on:

- The main points forming the crux of the submission;
- Contentious issues which may have arisen;
- Any concessions made, or obstacles identified; and
- Any advances scored by SALGA.

For reporting from a technical structure, the SALGA representative is required to report to the national or provincial working group and the Executive Management Team, as the case may be, on:

- The main points forming the crux of the submission;
- Contentious issues which may have arisen;
- Any potential concessions, or obstacles for consideration; and
- Any advances made by SALGA.

12.1.3 External reporting

The rationale behind external reporting is to close the loop between the mandating processes and the eventual policy or legislative developments that resulted from the engagement. In this regard, the NEC/PEC must release a summarised report to municipalities on all advocacy or lobbying reports that may have been endorsed.

12.2 Reporting lines within SALGA Governance Structures

The reporting lines in the SALGA governance structures are as follows:

STRUCTURE	REPORTING LINE
National Executive Committee	National Members Assembly and National Conference (member municipalities in between)
Provincial Executive Committee	National Executive Committee (where matter considered by Provincial Working Group & requires further consideration to be tabled at National Working Group)
National Working Groups	National Executive Committee
Provincial Working Groups	Provincial Executive Committee
SALGA IGR Representatives	National Executive Committee (provincial representatives to use first point of reporting being PEC, where after it is reported to NEC)(where it is a matter that requires further engagement to be referred to relevant provincial / national working group)
Municipalities	Provincial Working Group

The above diagram depicts the reporting line and the consolidation of information and reports for the consideration of PEC's and the NEC.

In accordance with diagram 1 above, information should flow systematically from its core source, namely municipalities. The flow of information originates from its core source, namely municipalities and then canalised through the channels as depicted above. Once the information has reached its end destination, namely the NEC for decision-making, the decision then flows back from the NEC to its core source for implementation. During all these processes, the SALGA Administration plays an active role in ensuring that the processes flow consistently and that decisions are carried out diligently and efficiently. Process could be further defined in the form of a systematic 5 phase approach:

Phase 1 – Inputs by Member Municipalities

Municipalities report on their activities and programmes, specifically in relation to National targets and Strategic programmes (e.g. 5 Year Local Government Strategic Agenda). Municipalities also participate in the identification of key issues and policy gaps that SALGA would be required to address.

Phase 2 – Provincial Working Groups

Municipalities provide their inputs and reports to Provincial Working Groups and this information and data is then required to be consolidated as provincial inputs or positions with regard to specific issues. In addition through reporting by both national and provincial IGR representatives issues are identified for consideration by the working groups.

During discussions at provincial working groups, workable solutions and recommendations should be developed in order for the matter to be escalated to the PEC for consideration.

Phase 3 – Provincial Executive Committees (“PEC”)

Once the provincial working groups have tabled recommendations for consideration at a PEC level and the matter requires further consideration it should be referred to the National Working Group and such should be reported to the NEC.

Phase 4 – National Working Groups

National Working Groups receive reports from provinces directly from the PEC’s as provincial positions or recommendations.

The National Working Groups would then consolidate the respective inputs from provinces and establish national positions or recommendations for NEC consideration.

Phase 5 – National Executive Committee (“NEC”)

Finally, reports and recommendations are tabled for consideration and decision-making by the NEC, as the highest decision making body in between conferences and Assemblies.

13. Monitoring and Evaluation

The purpose of a monitoring and evaluation system in respect of SALGA’s advocacy and lobbying role is to -

- monitor and evaluate whether SALGA is participating in the structure as mandated,
- track submissions and their effectiveness,
- gauge the level of support for SALGA submissions, and
- Evaluate success or otherwise of submission

The Monitoring and evaluation framework applies to every intergovernmental structure where SALGA is required to attend and participate.

14. ADMINISTRATIVE INTERFACE

As with all public sector institutions, the political governance structures are supported by an administration and in SALGA’s case, there is both an established National Administration as well as nine provincial administrations.

Support is not only provided on logistics and the convening of meetings but also at a technical level. Support is provided to the governance structures to ensure that information and data is collected and consolidated and that proper reports are tabled for consideration at meetings.

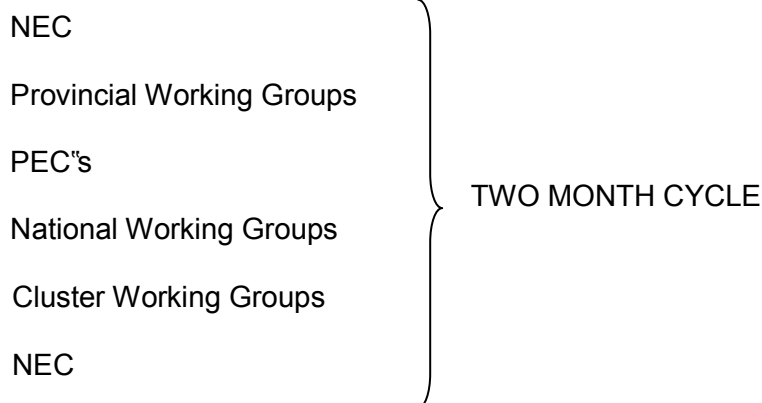
Technical support is provided to add value to the quality of reports tabled for consideration by ensuring that the information and data generated by the various governance structures is properly packaged and analysed.

In addition, The Administration is to ensure that reports and recommendations are appropriately placed in context by considering all legal, financial, human resources and other implications. Recommendations are required to be clearly outlined for informed decision-making.

The Administration is also a generator of reports and recommendations for consideration by SALGA's governance structures. Therefore, it must facilitate the processing of reports through all SALGA structures to ensure full and broad participation by the organisation in the decision-making process. In this regard, the NEC at its Lekgotla in August 2007 considered a detailed presentation on the development of policy positions by the organisation and similarly to establish a mandate to inform a SALGA position on any matter.

15. SCHEDULING OF MEETINGS

To achieve the above, it will be necessary to ensure that meetings of SALGA's governance structures are scheduled in manner that will allow for the logical flow of reports for eventual consideration by the NEC.



As depicted above, within a two month cycle and in between NEC meetings, it will be necessary for meetings of all governance structures to be convened and the SALGA year planner should therefore be updated to ensure that the system of reporting outlined in this report is accommodated in the scheduling of meetings.

8.6	APPOINTMENT OF COUNCILLORS TO SERVE ON EXTERNAL BODIES
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1. PURPOSE OF REPORT

For Council to consider the appointment of Representatives of Council to serve on external bodies.

2. BACKGROUND

The table below indicates the various external bodies where the former Council was represented:

BODY/INSTITUTE	Number of Council Reps
Jan Marais Nature Reserve Advisory Committee	1
Mont Rochelle Nature Reserve Advisory Committee	2
Pension Fund and Retirement Fund	1
Stellenbosch Tourism and Information Bureau	2
Stellenbosch Museum Trustee	1
Franschhoek Museum	1
Franschhoek Valley Tourism	2
Community Police Forum Stellenbosch	3
Community Police Forum Kayamandi	3
Community Police Forum Franschhoek	2
Community Police Forum Klapmuts	2
Community Police Forum Cloetesville	2
Community Police Forum Groot Drankenstein	1
SWOKK (Stellenbosch Welsyns en Ontwikkelings-koördinerings Kommittee)	3
FREMCO Trust	3
Hospital Board	1
University Board	1
Winelands Water Utilisation Association	1
Dilbeek Trust Committee	3

3RD COUNCIL MEETING: 2016-10-26: ITEM 8.4**RESOLVED** (majority vote)

that this item be referred back to allow the Administration to obtain a legal opinion and the applicable Terms of Reference.

The following Councillors requested that their votes of dissent be minuted:

Councillors F Adams; GN Bakubaku-Vos (Ms); FT Bangani-Menziwa (Ms); DA Hendrickse; LK Horsband (Ms); N Mananga-Gugushe (Ms); LM Maqeba; MD Oliphant; RS Nalumango (Ms); N Sinkinya (Ms) and P Sitshoti (Ms).

FURTHER COMMENTS BY THE ACTING MUNICIPAL MANAGER

No legal opinion or Terms of Reference is needed for the nomination of Councillors on the various External Bodies. All the External Bodies have their own separate Terms of References and Purpose and Objectives.

RECOMMENDED

that Council nominates Councillors to serve on the various External Bodies.

Meeting: Ref No:	<i>4th Council: 2016-11-23 3/6/3</i>	Submitted by Directorate: Author: Referred from:	<i>Office of the Municipal Manager Acting MM: (R Bosman) 3rd Council: 2016-10-05</i>
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9.	MATTERS FOR NOTIFICATION
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9.1	REPORT ON DECISIONS TAKEN BY THE EXECUTIVE MAYOR
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NONE

9.2	REPORT BY THE MUNICIPAL MANAGER
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NONE

10.	CONSIDERATION OF NOTICES OF QUESTIONS AND NOTICES OF MOTIONS RECEIVED BY THE SPEAKER
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10.1	QUESTION 1 BY COUNCILLOR DA HENDRICKSE: TOTAL MONETARY VALUE CONTRIBUTED BY BLAAUWKLIPPEN AGRICULTURAL ESTATE
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A Notice of Question, in terms of Section 38(2) of the Rules of Order regulating the Code of Conduct of Council and Council Committee meetings, dated 2016-11-09, was received from Councillor DA Hendrickse.

The said Question is attached as **APPENDIX 1** and the appropriate response as **APPENDIX 2**.

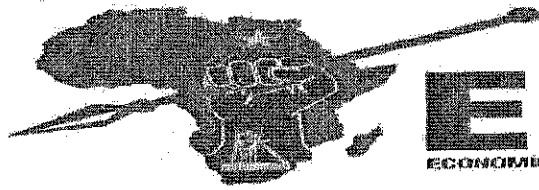
FOR CONSIDERATION

Meeting: Ref No:	4 th Council: 2016-11-23 3/4/1/4	Submitted by Directorate: Author: Referred from:	<i>Office of Municipal Manager Acting MM: (R Bosman)</i>
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10.1

QUESTION 1: COUNCILLOR DA HENDRICKSE

APPENDIX 1



EFF
ECONOMIC FREEDOM FIGHTERS



8 November 2016

The Single Whip
Stellenbosch Municipal Council
Plein Street
STELLENBOSCH
7600



Attention : Clr W Pietersen (Ms)

Dear Whip

RE NOTICE OF QUESTIONS TO SERVE AT THE NOVEMBER 2016 COUNCIL MEETING

QUESTION NO 1

What is the aggregate amount of the total monetary value contributed by Blaauwklippen Agricultural Estates, to benefit the inhabitants of the Kreefgat informal settlement who will be evicted from Kreefgat and relocated to the Jamestown Housing project."

MOTIVATION

At the 26 April 2016 Council meeting Council resolve the following : (See attached copy of minutes of 26 April 2016 council meeting)

RESOLVED (majority vote)

- (a) that Council notes the eviction application instituted by Blaauwklippen Agricultural Estates Stellenbosch (Pty) Ltd & Others against Stellenbosch Municipality & Others under case number 4042/15; and
- (b) that the Municipal Manager be mandated to mediate and settle the eviction application between the parties, subject thereto that Blaauwklippen makes a substantial monetary contribution for purposes of settling the matter amicably.

From reading the settlement dated 22 September 2016 (See attached copy) it is not very clear as to what the total monetary amount is what Blaauwklippen must contribute and what the conditions are to this contributions especially when those effected cannot raise additional funding.

We can also not ignore the fact that many farm labourers and labour tenants have been evicted from farms in the Stellenbosch Winelands over the past 25 years. This was the result of the wine industry mechanising its production and also needing to renovate farm worker cottages for tourism. Most of those evicted from farms ended up living in informal structures, either in free standing settlements like Enkanini, Langrug, Kreefgat, and others dotted across the winelands, or in the backyards of formal townships like Kayamandi and Cloeteville.

A fire devastated some 30 informal structures at Kreefgat during January 2015 - the cause of this fire is still unknown. Blaauwklippen Agricultural Estates with the cooperation of the municipality ensured that these inhabitants would move to a Transitional Relocation Area (TRA) near the Jamestown Cemetery, and bordering the Jamestown Phase 1 Housing Project. The municipality and Blaauwklippen Agricultural Estates agreed that Blaauwklippen would provide wendy houses for these people and that the municipality would ensure that there was potable water and sanitation for them. This was the start of the process of the municipality and Blaauwklippen Agricultural Estates cooperating to get the remaining inhabitants of Kreefgat evicted.

It must also be noted that municipality is compelled in terms of the constitution to conduct its affairs in a fair, open and transparent business and as such we must ensure that the rightful beneficiaries get these social houses.

QUESTION NO 2

Are there any beneficiaries on the Jamestown housing list that the municipality issued that does not qualify to be allocated and occupy the social houses that was constructed this year in Jamestown, in so far that they earn more than the required income to qualify, their age and years on the waiting list?

Motivation

The allocation of social housing is governed by legislation and as such the municipality must ensure that the beneficiaries of these houses built in Jamestown meet this criteria.

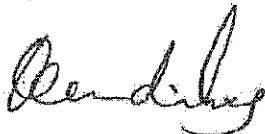
Various allegations are doing the rounds that the beneficiaries identified on the municipality's list issued does not meet the criteria to be allocated the social houses currently built in Jamestown which is ready to be occupied this year.

These allegations include the following:

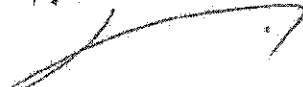
1. Municipal staff has been allocated houses and this when they earn above the remunerations levels prescribed.
2. That young people are allocated houses at the cost of the elderly that has been on the municipal housing list for many years.
3. That preference has been give farm workers that stay the Blaauwklippen farm by allocation social houses to them, this when there is other farm workers and people that has been on the municipalities housing list for years much longer than the Blaauwklippen farm workers.

Attach see copy of petition submitted to the municipality on 31 October 2016, in which it list people that is on the municipal waiting list for years, but has been excluded as beneficiaries of the houses in the Jamestown housing project.

Regards



Clr DA Hendrickse

Received
9.11.16


10.1

QUESTION 1: COUNCILLOR DA HENDRICKSE

APPENDIX 2



MEMO

OFFICE OF THE MUNICIPAL MANAGER

From / Van: ACTING MUNICIPAL MANAGER

To / Aan: Cllr D Joubert (Speaker)

CC : Committee Services

Date / Datum: 16 November 2016

Re / Insake: RESPONSE TO QUESTION IN TERMS OF SECTION 21 (1) OF THE RULES OF ORDER
OF COUNCILLORS : BLAAUWKLIPPEN AGRICULTURAL ESTATE AND
JAMESTOWN HOUSING LIST

Dear Speaker

With reference to the question received from Councillor D Hendrickse, submitted in terms of Section 21 (1) of the Rules of Order By-law regulating the conduct of Council and Council Committee meetings, dated 09 November 2016 herewith my response :

QUESTION 1

What is the aggregate amount of the total monetary value contributed by Blaauwklippen Agricultural Estates, to benefit the inhabitants of the Kreefgat informal settlement who will be evicted from Kreefgat and relocated to the Jamestown Housing project.

RESPONSE

The councillor is required to request the access of this information on the prescribed form to the information officer of the Municipality in terms of the Promotion of Access to Information Act 2 of 2000 due to the confidentiality of said agreement between Blaauwklippen and the Municipality.

~~**QUESTION 2**~~

~~Are there any beneficiaries on the Jamestown housing list that the municipality issued that does not qualify to be allocated and occupy the social houses that was constructed this year in Jamestown, in so far that they earn more than the required income to qualify, their age and years on the waiting list?~~

~~**RESPONSE**~~

~~A formal request must be submitted in terms of the Promotion of Access to Information act for the required information.~~

Regards

 17/11/2016

R Bosman
ACTING MUNICIPAL MANAGER

10.2	QUESTION 2 BY COUNCILLOR DA HENDRICKSE: BENEFICIARIES ON THE JAMESTOWN HOUSING LIST THAT DOES NOT QUALIFY FOR SOCIAL HOUSING
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A Notice of Question, in terms of Section 38(2) of the Rules of Order regulating the Code of Conduct of Council and Council Committee meetings, dated 2016-11-09, was received from Councillor DA Hendrickse.

The said Question is attached as **APPENDIX 1** and the appropriate response as **APPENDIX 2**.

FOR CONSIDERATION

Meeting: Ref No:	4 th Council: 2016-11-23 3/4/1/4	Submitted by Directorate: Author: Referred from:	<i>Office of Municipal Manager Acting MM: (R Bosman)</i>
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10.2

QUESTION 2: COUNCILLOR DA HENDRICKSE

APPENDIX 1



EFF
ECONOMIC FREEDOM FIGHTERS



8 November 2016

The Single Whip
Stellenbosch Municipal Council
Plein Street
STELLENBOSCH
7600



Attention : Clr W Pietersen (Ms)

Dear Whip

RE NOTICE OF QUESTIONS TO SERVE AT THE NOVEMBER 2016 COUNCIL MEETING

QUESTION NO 1

What is the aggregate amount of the total monetary value contributed by Blaauwklippen Agricultural Estates, to benefit the inhabitants of the Kreefgat informal settlement who will be evicted from Kreefgat and relocated to the Jamestown Housing project ."

MOTIVATION

At the 26 April 2016 Council meeting Council resolve the following :(See attached copy of minutes of 26 April 2016 council meeting)

RESOLVED (majority vote)

- that Council notes the eviction application instituted by Blaauwklippen Agricultural Estates Stellenbosch (Pty) Ltd & Others against Stellenbosch Municipality & Others under case number 4042/15; and
- that the Municipal Manager be mandated to mediate and settle the eviction application between the parties, subject thereto that Blaauwklippen makes a substantial monetary contribution for purposes of settling the matter amicably.

From reading the settlement dated 22 September 2016 (See attached copy) it is not very clear as to what the total monetary amount is what Blaauwklippen must contribute and what the conditions are to this contributions especially when those effected cannot raise additional funding.

We can also not ignore the fact that many farm labourers and labour tenants have been evicted from farms in the Stellenbosch Winelands over the past 25 years. This was the result of the wine industry mechanising its production and also needing to renovate farm worker cottages for tourism. Most of those evicted from farms ended up living in informal structures, either in free standing settlements like Enkanani, Langrug, Kreefgat, and others dotted across the winelands, or in the backyards of formal townships like Kayamandi and Cloetesville

A fire devastated some 30 informal structures at Kreefgat during January 2015 – the cause of this fire is still unknown. Blaauwklippen Agricultural Estates with the cooperation of the municipality ensured that these inhabitants would move to a Transitional Relocation Area (TRA) near the Jamestown Cemetery, and bordering the Jamestown Phase 1 Housing Project. The municipality and Blaauwklippen Agricultural Estates agreed that Blaauwklippen would provide wendy houses for these people and that the municipality would ensure that there was potable water and sanitation for them. This was the start of the process of the municipality and Blaauwklippen Agricultural Estates cooperating to get the remaining inhabitants of Kreefgat evicted.

It must also be noted that municipality is compelled in terms of the constitution to conduct its affairs in an fair, open and transparent business and as such we must ensure that the rightful beneficiaries get these social houses.

QUESTION NO 2

Are there any beneficiaries on the Jamestown housing list that the municipality issued that does not qualify to be allocated and occupy the social houses that was constructed this year in Jamestown, in so far that they earn more than the required income to qualify, their age and years on the waiting list?

Motivation

The allocation of social housing is governed by legislation and as such the municipality must ensure that the beneficiaries of these houses built in Jamestown meet this criteria.


Various allegations are doing the rounds that the beneficiaries identified on the municipality's list issued does not meet the criteria to be allocated the social houses currently built in Jamestown which is ready to be occupied this year.

These allegations include the following:

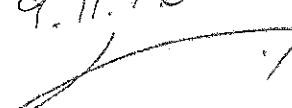
1. Municipal staff has been allocated houses and this when they earn above the remunerations levels prescribed.
2. That young people are allocated houses at the cost of the elderly that has been on the municipal housing list for many years.
3. That preference has been give farm workers that stay the Blaauwklippen farm by allocation social houses to them , this when there is other farm workers and people that has been on the municipalities housing list for years much longer than the Blaauwklippen farm workers.

Attach see copy of petition submitted to the municipality on 31 October 2016, in which it list people that is on the municipal waiting list for years, but has been excluded as beneficiaries of the houses in the Jamestown housing project.

Regards



Clr DA Hendrickse

Received
9.11.16


10.2

QUESTION 2: COUNCILLOR DA HENDRICKSE

APPENDIX 2



MEMO

OFFICE OF THE MUNICIPAL MANAGER

From / Van: ACTING MUNICIPAL MANAGER

To / Aan: Cllr D Joubert (Speaker)

CC : Committee Services

Date / Datum: 16 November 2016

Re / Insake: RESPONSE TO QUESTION IN TERMS OF SECTION 21 (1) OF THE RULES OF ORDER
OF COUNCILLORS : BLAAUWKLIPPEN AGRICULTURAL ESTATE AND
JAMESTOWN HOUSING LIST

Dear Speaker

With reference to the question received from Councillor D Hendrickse, submitted in terms of Section 21 (1) of the Rules of Order By-law regulating the conduct of Council and Council Committee meetings, dated 09 November 2016 herewith my response :

QUESTION 1

~~What is the aggregate amount of the total monetary value contributed by Blaauwklippen Agricultural Estates, to benefit the inhabitants of the Kreefgat informal settlement who will be evicted from Kreefgat and relocated to the Jamestown Housing project.~~

RESPONSE

~~The councillor is required to request the access of this information on the prescribed form to the information officer of the Municipality in terms of the Promotion of Access to Information Act 2 of 2000 due to the confidentiality of said agreement between Blaauwklippen and the Municipality.~~

QUESTION 2

Are there any beneficiaries on the Jamestown housing list that the municipality issued that does not qualify to be allocated and occupy the social houses that was constructed this year in Jamestown, in so far that they earn more than the required income to qualify, their age and years on the waiting list?

RESPONSE

A formal request must be submitted in terms of the Promotion of Access to Information act for the required information.

Regards

R Bosman
ACTING MUNICIPAL MANAGER

10.3	QUESTION 1 BY COUNCILLOR LK HORSBAND (MS): COUNCIL POLICY ON ISSUING COUNCIL RELATED DOCUMENTS ON CD'S AND FLASH DRIVES TO COUNCILLORS
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A Notice of Question, in terms of Section 38(2) of the Rules of Order regulating the Code of Conduct of Council and Council Committee meetings, dated 2016-11-15, was received from Councillor LK Horsband (Ms).

The said Question is attached as **APPENDIX 1**. The appropriate response will be provided separately.

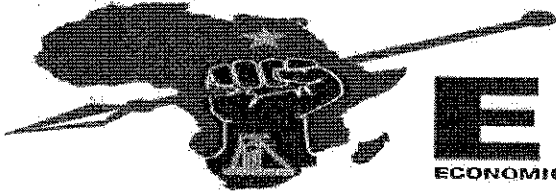
FOR CONSIDERATION

Meeting: Ref No:	4 th Council: 2016-11-23 3/4/1/4	Submitted by Directorate: Author: Referred from:	<i>Office of Municipal Manager Acting MM: (R Bosman)</i>
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10.3

QUESTION 1: COUNCILLOR LK HORSBAND (Ms)

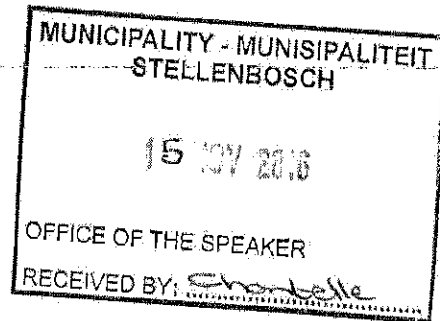
APPENDIX 1



EFF
ECONOMIC FREEDOM FIGHTERS

14 November 2016

The Single Whip
Stellenbosch Municipal Council
Plein Street
STELLENBOSCH
7600



Attention : Cnr W Pietersen (Ms)

Dear Whip

RE NOTICE OF QUESTIONS TO SERVE AT THE NOVEMBER 2016 COUNCIL MEETING

QUESTION NO 1

What is the Council policy on issuing Council related documents on CD's and Flash drives to Councillors?

MOTIVATION

Since becoming a Councillor I have received a Flash drive and CD which relate to Council agenda items. I have not been told where I can get access to a computer or printer where I can view and print the documents on these storage devices.

I also do not own a computer and printer . In this regard I can only received emails on my cell phone which have data available to download documents.

By issuing me with electronic copies of Council documents without being able to view these documents and even print it, I am prevented from doing my duty as a Councillors, and nowhere could i find any legislation that compel me to buy a computer and printer do view these documents issued to me on flash drives or CD's

QUESTION NO 2

What is the list of cost containing measures the Accounting officer has implemented to give effect to National Treasury Circular No 82 . (See attached Circular No 82)

Motivation

National Treasury Circular No 82 spell out the responsibility of the Accounting officer (MM) as following :

Enforcement of cost containment measures

~~SALGA recently expressed concern over the lack of enforcement of such measures~~

10.4	QUESTION 2 BY COUNCILLOR LK HORSBAND (MS): COST CONTAINING MEASURES – NATIONAL TREASURY CIRCULAR 82
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A Notice of Question, in terms of Section 38(2) of the Rules of Order regulating the Code of Conduct of Council and Council Committee meetings, dated 2016-11-15, was received from Councillor LK Horsband (Ms).

The said Question is attached as **APPENDIX 1**. The appropriate response will be provided separately.

FOR CONSIDERATION

Meeting: Ref No:	4 th Council: 2016-11-23 3/4/1/4	Submitted by Directorate: Author: Referred from:	<i>Office of Municipal Manager Acting MM: (R Bosman)</i>
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10.3

QUESTION 2: COUNCILLOR LK HORSBAND (Ms)

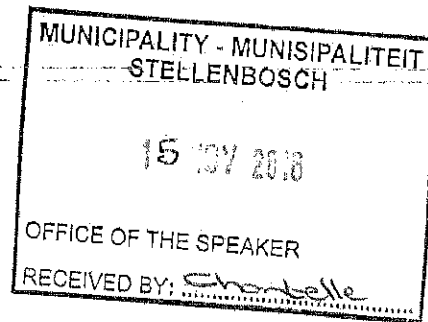
APPENDIX 1



EFF
ECONOMIC FREEDOM FIGHTERS

14 November 2016

The Single Whip
Stellenbosch Municipal Council
Plein Street
STELLENBOSCH
7600



Attention : Clr W Pietersen (Ms)

Dear Whip

RE NOTICE OF QUESTIONS TO SERVE AT THE NOVEMBER 2016 COUNCIL MEETING

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QUESTION NO 2

What is the list of cost containing measures the Accounting officer has implemented to give effect to National Treasury Circular No 82 . (See attached Circular No 82)

Motivation

National Treasury Circular No 82 spell out the responsibility of the Accounting officer (MM) as following :

Enforcement of cost containment measures

SALGA recently expressed concern over the lack of enforcement of such measures

and municipal councils are herewith reminded of Section 171(1) of the MFMA whereby the accounting officer of a municipality commits an act of financial misconduct if that accounting officer deliberately or negligently contravenes a provision of the Act, or fails to comply with a duty imposed by the Act on the accounting officer of the municipality. Failure to fulfill the duty outlined in section 62(1) (a) of the MFMA may result in the accounting officer committing an act of financial misconduct and that disciplinary or criminal proceedings are instituted against any official who has allegedly committed an act of financial misconduct or an offence in terms of chapter 15. The accounting officer also has a duty to ensure that unauthorized, irregular or fruitless and wasteful expenditure and other losses are prevented.

Conclusion

It is important that the accounting officer ensures that the content of this Circular is brought to the attention of the Municipal Council and all other relevant officials within municipalities and municipal entities. It is recommended that:

- Municipalities adopt this Circular together with their annual budgets;
- Municipalities are advised to review other finance related policies to ensure consistency with this Circular;
- Municipalities implement the circular by creating the appropriate oversight mechanisms to monitor cost containment measures;
- Implementation of such measures will assist in ensuring that the provisions of sections 62 and 167 of the MFMA are complied with to ensure that reasonable steps are taken for public resources to be used effectively, efficiently, economically and in the best interests of the local community.

Taking the above extract into account noting has been presented to Council by the accounting officer as to what he has done to implement the provisions of of this said circular.

The only thing the Speaker brought to our attention is the cost cutting relation to catering at Council meetings.

Of concern is the fact that the administration is ignoring the provisions of this circular in so far as they do not give effect to as an example

Every effort must be made to recover debt from consumers before write-off.

Municipalities to avoid the excessive usage of debt collectors and improve its internal capacity for debt collection.

In this regard I noticed that an item was brought on the 19 Oct 2016 MAYCO agenda to write off debt. This item was written with no regard to the fact that some of the debtors can and must pay their outstanding debt. Here Van der Stel Sports club come to mind.

The Stellenbosch Golf Club outstanding debt must not even be listed as part of the item as they must pay their debt and can afford this as they make millions of profit out of ruling the golf club of municipal rental property and this while they pay a pittance for rental.

Likewise the administration has put out a tender to outsource the function of debt collection and this when they knew for yesrs that National treasury has instructed them to stop this practise and to build internal capacity.

Regards



Clr L Horsband

Group	SubGrp	Account	Total Balance	Arrears	Current	30 Days	60 Days	90 Days	90 Days Plus	Future	Total	Subsrs	Erfto	Surname	OwnerOcc	Exclude Date	Exclude Remark	KVA Elec	Elec	Prepaid	Water
NONE	PROPMI	10409541	R 542 844.34	R 528 457.09	R 14 387.25	R 14 463.56	R 15 360.24	R 15 248.75	R 483 384.54	R 0.00	R 542 844.34	KMAND	523	KAYA MANDI SPORT & RECREATIONAL COUNCIL	A			KVA		Prepaid	Water
NONE	PROPMI	10409558	R 222.14	R 222.14	R 0.00	R 0.00	R 0.00	R 0.00	R 222.14	R 0.00	R 222.14	PNIEL	1173	PNIEL SPORT & RECREATIONAL COUNCIL	A						
NONE	PROPMI	10409565	R 4 864.21	R 4 864.21	R 0.00	R 0.00	R 0.00	R 0.00	R 4 864.21	R 0.00	R 4 864.21	KMORE	199	KYLEMORE SPORT & RECREATIONAL COUNCIL	A						
NONE	PROPMI	10409589	R 464.09	R 464.09	R 0.00	R 0.00	R 0.00	R 0.00	R 464.09	R 0.00	R 464.09	BOORP	167	IDASVALLEY SPORT&RECREATIONAL COUNCIL	A						
NONE	PROPMI	10409596	R 232.14	R 232.14	R 0.00	R 0.00	R 0.00	R 0.00	R 232.14	R 0.00	R 232.14	CVILL	6890	CLOETESVILLE SPORT&RECREATIONAL COUNCIL	A						
NONE	PROPMI	10409606	R 222.14	R 222.14	R 0.00	R 0.00	R 0.00	R 0.00	R 222.14	R 0.00	R 222.14	UNATT	0	VAN DER STEL SPORTS CLUB	A						
NONE	PROPMI	10409613	R 1 168 846.99	R 300 115.40	R 868 731.59	R 43 550.67	R 42 706.76	R 32 951.11	R 180 906.86	R 0.00	R 1 168 846.99	FGDAL	280	FRANSCHHOEK SPORT & RECREATIONAL COUNCIL	A	26-Sep-16	INCORRECT METER READINGS		Elec		
NONE	PROPMI	10498297	R 485.15	R 485.15	R 0.00	R 0.00	R 0.00	R 0.00	R 485.15	R 0.00	R 485.15	BOORP	527	JAMESTOWN SPORT & RECREATIONAL COUNCIL	A						
NONE	PROPMI	10498307	R 464.09	R 464.09	R 0.00	R 0.00	R 0.00	R 0.00	R 464.09	R 0.00	R 464.09	KMUTS	1172	KLAPMUTS SPORT & RECREATIONAL COUNCIL	A						
NONE	PROPMI	10498314	R 1 511.53	R 1 511.53	R 0.00	R 0.00	R 0.00	R 0.00	R 1 511.53	R 0.00	R 1 511.53	VSTEL	235	THE STELLENBOSCH SPORT & RECREATIONAL ASSOCIATION	A						
NONE	PROPMI	28007030	R 115 269.01	R 112 676.37	R 2 592.64	R 1 871.75	R 3 926.56	R 4 952.70	R 101 926.36	R 0.00	R 115 269.01	VSTEL	235	STELLENBOSCH ROUBALKLUB	A						
NONE	PROPMI	28007031	R 51 004.40	R 47 480.67	R 3 523.73	R 1 762.42	R 8 043.34	R 2 669.68	R 35 005.05	R 0.00	R 51 004.40	VSTEL	235	VAN DER STEL TENNISKLUB	A						
NONE	PROPMI	35691000D	R 1 761 893.00	R 1 435 853.00	R 0.00	R 0.00	R 326 040.00	R 0.00	R 1 435 853.00	R 0.00	R 1 761 893.00	STPLA	376	STELLENBOSCH GHOULFKLUB	O	23-Aug-16	RATES QUERY		Elec		
SPORT	PROPMI	32896	R 960.96	R 890.32	R 70.64	R 70.99	R 76.10	R 62.67	R 680.56	R 0.00	R 960.96	FGDAL	290	GROENDAL SPORT EN KULTUURRAAD	A						Water
SPORT	PROPMI	10409572	R 51 462.25	R 51 042.17	R 420.08	R 667.95	R 1 206.00	R 444.31	R 48 723.91	R 0.00	R 51 462.25	RAITH	254	RAITHBY SPORT & RECREATIONAL COUNCIL	A					Prepaid	Water
SPORT	PROPMI	28007033	R 1 380 804.37	R 1 366 192.41	R 14 611.96	R 13 227.04	R 12 647.29	R 1 675.17	R 1 338 642.91	R 0.00	R 1 380 804.37	VSTEL	235	VAN DER STEL SPORTKLUB	A						Water
SPORT	PROPMI	280070638	R 22 131.59	R 21 473.77	R 657.82	R 505.00	R 1 439.43	R 564.13	R 18 965.21	R 0.00	R 22 131.59	VSTEL	235	VAN DER STEL SPORTKLUB	A						Water



NATIONAL TREASURY

MFMA Circular No. 82

Municipal Finance Management Act No. 56 of 2003

Cost Containment Measures

Purpose

Section 62(1)(a) of the Municipal Finance Management Act No. 56 of 2003 (MFMA) stipulates that the accounting officer of a municipality is responsible for managing the financial administration of a municipality and must for this purpose take all reasonable steps to ensure that the resources of the municipality are used effectively, efficiently and economically.

In terms of the legal framework, the elected councils and accounting officers are required to institute appropriate measures to ensure that the limited resources and public funds are appropriately utilized to ensure value for money is achieved.

The purpose of this Circular is to guide municipalities and municipal entities on cost containment measures that must be implemented in an effort to address the impact of the country's economic challenges and to promote growth, address unemployment and equality, amongst others.

Background

The national government has been aware of the need to contain costs and Cabinet resolved that all spheres of government, including municipalities and municipal entities must implement measures to contain operational costs and eliminate all non-essential expenditure.

In the 2016 State of the Nation Address, cost containment measures were re-emphasised. It was highlighted that excessive and wasteful expenditure has to be reduced, and that increased action be taken to manage unnecessary expenditure. The following measures were among those announced:

- Curtailment of overseas trips;
- The submission of strong motivation to MM's, Mayors and, where necessary, oversight mechanisms at local, provincial and national spheres of Government by those requesting permission to travel either locally or abroad: i.e. their detailed report including research which argues the necessity of the trip and the benefit the country will achieve in undertaking the journey;
- The institutionalization of further restrictions on conferences, catering, entertainment and social functions.

In reinforcing the above, the Minister of Finance also announced further cost containment measures in his budget speech on 24 February 2016, and urged Mayors of municipalities to exercise and oversee the elimination of wasteful expenditure in

government. SALGA supported the call for cost containment measures to be implemented in municipalities as per the Budget Forum engagements and commitments.

Municipalities must make clear and quantified commitments in this regard when tabling their upcoming budgets, and to reference these commitments when submitting budget documentation to the National and Provincial Treasuries, as required by the MFMA.

Annexure A of this circular presents cost containment measures that accounting officers and chief finance officers must consider in order to contain operational costs and eliminate non-essential expenditure. In addition, municipalities are advised to refer to MFMA Budget Circular No. 70 and other relevant Circulars on the elimination of non-priority spending. (<http://mfma.treasury.gov.za/Circulars/Pages/default.aspx>).

Enforcement of cost containment measures

SALGA recently expressed concern over the lack of enforcement of such measures and municipal councils are herewith reminded of Section 171(1) of the MFMA whereby the accounting officer of a municipality commits an act of financial misconduct if that accounting officer deliberately or negligently contravenes a provision of the Act, or fails to comply with a duty imposed by the Act on the accounting officer of the municipality.

Failure to fulfill the duty outlined in section 62(1) (a) of the MFMA may result in the accounting officer committing an act of financial misconduct and that disciplinary or criminal proceedings are instituted against any official who has allegedly committed an act of financial misconduct or an offence in terms of chapter 15. The accounting officer also has a duty to ensure that unauthorized, irregular or fruitless and wasteful expenditure and other losses are prevented.

In addition, section 167 of the MFMA provides that a municipality may only remunerate its office bearers within the parameters set out in that section. In particular, sub-section 167(2) provides that any benefit paid that is outside the parameters set out in subsection (1) is irregular expenditure and must be recovered from the political office-bearer concerned.

Details of precisely what a municipality may pay or remunerate its political office bearers are set out in the Notices issued in terms of the Political Office Bearers Act by the Minister of Cooperative Governance and Traditional Affairs.

Municipalities are reminded that the National Treasury will soon be conducting municipal budget benchmark engagements with non-delegated municipalities during which all municipal budgets will be assessed against the cost containment measures outlined in this Circular. Provincial Treasuries will be conducting similar engagements and budget assessments with delegated municipalities.

Consideration has been given to the lack of enforcement measures and therefore it is envisaged that regulations will be issued to align these measures with financial misconduct regulations. Disclosure of cost containment measures applied by the municipality and entity must be included in the Municipal Budget and Annual Report. Measures implemented and regular reports must be submitted to the Municipal Public

Accounts Committee for review and recommendations to Council on additional measures to be taken.

The contents of this Circular has been shared with the office of the Auditor-General for their application, scrutiny and assessment.

Conclusion

It is important that the accounting officer ensures that the content of this Circular is brought to the attention of the Municipal Council and all other relevant officials within municipalities and municipal entities. It is recommended that:

- Municipalities adopt this Circular together with their annual budgets;
- Municipalities are advised to review other finance related policies to ensure consistency with this Circular;
- Municipalities implement the circular by creating the appropriate oversight mechanisms to monitor cost containment measures;
- Implementation of such measures will assist in ensuring that the provisions of sections 62 and 167 of the MFMA are complied with to ensure that reasonable steps are taken for public resources to be used effectively, efficiently, economically and in the best interests of the local community.

Any queries relating to municipalities preparation of municipal budgets in line with the cost containment measures should be directed to the respective National or Provincial Treasury official responsible for monitoring the municipality's budget. The names of these officials can be obtained from MFMA Circular 79 and / or other related MFMA Circulars. This Circular must be tabled before the municipal council for adoption together with the 2016/17 MTREF budget.

Issued on behalf of:

Malijeng Ngqaleni
Intergovernmental Relations

Kenneth Brown
Chief Procurement Officer

Jayce Nair
Acting Accountant-General

Contact



national treasury

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TV PILLAY
CHIEF DIRECTOR: MFMA IMPLEMENTATION
30 MARCH 2016

Annexure A – Cost Containment Measures

Cabinet resolved, on 23 October 2013 that cost containment measures must be implemented to eliminate wasteful expenditure, reprioritize spending and ensure savings on the following focus areas among others; engagement of consultants, travel and subsistence costs, issuing of credit cards, accommodation costs, office furnishing costs, advertising or sponsorship costs, catering and events related costs.

It is prudent that Municipalities consider consultation with its employees and through public participation to obtain input and consideration from affected stakeholders such as communities, ratepayers, businesses, and so on which may prove to be beneficial when facilitating the implementation of cost containment policies and actions.

Municipalities are advised to ensure appropriate monitoring and reporting on such cost saving measures is instituted for ease of reporting to management and council on progress on a regular basis. The internal audit unit of municipalities must be copied with such reports.

1. Engagement of Consultants

- Accounting Officers must only contract with consultants after a gap analysis report has confirmed that the municipality does not have the requisite skills or resources in its permanent employment to perform the services required.
- Evidence of acute planning of the project must be visible to all relevant persons including the administration and political oversight mechanisms in place at the municipality.
- Consultants, including construction and infrastructure related services, must only be remunerated at the rates equal to or below those:
 - determined in the “Guidelines on fees for audits done on behalf of the Auditor-General South Africa”, issued by the South African Institute of Chartered Accountants (SAICA);
 - set out in the “Guide on Hourly Fee Rates for Consultants”, by the Department of Public Service and Administration (DPSA); or
 - Prescribed by the body regulating the profession of the consultant.
- Ensure an exacting “specification” of the work to be accomplished accompanies the tender and is used as a monitoring tool, are appropriately recorded and monitored.
- Ensure that contracts for consultants include retention and penalty clauses for poor performance and in this regard against the above specification, accounting officers must invoke such clauses, where deemed necessary.
- It is mandatory that accounting officers of municipalities and municipal entities conclude on the best “value for money”, i.e. matching fees against quality and against benchmarked practices.
- Accounting officers of municipalities and municipal entities must appoint consultants on a time and cost basis with specific start and end dates.
- Travel and subsistence costs for the appointment of consultants must be in accordance with the travel policy of government and the contract price specifies all travel & subsistence costs.

- If travel and subsistence costs for appointed consultants are exclusive of the contract, the costs must be in accordance with the following provisions:
 - a) Hotel accommodation may not exceed the amount mentioned in this Circular;
 - b) Only economy class air tickets may be purchased for flights;
 - c) Only group B vehicles or lower may be hired for engagements, as mentioned in this Circular;
 - d) Kilometres claimed for the use of private vehicles may not exceed the rates approved by the National Department of Transport, as updated from time to time.
- Municipalities are urged to develop consultancy reduction plans.
- Undertake all engagements of consultants in accordance with the SCM Regulations and the municipality's SCM policy.

2. Travel and subsistence

The National Treasury, on behalf of all three spheres of government, has negotiated improved upfront discounts for flights as well as discounted accommodation rates. Therefore municipalities and municipal entities are requested to utilize these agreements to assist in their respective cost containment measures, unless they can negotiate lower air travel rates or utilize other service providers that offer lower rates.

Net and Non-Commissionable Rates

All rates offered to Government as of 1 April 2016 will be net and non-commissionable. This will include the informal accommodation market e.g. Guest Houses and Bed & Breakfast establishments.

Rebates, Overrides, Volume based income

In the spirit of transparency, the OCPO is taking a firm position on rebates, overrides or any volume driven target incentives being paid by suppliers to Travel Management Company (TMC). As of 1 April 2016 these payments and the practice of overrides is to discontinue for Government business.

2.1 National Travel Policy

The Treasury will implement a Government Travel Policy as of 1 April 2016. This will be available on the OCPO's website:

(http://ocpo.treasury.gov.za/Buyers_Area/Legislation/Pages/default.aspx)

2.2 Air Travel

- Treasury has negotiated with the two "Full Service Carriers", i.e. SAA and BA for discounted rates for government officials for domestic air travel. (These rates are not applicable for International Air Travel.)
- For SAA, the discounts range from 5% (L class) up to 30% (Y Class) for Economy Class tickets; and 10% (D Class) up to 26% (C Class) for Business Class tickets. Please note that business class is not encouraged, however where a single flight exceed 5 hours, consideration may be applied.

- For BA the discounts range from 10% (O, Q class) up to 25% (Y Class) for Economy Class tickets; and 20% (J Class) for Business Class tickets. Please note that business class is not encouraged, however where a single flight exceed 5 hours, consideration may be applied.
- Treasury will be entering into a short-term Corporate Agreement from 1 April 2016 to 30 September 2016 in the interim, where after the agreements will be reviewed with a view of longer term applicability.
- The premise of Best Fare on the Day will be implemented making full use of the negotiated Government Corporate Agreements with SAA and BA Comair. Quotations are to be obtained from at least SAA and BA Comair before issue. Other Low Cost Carriers may also be requested for quotations. Please note that all discounted rates are subject to class availability.
- Corporate agreements with SAA and BA/Comair will be made available to TMCs that are currently contracted to Government. Should the municipal TMC have not been contacted by the full service carrier representative, they are to inform National Treasury with the agents name; physical address, contact name, email address and IATA number. Upon receipt of the information, the representatives of the full service carriers will ensure that the TMC is given access to the deal code. The TMC must have an authenticated IATA number.
- Accounting officers of municipalities and municipal entities are advised to include a clause in their respective documents that travel agencies are only permitted to make booking arrangements on behalf of municipalities and municipal entities in line with this Circular. Current arrangements need to be updated and amended to reflect these changes.
- Disabled persons can be accommodated in economy class, however, in extremely exceptional and rare cases an Accounting Officer may approve, with evidence, other than economy class air travel.

2.3 Domestic Hotel Accommodation

National Treasury has negotiated maximum allowable rates with four hotel groups. A non-exclusive MOU is being entered into with the hotels over a period of six months from 1 April to 30 September 2016 while National Treasury prepares for an open bid process. The hotels are as follows, Premier Group, Protea Hotels, City Lodge and Tsogo Sun. The instruction to travel agents must be to obtain quotes from each of the four hotels; however it is not necessarily limited to them as accommodation depends on availability, locality and rates, which could be lower. Competition and cost effectiveness must remain a key principle.

Table 1: Rates set for Domestic Hotel Accommodation

Accommodation Grid			
Voucher Includes	BAND 1	BAND 2	BAND 3
	Room Only Tourism Levy VAT	Bed & Breakfast Tourism Levy VAT	Dinner, Bed and Breakfast Tourism Levy VAT 2 x soft Drink at Dinner
Graded Hotel	BAND 1	BAND 2	BAND 3
1 Star property	R580.00	R710.00	R855.00
2 Star property	R900.00	R1 030.00	R1 230.00
3 Star property	R1,100.00	R1,200.00	R1,400.00
4 Star property	R1,250.00	R1,350.00	R1,550.00
5 Star property	R2,100.00	R2,200.00	R2,500.00
Bed & Breakfast or Guest house	BAND 1	BAND 2	BAND 3
1 Star property	-	R180.00	R270.00
2 Star property	-	R250.00	R350.00
3 Star property	-	R400.00	R520.00
4 Star property	-	R600.00	R750.00
5 Star property	-	R800.00	R975.00
S&T Allowance	BAND 1	BAND 2	BAND 3
Breakfast	R120.00	-	-
Lunch	R120.00	R120.00	-
Dinner	R150.00	R150.00	-
Total as per TP	R390.00	R270.00	-
S&T Claims accepted based on Travel Policy, detail include Parking, Laundry and Wi Fi Important Note: All other costs incurred are for the individuals account. Note: Consideration should be given to include such a table in policies.			

- Accounting officers must ensure that overnight accommodation is limited to instances where the distance travelled by road by the employee exceeds 500 kilometres to and from the destination (return journey).

2.4 Vehicle Hire

- Municipalities are encouraged to continue considering their own fleet first, where viable, prior to hiring of vehicles;
- Notwithstanding the provisions above, all employees must make use of shuttle services if the cost of such a service is below the cost of hiring a vehicle.
- Accounting officers must also consider making use of shuttle services if the cost of kilometres claimable by the employee and the cost of parking are higher than the shuttle services.
- Ensure the hiring of vehicles from a category below Group B or an equivalent class. Accounting officers may permit employees to accept up-graded group of

hired vehicles if such an up-grade is offered for free or at a lower charge than Group B.

- Vehicle travel claims by employees of municipalities and municipal entities must be restricted to the actual distance travelled in excess of the normal distance from the employee's residence to his or her place of work or as may be negotiated using a motor vehicle allowance scheme.

3 Credit Cards

The use of credit and debit cards was addressed in an earlier MFMA Circular.

A bank, or any other institution, may not issue credit cards or debit cards linked to a bank account of a municipality or a municipal entity to any councillors, entity board members, municipal or entity officials or any other person. The issuing and use of such cards be it for official purposes:

- contravenes section 11 and 85 of the MFMA as there is no way of ensuring that all purchases made on the card are in accordance with the items listed in the sections or as prescribed;
- contravenes section 167 of the MFMA which provides that any bursary, loan, advance or other benefit paid to a municipal councillor otherwise than in accordance with the provisions of the Remuneration of Public Office Bearers Act constitutes irregular expenditure;
- contravening section 15 of the MFMA by incurring expenditure not authorised in an approved budget;
- non-compliance with section 164 of the MFMA which provides that no municipality or municipal entity may make loans to councillors or officials of the municipality, directors or officials of the entity or members of the public;
- non-compliance with the supply chain management regulations; and
- undermines efforts to safeguard municipal funds, combat fraud and corruption, as well as other irregular practices.

While the use of petrol cards or garage cards for municipal vehicles is permitted, it must be utilised in accordance with an appropriate policy and related procedures to avoid misuse thereof. Cost containment measures should be applied in managing and planning trips.

Where officials or councillors incur expenses in relation to official municipal activities, they should use their personal credit cards or cash, and request reimbursement from the municipality in accordance with the relevant municipal policy and processes. Alternatively, the municipality should make arrangements with the service provider that the expenditure be settled directly by the municipality.

4 Catering costs

- Do not incur catering expenses for any meetings where only municipal officials are in attendance. Notwithstanding the above, the accounting officer may incur catering expenses for the following, provided that such lasts for five (5) continuous hours or more:
 - a) The hosting of conferences, workshops, courses, forums, recruitment interviews, training courses, hearings;

- b) Meetings related to commissions or committees of inquiry; or
- c) Meetings hosted by the board of directors of municipal entities, including governance committee meetings.
- Ensure that entertainment allowances of qualifying officials do not exceed two thousand rand (R2 000) per person per financial year. The National Treasury may periodically review this amount.
- Do not incur expenses on alcoholic beverages.
- Ensure that team building and social functions, including year-end functions, are not financed from the municipal budgets or by any suppliers or sponsors.
- Notwithstanding the above, accounting officers may incur no more than the petty cash allocation or limitations on expenditure from their respective budgets to host farewell functions to employees who are either:
 - (a) proceeding on retirement due to ill health; or
 - (b) proceeding on retirement after reaching the qualifying age limit of a minimum of ten (10) or more years working for the public service.
- Accounting officers and accounting authorities may **not** host farewell functions for employees who have:
 - (a) been dismissed;
 - (b) elected to resign or leave by accepting severance packages; or
 - (c) Approached the end of their contractual term.

5 Events, advertising and sponsorships

- Eliminate wasteful expenditure on events, advertising in magazines, television, newspapers etc. where the municipality can use other cost effective means such as websites to market the institution or properly publicise the matters or events under consideration.
- Memorabilia, gifts and other novelties should be of token value only and should only be offered by municipalities and municipal entities in order to acknowledge support or a visit or attendance by a dignitary in connection with a benefit to the local community; to reciprocate the giving of a similar token gift by another organisation; or similar but in all cases there must be an identifiable benefit to the community.
- Limit or stop all unnecessary expenditure on matters such as printing of shirts, hosting of sporting events, festivals and other associated events, cruises, lavish functions, and extraordinary costs associated with visits of dignitaries or induction of new councillors.

6 Conferences, meetings, study tours, etc.

- Employees of municipalities and municipal entities may attend conferences hosted by professional bodies or non-governmental institutions (external conferences) held within the borders of South Africa provided that expenses related to their attendance do not exceed two thousand five hundred rand (R2 500) per person per day. The number of municipal officials attending such conferences and workshops must be limited, see below. The National Treasury may periodically review this amount.

- Employees must make every effort to take advantage of early registration discounts by seeking the required approvals to attend well in advance of the conference as it relates to their area of work. No late registration is acceptable.
- Conferences abroad must be limited to its ultimate minimum or none at all.
- Utilise municipal and/or provincial office facilities for conferences, meetings, strategic planning sessions etc. where an appropriate venue exists within the municipal jurisdiction.
- Limit or stop overseas trips and the delegations going on such trips unless a tangible and clear benefit to the local community and performance of essential service provision can be established beforehand.
- The number of employees travelling to conferences or meetings on official duty for the same matter is limited to three (3) employees, unless otherwise approved in advance by the relevant accounting officer, having due regard to the cost containment measures.
- Similar to the above, the number of employees travelling by air to other centres to attend an official engagement on the same matter is also limited to three (3) employees, unless otherwise approved in advance by the relevant accounting officer, having due regard to the cost containment measures.

7 Office furnishing

- Municipalities should exercise due precaution in refurbishing offices, purchasing equipment, etc. especially when new persons are elected or appointed. Use of existing facilities and equipment is encouraged.
- Office furnishing, when required, should be contained to minimal costs, avoiding elaborate and expensive furniture or equipment.

8 Staff study, perks and suspension costs

- Training attended by employees and councillors of municipalities and municipal entities may only be attended at pre-approved service providers to ensure sufficient quality of training and obtain value for money.
- Expenditure associated with overseas study tours by councillors or officials must be reduced and preferably stopped.
- Encourage staff to take time off to make up for overtime worked.
- Planned overtime must be submitted to management for consideration on a monthly basis.
- Unplanned overtime worked must be motivated and approved by management.
- Costs associated with long-standing staff suspensions and legal costs associated with not following due processes when suspending and dismissing staff must be eliminated.
- Constant management of staff, improvements in productivity levels and feedback must be provided to all staff.

9 Cost containment on other related expenditure items

- Accounting officers of municipalities and municipal entities are advised to ensure that all commodities and products that the National Treasury designated as transversal contracts are utilised to benefit from savings where lower prices or rates have been negotiated.

- Periodic or quarterly threat assessments against councillors and key officials should be undertaken by the appropriate authority (SAPS) and reported to the Speakers Office. Approval for security measures must be informed by such reports, if paid for from municipal funds. The use of metropolitan traffic officers for such purposes should be avoided.
- Municipal funds may not be used to fund election campaign activities, including the provision of supporting material, clothing, food, inducements to vote either as part of, or during election rallies.
- Printing of documents should carefully considered be back-to-back and use of colour printing for graphs only, while use of electronic means should be preferred.
- Review and introduce limits on municipal staff telephones and limiting private call to a reasonable amount.
- Every effort must be made to recover debt from consumers before write-off. Municipalities to avoid the excessive usage of debt collectors and improve its internal capacity for debt collection.
- Ensure synergy between municipal divisions or departments to avoid duplication of processes and efforts.
- Where possible the warranties on vehicle and computer equipment should be extended instead of procuring new ones.
- Labour saving devices should be shared to optimize the capacity utilization of each device.
- Purchasing of newspapers and other publications for municipal employees to limited and stopped.
- Municipalities should ensure that awareness is raised with municipal staff so that a high degree of energy saving measures can be introduced, e.g. air-conditioning and lights in buildings are switched off at night and when offices are not in use.
- All other cost containment measures introduced by council are also encouraged and supported.

10.5	QUESTION 5 BY COUNCILLOR F ADAMS: EMPOWERMENT AND WEALTH CREATION OPPORTUNITIES FOR BLACK PEOPLE
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A Notice of Question, in terms of Section 38(2) of the Rules of Order regulating the Code of Conduct of Council and Council Committee meetings, dated 2016-11-15, was received from Councillor F Adams.

The said Question is attached as **APPENDIX 1**. The appropriate response will be provided separately.

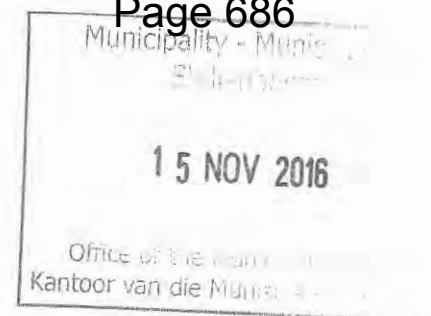
FOR CONSIDERATION

Meeting: Ref No:	4 th Council: 2016-11-23 3/4/1/4	Submitted by Directorate: Author: Referred from:	<i>Office of Municipal Manager Acting MM: (R Bosman)</i>
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10.5

QUESTION 1: COUNCILLOR F ADAMS

APPENDIX 1



Clr. Franklin Adams

Democratic New Civic Association

15 November 2016

For Attention : The Speaker

Clr. Donovan Joubert

Re: Question:

I hereby request that the following question must serve in terms of the Rules of Order at the November 2016 Council member.

Motivation/Background:

Apartheid was declared as a Crime against humanity. By implication all those who designed, benefit and practice Apartheid can be seeing as criminals.

It is also a fact, that the primarily objective of Apartheid was to advance the live hood of predominately white people to the expense of the black majority.

Today we are still witness the gross discrepancies between white people and their black counter parts within my beloved town. As the previous Mayor **rightfully eluded, that Stellenbosch is one of the most Unequal towns.** Unfortunately, he failed to do change matters.

Equality is one of the cornerstones of our Bill of Rights, but the question is this relevant to the decision makers of this town. Definite not and there is an ill conducive environment for **black people to fulfil there economic ambitions and dreams.** It is quite obvious , that the Municipality and private sector are not prepare to undo the Legacy of apartheid that promote Segregation and Exclusion. There is deliberate resistance by apartheid beneficiaries to protect the status quo.

We can witness this, by all the development taken place during the past twenty vears. There was no empowerment of local black people and transformation is definitely not part of their agenda.

As local government has a critical role to play in rebuilding local communities and environment, including transformation and a prosperous and truly non- racial society.

Question:

I request the Mayor to explain, how she envisage to bring about an conducive environment to empower and create wealth for all black people within in WEC 24 through interventions and strategies.

Regards


Clr. Franklin Adams

11.	URGENT MATTERS SUBMITTED BY THE MUNICIPAL MANAGER
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12.	CONSIDERATION OF MOTION OF EXIGENCY
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13.	CONSIDERATION OF REPORTS
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13.1	CONSIDERATION OF REPORTS SUBMITTED BY THE SPEAKER
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NONE

13.2	CONSIDERATION OF REPORTS SUBMITTED BY THE EXECUTIVE MAYOR
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NONE

14.	MATTERS TO BE CONSIDERED IN-COMMITTEE
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(SEE PINK DOCUMENTATION)