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LOCAL AUTHORITY NOTICES

LOCAL AUTHORITY NOTICE 122**BUFFALO CITY MUNICIPALITY**

Whereas the Council of the Buffalo City Municipality (*'the Council'*) has approved the repeal of the erstwhile Gonubie Municipality By-law for the Prevention and Suppression of Nuisances (P.N. 67/1977) and the erstwhile King William's Town Municipality Regulations for the Control of Noise (P.N. 891/1974);

AND WHEREAS the Council has adopted the Noise Control Regulations promulgated under the Environment Conservation Act 73 of 1989 (*'the Act'*) by virtue of Government Notice number R154 dated 10 January 1992,

NOW THEREFORE the Council hereby publishes the Noise By-law set forth hereinafter in terms of section 156(2) of the Constitution of the Republic of South Africa Act 108 of 1996 (*'the Constitution'*).

1. In this By-law, a reference to one gender includes the other gender; any word or expression to which a meaning has been assigned in the Act bears the meaning so assigned; and unless the context indicates otherwise the following words bear the meanings set out hereunder-

"Council" means the Council of the Buffalo City Municipality and includes any employee of the Council exercising powers or performing duties or functions delegated to her by the Council;

"*ambient sound level*" means the reading on an integrating impulse sound level meter taken at a measuring point in the absence of any alleged disturbing noise at the end of a continuous total period of at least 10 minutes, after such meter had been put into operation;

"*animal*" also includes birds and poultry;

"*controlled area*" means a piece of land designated by the Municipality where, in the case of -

- (a) road transport noise in the vicinity of a road-
- (i) the reading on an integrating impulse sound level meter, taken outdoors at the end of a period extending from 06:00 to 24:00 which such meter is in operation, exceeds 65 dBA; or
 - (ii) the equivalent continuous "A" -weighted sound pressure level at a height of at least 1,2 metres, but not more than 1,4 metres, above the ground for a period extending from 06:00 to 24:00 as calculated in accordance with SANS 10210-2004, titled: "Calculating and predicting road traffic noise", published under Government Notice 1373 of 8 November 2002, and projected for a period of 15 years following the date on which the Municipality has made such designation, exceeds 65 dBA;
- (b) aircraft noise in the vicinity of an airfield, the calculated noisiness index, projected for a period of 15 years following the date on which the Municipality has made such designation, exceeds 65 dBA; or

- (c) industrial noise in the vicinity of an industry-
 - (i) the reading on an integrating impulse sound level meter, taken outdoors at the end of a period of 24 hours while such meter is in operation, exceeds 61 dBA; or
 - (ii) the calculated outdoor equivalent continuous "A" – weighted sound pressure level at a height of at least 1,2 metres, but not more than 1,4 metres, above the ground for a period of 24 hours, exceeds 61 dBA;
- (d) noise in the vicinity of, or in, residential and commercial areas, determined in accordance with the provisions of SANS 10103: 2004, titled 'The measurement and rating of environmental noise with respect to land use, health, annoyance and to speech communication', published on 19 November 2004, which provides for methods and guidelines to assess working and living environments.

"dBA" means the value of the sound pressure level in decibels, determined using a frequency weighting network A, and derived from the following equation:

$$L_{PA} = 10 \log_{10} \left[\frac{P_A}{P_O} \right]^2, \text{ where -}$$

P_A = the "A" -weighted sound pressure

P_O = the reference sound pressure

$$(P_O = 20 \mu Pa);$$

"disturbing noise" means a noise level which exceeds the zone sound level or, if no zone sound level has been designated, a noise level which exceeds the ambient sound level at the same measuring point by 7 dBA or more;

"erect" also means alter, convert, extend or re-erect;

"integrating impulse sound level meter" means a device which integrates a function of the root mean square value of sound pressure over a period of time while it is set on "I" -time weighting and indicates the result in dBA;

"measuring point", relating to -

- (a) a piece of land from which an alleged disturbing noise emanates, means a point outside the property projection plane where an alleged disturbing noise, in the opinion of the Municipality, shall be measured in accordance with the provisions of section 6;
- (b) a building with more than one occupant, means a point in or outside the building where an alleged disturbing noise, in the opinion of the Municipality, shall be measured in accordance with the provisions of section 6; and
- (c) a stationary vehicle, means a point as described in SANS 10181-2003, titled: "The measurement of noise emitted by road vehicles when stationary", published under General Notice 1373 of 8 November 2002, where a measuring microphone shall be placed;

"Municipality" means the Buffalo City Municipality and includes any employee of the Municipality exercising powers or performing duties or functions delegated to her by the Municipality;

"noise level" means the reading on an integrating impulse sound level meter taken at a measuring point in the presence of any alleged disturbing noise at the end of continuous total period of at least 10 minutes, after such meter had been put into operation, and if the alleged disturbing noise has a discernible pitch for example- a whistle, buzz, drone or music- to which 5 dBA is added;

"noise nuisance" means any sound which disturbs or impairs or may disturb or impair the convenience or peace of any person;

"noisiness index" means a number expressed in dBA as defined in SANS 10117-2004, titled: "Calculation and prediction of aircraft noise around airports for land use purposes", published under Government Notice 26962 in November 2004;

"*plant*" means a refrigeration machine, air-conditioners, fan system, compressor, power generator or pump;

"*property projection plane*" means a vertical plane on, and including the boundary line of a piece of land defining the boundaries of such piece of land in space;

"*public place*" means any road, street, thoroughfare bridge, overhead bridge, subway, foot pavement, footpath, sidewalk, lane, square, open space, garden park, path, bus or taxi rank, servitude or enclosed space vested in the Council and includes any road, place or thoroughfare which is in the use of the public or which the public have the right to use;

"*recreational vehicle*" also means-

- (a) an off-road vehicle, scrambler, dune buggy or ultra-light aircraft;
- (b) a model aircraft, vessel or vehicle;
- (c) any aircraft or helicopter used for sport or recreational purposes; or
- (d) any other conveyance or model which in the opinion of the Municipality is a recreational vehicle;

"*sound level*" means the reading on a integrating impulse sound level meter taken at a measuring point;

"*the Act*", means the Environment Conservation Act, 1989 (Act No. 73 of 1989);

"*zone sound level*" means a derived dBA value determined indirectly by means of a series of measurements, calculations or table readings and designated by the Municipality for an area.

POWERS OF THE MUNICIPALITY

2. The Municipality may -
- (a) For the purposes of applying this By-law, at any reasonable time enter a premises without prior notice:
 - (i) to conduct any appropriate examination, enquiry or inspection as it may deem expedient thereon; and
 - (ii) to take any steps it may deem necessary;
 - (b) In order to determine whether a vehicle using any road in its area of jurisdiction, including a private, provincial or national road crossing its area of jurisdiction, complies with the provisions of this By-law, instruct the owner or person in control of the vehicle -
 - (i) to have any appropriate inspection or test, as the Municipality may deem necessary, conducted on the vehicle on a date and at a time and a place determined by the Municipality, in writing;
 - (ii) to stop the vehicle or cause it to be stopped;
 - (iii) to have any appropriate inspection or test that the Municipality may deem necessary, conducted on the vehicle;
 - (c) If a noise emanating from a building, premises, vehicle, recreational vehicle or street is a disturbing noise or noise nuisance, or may in the opinion of the Municipality be a disturbing noise or noise nuisance, instruct in writing the person causing such noise or who is responsible therefore, or the owner or occupant of such building or premises from which or from where such noise emanates or may emanate, or all such persons, to discontinue or cause to be discontinued such a noise, or take steps to lower the level of the noise to a level conforming to the requirements of this By-law within the period stipulated in the instruction: Provided that the provisions of this paragraph shall not apply in respect of a disturbing noise or noise nuisance caused by rail vehicles or aircraft which are not used as recreational vehicles;

- (d) Before changes are made to existing facilities or existing uses of land or buildings, or before new buildings are erected, in writing require that noise impact assessments or tests are conducted to the satisfaction of the Municipality by the owner, developer, tenant or occupant of the facilities, land or buildings or that, for the purposes of section 3 (b) or (c), reports or certificates in relation to the noise impact to the satisfaction of the Municipality are submitted by the owner, developer, tenant or occupant to the Municipality on written demand;
- (e) If excavation work, earthmoving work, pumping work, drilling work, construction work or demolition work or any similar activity, power generation or music causes a noise nuisance or a disturbing noise, instruct in writing that such work, activity, generation or music be forthwith discontinued until such conditions as the Municipality may deem necessary have been complied with;
- (f) Designate a controlled area in its area of jurisdiction or amend or cancel an existing controlled area by notice in the provincial Gazette of the Eastern Cape;
- (g) If the owner or person in charge of an animal fails to comply with an instruction referred to in paragraph (c), subject to the appropriate provisions of any other law, impound or cause to be impounded such animal;
- (h) Subject to the provisions of section 8 and the appropriate provisions of any other law, attach a vehicle if the sound level of such vehicle exceeds the sound level referred to in section 3 (j) by more than 5 dBA;
- (i) In writing request the owner or person in control of a plant referred to in section 3 (k) to furnish forthwith proof to its satisfaction that the plant shall not cause a disturbing noise;
- (j) Impose such conditions as it may deem fit when granting any permission or exemption in terms of this By-law;
- (k) Incorporate conditions in relation to noise control with the establishment of a new township, in order to implement the objectives of the Act;

- (l) Subject to the appropriate provisions of any other law, place or cause to be placed measuring instruments or similar devices, road traffic signs or notices at any place within its area of jurisdiction for the enforcement of the provisions of this By-law: Provided that road traffic signs and notices be placed on private property only with the permission of the owner;
- (m) Designate zone sound levels for specific areas and for specific times by notice in the provincial Gazette of the Eastern Cape.

GENERAL PROHIBITION

3. No person shall-

- (a) Establish a new township unless the lay-out plan concerned, if required by the Municipality, indicates in accordance with the specifications of the Municipality only, the existing and future sources of noise, with concomitant dBA values which are foreseen in the township for a period of 15 years following the date on which the erection of the buildings in and around the township commences;
- (b) Erect educational, residential, flat, hospital, church or office buildings in an existing township within a controlled area, unless acoustic screening measures have been provided in the building to limit the reading on an integrating impulse sound level meter, measured inside the building after completion, to 40 dBA: Provided that any air-conditioning or ventilating system shall be switched off during the course of such noise measurements;
- (c) Make changes to existing facilities or existing uses of land or buildings or erect new buildings, if it shall in the opinion of the Municipality house or cause activities which shall, after such change or erection, cause a disturbing noise, unless precautionary measures to prevent the disturbing noise have been taken to the satisfaction of the Municipality;

- (d) Build a road or change an existing road, or alter the speed limit on a road, if it shall in the opinion of the Municipality cause an increase in noise in or near residential areas, or office, church, hospital or educational buildings, unless noise control measures have been taken in consultation with the Municipality to ensure that the land in the vicinity of such road shall not be designated as a controlled area;
- (e) Situate educational, office, residential, hospital or church erven within a controlled area in a new township or an area which has been rezoned: Provided that such situation may be allowed by the Municipality in accordance with the acoustic screening measures mentioned by the Municipality in the approved building plans;
- (f) Fail to comply with a directive, instruction or notice issued by the Municipality in terms of this By-law;
- (g) Notwithstanding the provisions of paragraph (h), stage an organised open-air music festival or similar gathering without the prior consent in writing of the Municipality;
- (h) Subject to the provisions of sections 4 and 5 (a), operate or play a radio, television set, gramophone, recording device, drum, musical instrument, sound amplifier or similar device producing, reproducing or amplifying sound, or allow it to be operated or played, in a public place, if the noise level, measured at any point which may be occupied by a member of the public, exceeds 95 dBA, unless the following warning is displayed in at least the Afrikaans, English and Isi-Xhosa languages and in legible form in a conspicuous place at each entrance to such place:

WARNING: SOUND LEVELS INSIDE MAY CAUSE PERMANENT
HEARING DAMAGE

- (i) Use any power tool or power equipment for construction, earth drilling or demolition works, or allow it to be used, in a residential area during the following periods of time:
 - (i) Before 06:00 and after 18:00 from Monday to Saturday;
and

- (ii) At any time on Sundays, Public Holidays, or any other day as may be determined by the Municipality;
- (j) Drive a vehicle, or allow it to be driven, on a public road, if the sound level at the measuring point measured in accordance with the procedure prescribed in SANS 10181-2003, titled: "The measurement of noise emitted by road vehicles when stationary", published under General Notice 1373 of 8 November 2002, exceeds the sound level indicated in the second or third column, as the case may be, of the following table opposite to the type of vehicle indicated in the first column of that table:

Type of vehicle	Sound level dBA up to and Including 1992-01-01	Sound level dBA after 1992-01-01
Two and three-wheeled vehicles	95	95
Vehicles with spark ignition and with four or more wheels used for the conveyance of passengers or goods	99	96
Vehicles with diesel engines and not equipped with an engine brake	109	105
Vehicles with diesel engines and equipped with an engine brake:		
(i) engine brake switched off	109	105
(ii) engine brake switched on	109	109

- (k) If required by the Municipality, install, replace or modify a plant with a total input power exceeding 10 kilowatts on any premises, unless the Municipality has been notified by the owner of the plant in writing at least 14 days before such installation, replacement or modification of -
- (i) the particulars of the plant;
 - (ii) the number, street address and title deed description of the premises concerned; and
 - (iii) the nature of and the date on which the installation, replacement or modification shall commence:
- Provided that if an existing plant had to be replaced by necessity without preceding notification to the Municipality, the Municipality shall be notified thereof by the owner of the plant in writing within 14 days after the replacement of the plant;
- (l) Tamper with, remove, put out of action, damage or impair the functioning of a noise monitoring system, noise limiter, noise measuring instrument, acoustic device, road traffic sign or notice, placed in a position by or on behalf of the Municipality;
- (m) For the purposes of this By-law in respect of a duly authorized employee of the Municipality -
- (i) fail or refuse to grant admission to such employee to enter and to inspect a premises;
 - (ii) fail or refuse to give information which may lawfully be required of her to such employee;
 - (iii) hinder or obstruct such employee in the execution of her duties; or
 - (iv) knowingly give false or misleading information to such employee.

PROHIBITION OF DISTURBING NOISE

4. No person shall make, produce or cause a disturbing noise, or allow it to be made, produced or caused by any person, animal, machine, device or apparatus or any combination thereof.

PROHIBITION OF NOISE NUISANCE

5. No person shall-
- (a) Cause a noise nuisance, or allow it to be caused, by operating or playing any radio, television set, drum, musical instrument, sound amplifier, loudspeaker system or similar device producing, reproducing or amplifying sound;
 - (b) Offer any article for sale by shouting or ringing a bell, or by allowing shouting or the ringing of a bell, in a manner which may cause a noise nuisance;
 - (c) Allow an animal owned or controlled by him to cause a noise nuisance;
 - (d) Build, repair, rebuild, modify, operate or test a vehicle, vessel or aircraft on residential premises, or allow it to be built, repaired, rebuilt, modified, operated or tested, if it may cause a noise nuisance;
 - (e) Use or discharge any explosive, firearm or similar device which emits impulsive sound, or allow it to be used or discharged, if it may cause a noise nuisance, except with the prior consent in writing of the Municipality and subject to such conditions as the Municipality may deem necessary;
 - (f) On a piece of land designated by the Municipality by means of a notice on that piece of land and in the press in at least the Afrikaans, English and Isi-Xhosa languages, or in the air-space above that piece of land -
 - (i) move about on or in a recreational vehicle;
 - (ii) exercise control over recreational vehicle; or

- (iii) as owner or person in control of the piece of land concerned, allow that on that piece of land, or in the air-space above that piece of land -
 - (aa) is being moved about on or in a recreational vehicle; or
 - (bb) control is being exercised over a recreational vehicle, if it may cause a noise nuisance;
- (g) Except in an emergency, emit a sound, or allow a sound to be emitted, by means of a bell, carillon, siren, hooter, static alarm, whistle, loudspeaker or similar device, if it may cause a noise nuisance;
- (h) Operate any machinery, saw, sander, drill, grinder, lawnmower, power garden implement or similar device in a residential area, or allow it to be operated, if it may cause a noise nuisance;
- (i) Load, unload, open, shut or in any other way handle a crate, box, container, building material, rubbish container or similar article, or allow it to be loaded, unloaded, opened, shut or handled, if it may cause a noise nuisance;
- (j) Drive a vehicle on a public road in such a manner that it may cause a noise nuisance.

USE OF MEASURING INSTRUMENTS

- 6. (1) The measurement of dBA values in respect of controlled areas, ambient sound levels or noise levels in terms of this By-law shall be done as follows:
 - (a) Outdoor measurements on a piece of land: By placing the microphone of an integrating impulse sound level meter at least 1,2 metres, but not more than 1,4 metres, above the ground and at least 3,5 metres away from walls, buildings or other sound reflecting surfaces; and

- (b) Indoor measurements in a room or enclosed space, which is not ventilated mechanically: By placing the microphone of an integrating impulse sound level meter at least 1,2 metres, but not more than 1,4 metres, above the floor and at least 1,2 metres away from the wall, with all the windows and outer doors of the room or enclosed space entirely open: Provided that the windows and doors are closed for indoor measurements in rooms or enclosed spaces which are mechanically ventilated.
- (2) Any person taking readings, shall ensure that -
- (a) The microphone of an integrating impulse sound level meter is at all times provided with a windshield;
 - (b) The measuring instruments are operated strictly in accordance with the manufacturer's instructions; and
 - (c) Sound measuring instruments are checked annually by the South African Bureau of Standards or a calibration laboratory approved by the Minister in order to comply with the appropriate specifications for accuracy.

EXEMPTIONS

7. (1) The provisions of this By-law shall not apply, if-
- (a) The emission of sound is for the purposes of warning people of a dangerous situation; or
 - (b) The emission of sound takes place during an emergency.
- (2) Any person may by means of a written application, in which the reasons are given in full, apply to the Municipality for exemption from any provision of this By-law.
- (3) An exemption shall, if approved, be granted by the Municipality in writing, and the conditions under which and the period for which such exemption is granted, shall be stipulated in such exemption.

- (4) An exemption shall not take effect before the applicant has undertaken in writing to comply with all conditions imposed by the Municipality under subsection (3): Provided that if activities are commenced before such undertaking has been submitted to the Municipality, the exemption shall lapse.
- (5) If any condition of exemption is not complied with, the exemption shall lapse forthwith.

ATTACHMENT

8. (1) A vehicle attached under section 2 (h) shall be kept in safe custody by the Municipality.
- (2) The Municipality may lift the attachment contemplated in section 2 (h) if the owner or person in control of the vehicle concerned has been instructed in writing by it -
 - (a) To repair or to modify the vehicle concerned or cause it to be repaired or to be modified; and
 - (b) To have any inspection or test as the Municipality may deem necessary conducted on the vehicle on a date and at a time and a place mentioned in the instruction.

PENALTIES

9. Any person who contravenes or fails to comply with a provision of section 3, 4 or 5, is guilty of an offence and liable on conviction to a fine not exceeding R20 000,00, or to imprisonment for a period not exceeding two years, or to both such fine and such imprisonment, and, in the event of a continuing contravention, to a fine not exceeding R250,00, or to imprisonment for a period not exceeding twenty days, or to both such fine and such imprisonment, for each day on which such contravention continues.

CONFLICTING BY-LAWS

10. (1) In the event of a conflict between this By-law and any other By-law, this By-law prevails and such other By-law becomes inoperative and unenforceable for as long as the conflict remains.

- (2) Where possible, when considering an apparent conflict between this By-law and any other By-law, a reasonable interpretation that avoids a conflict must be preferred over any alternative interpretation that results in a conflict.

REPEAL OF BY-LAWS

11. The following By-laws are hereby repealed:
 - (1) Gonubie Municipality By-law for the Prevention and Suppression of Nuisances (P.N. 67/1977); and
 - (2) King William's Town Municipality Regulations for the Control of Noise (P.N. 891/1974).

COMMENCEMENT

12. This By-law comes into operation on the date of publication.

LOCAL AUTHORITY NOTICE 123

Buffalo City Municipality



ENVIRONMENTAL HEALTH BY-LAWS

BUFFALO CITY MUNICIPALITY

ENVIRONMENTAL HEALTH BY-LAW

The Council of the Buffalo City Municipality, Province of the Eastern Cape, hereby publishes, in terms of Section 13(a) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), read with Section 162 of the Constitution of the Republic of South Africa Act 1996 (Act No. 108 of 1996), the Environmental Health By-Law of the Buffalo City Municipality.

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SCHEDULE 1: HEALTH NUISANCES

CHAPTER 1

INTERPRETATION, PURPOSE AND PRINCIPLES

Definitions and interpretation

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

"abattoir" means a slaughter facility in respect of which a registration certificate has been issued in terms of section 8(1) and in respect of which a grading has been determined in terms of section 8(2)(i) of the Meat Safety Act, 2000 (Act No. 40 of 2000);

"adequate" when used to describe a standard or manner in which anything required by this by-law must be done, means the standard or manner that, in the opinion of the Council or an authorised official, is sufficient to safeguard health, and to achieve the purpose and apply the principles of this by-law and "adequately" has a corresponding meaning;

"agricultural holding" means the same as defined in the applicable Town Planning Scheme;

"approved" means approved by Council or a duly authorised official in writing;

"authorised official" means any official of the Council who has been authorised by the Council to administer, implement and enforce the provisions of this by-law;

"carcass" means the remains of any animal or poultry and includes the remains of dogs and cats kept as domestic pets;

"communicable disease" means a disease resulting from an infection due to pathogenic agents or toxins generated by the infection, following the direct or indirect transmission of the agents from the source to the host;

"cost" means the amount determined by Council or a duly authorised employee of the Council;

"Council" means the Council of the Buffalo City Municipality or duly authorised employee appointed by Council;

"domestic consumption" in relation to water, means the use of water for –

- (a) human consumption;
- (b) preparing or manufacturing food or drink for human consumption;
- (c) cleaning vessels or utensils used in the preparation or manufacture of food or drink for human consumption; or
- (d) any other domestic purpose;

"environmental health" means situations or state of affairs relative to the environment that impact on, or have the potential to impact on the mental, physical and social health and well-being of people;

"health" means the mental, physical and social health and well-being of people;

"health nuisance" means a situation, or state of affairs that in the opinion of Council or duly authorised employee appointed by Council, endangers life or health or has the potential to adversely affect the wellbeing of a person or community, or is offensive and without limitation, includes those circumstances in which a health nuisance is considered to exist in terms of Schedule 1;

"meat" means those parts of a slaughtered animal which are ordinarily intended for human consumption;

"Meat Safety Act" means the Meat Safety Act, 2000 (Act No. 40 of 2000);

"medical certificate" means a certificate signed by a medical practitioner;

"medical practitioner" means a person registered as such under the law relating to the registration of persons as medical practitioners;

"municipal area" means the area under the jurisdiction of the Council;

"National Building Regulations and Building Standards Act" means the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977);

"objectionable material" means garden litter, rubbish, waste material, rubble, scrap metal, article or thing, disused machinery, disused motor cars or other vehicles, as well as the disused parts thereof, refuse from any building operations, or any refuse capable of being deposited 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 a nuisance or which materially interferes with the ordinary comfort or convenience of the public;

"offensive" means a state of affairs that in the opinion of Council or duly authorised employee appointed by Council is obnoxious, foul, disgusting and/or noxious from an environmental health perspective;

"occupier", in relation to any premises, means any person -

- (a) occupying the premises;
- (b) leasing the premises;
- (c) who is not occupying the premises but is entitled to do so; or
- (d) who manages the premises or a business on the premises on behalf of a person referred to in paragraph (a), (b) or (c);

"overcrowding" means

- (a) a residential occupancy in excess of 12 occupants per sanitary convenience; and/or

- (b) occupancy of habitable rooms (being all rooms in a dwelling excluding kitchens, bathrooms and sanitary conveniences) utilised for sleeping purposes where such occupation exceeds 1 adult person per 4 m² and/or 1 child under 10 years of age per 2 m², or in situations where double bunks are used for sleeping purposes, occupation exceeds 3m² per adult person (occupying a double bunk bed) and/or 2m² per child under 10 years occupying a double bunk;

"owner", in relation to any premises, means -

- (a) the person in whose name the title to the premises is registered; or
- (b) if the person referred to in paragraph (a) is dead, insolvent, mentally ill, a minor or under any legal disability, the executor, guardian or other person who is legally responsible for administering that person's estate;
- (c) if the person referred to in paragraph (a) is a juristic person the person in control of the premises;

"permit" means the written permission granted by the Council in terms of this by-law;

"person" means a natural person, a juristic person, or firm and includes licensees as well as any sphere of government;

"pest" means any animal which may create a health nuisance;

"pollution" means the introduction into the environment of any substance or property (including radiation, heat, noise and light) that has or results in direct harmful effects to humanity or the environment, or that makes the environment less fit for its intended use;

"potable water" means water that complies with the requirements set out in SABS 241: Water for Domestic Supplies;

"premises" means any building, structure or tent together with the land on which it is situated and the adjoining land used in connection with it and includes any land without any building, structure or tent and any vehicle, conveyance or ship;

"public place" means any road, street, thoroughfare, bridge, overhead bridge, subway, foot pavement, footpath, sidewalk, lane, square, open space, garden park, path, bus or taxi rank, servitude or enclosed space vested in the Council and includes any road, place or thoroughfare which is in the undisturbed use of the public or which the public have the right to use.

- (2) Unless the context otherwise indicates, any word or expression which is defined in any Chapter, has the same meaning wherever it is used in this by-law.

Purpose

2. The purpose of this by-law is to enable the Council to protect and promote the long term health and well-being of people in the municipal area by -
- (a) providing, in conjunction with any other applicable law, a legal framework within which the Council can –
 - (i) manage and regulate activities that have the potential to impact adversely on health; and
 - (ii) require premises to be properly maintained and managed;
 - (b) defining the rights and obligations of the Council and the public in relation to this purpose.

Principles

3. (1) Every person has a constitutional right to an environment that is not harmful to his or her health or well-being and the Council has a constitutional duty to strive, within its financial and administrative capacity, to promote a safe and healthy environment.
- (2) The Council must regulate all activities and administer all matters for which it is legally responsible in a manner that –
- (a) avoids creating a health nuisance;
 - (b) does not make it easier for any human or animal disease to spread;
 - (c) does not give rise to unsanitary or unhygienic conditions;
 - (d) prevents unsafe food or drink from being eaten or drunk;
 - (e) avoids creating conditions favourable for infestation by pests; and
 - (f) wherever reasonably possible, improves the health of the public in the municipal area.

Application of principles

4. The principles set out in section 3 must be considered and applied by any person -

- (a) exercising a power or function or performing a duty under this by-law;
- (b) formulating or implementing any policy that is likely to have a significant effect on, or which concerns the carrying on of activities likely to impact on health in the municipal area; or
- (c) exercising a public power or function or performing a public duty in the municipal area which is likely to have a significant effect on the health of the public in that area.

CHAPTER 2

SUPPRESSION AND PREVENTION OF HEALTH NUISANCES

Health nuisances

- 5. (1) No person may cause a health nuisance anywhere in the municipal area.
- (2) Every owner or occupier of premises must ensure that a health nuisance does not arise on those premises.

Overgrown property

- 6. No owner or occupier of any erf may allow it 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, it may be used as a shelter by vagrants, wild animals or vermin or may threaten the health or the safety of any member of the community.

Overcrowding and health nuisances on premises

- 7. No person shall occupy or cause or permit to be occupied any premises for habitable purposes so as to be a health nuisance, whether by overcrowding or otherwise.

Maintenance of common areas of premises

- 8. The owner of any premises, which is let or sublet to more than one tenant, shall maintain at all times in a clean and sanitary condition every part of such premises as may be used in common by more than one tenant.

Pollution of sources of water supply

9. No person may pollute or contaminate any catchment area, river, canal, well, reservoir, filter bed, water purification or pumping works, tank, cistern or other source of water supply or storage.

Furnishing of particulars of the source of water

- 10.(1) Any owner or occupier of premises on which a well, borehole, spring, dam, river or other water source is located, the water of which is used for domestic consumption, must within 14 days of receiving a notice from the Council calling on him or her to do so, provide the Council with all particulars of the water source available to the owner or occupier.
- (2) An owner or occupier of premises contemplated in sub-section (1), must, if requested to do so by the Council, and at his or her own cost, furnish to the Council a certificate of analysis and bacteriological and chemical investigation issued by an analyst, as defined in the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972), in respect of any water supply on that premises used for domestic consumption.
- (3) If water from a borehole is used for domestic consumption, a certificate of analysis as contemplated in sub-section (2) must be submitted to Council annually or at any time on request of Council or an authorised official.

Compulsory use of sewerage disposal system approved by Council

11. Every owner and occupier of premises must use the sewerage and waste water disposal system approved by the Council for those premises.

Maintenance and cleanliness of sanitary systems

12. No owner or occupier of any premises shall -
- (a) fail to maintain the sewers, drains, water fittings, waste water fittings, water closet fittings and all other sanitary accessories forming part of or attached to any building or structure in good and sound repair;
- (b) keep, cause or suffer to be kept upon any premises any toilet, urinal, bath, sink, basin, shower or cistern of such nature or in such condition that it is a health nuisance.

Disposal of sewage and wastewater without causing a health nuisance

13. No person may dispose of sewage or waste water from any bath, wash-hand basin, toilet, shower or kitchen sink in a way or in a location that may -

- (a) cause dampness in or on any premises;
- (b) endanger the quality of any water supply, surface water, stream or river;
or
- (c) create a health nuisance.

Blocked or defective outlet pipes

14. Every owner or occupier of premises must keep any drainage system free from obstruction and in a good condition.

Toilets for workers

15. Every contractor must provide his or her workers with toilet facilities as prescribed by the National Building Regulations and Building Standards Act.

Dangerous wells, boreholes and excavations

16. Every owner or occupier of premises must ensure that any well, borehole or other excavation located on his or her premises –
- (a) is fenced, filled in or covered over in a way that adequately safeguards it from creating a health nuisance or danger to inhabitants; and
 - (c) is not filled in a way, or with material, that may cause any adjacent well, borehole or underground water source to be polluted or contaminated to an extent that may create a health nuisance.

Slaughter of animals at places other than abattoirs

- 17.(1) No person may –
- (a) slaughter any animal at any place other than an abattoir;
 - (b) permit the slaughter of any animal at any place under his or her control, unless the place is an abattoir; or
 - (c) sell or provide meat for human and animal consumption unless it has been slaughtered at an abattoir.
- (2) (a) Sub-section (1) does not apply to –
- (i) slaughter, on an agricultural holding, for own consumption;
 - (ii) slaughter for cultural or religious purposes.

- (b) No meat or animal product obtained from an animal slaughtered as contemplated in paragraph (a) may be sold to any person.

Dead animals not to cause a health nuisance

18. No person shall permit the carcass of any animal, including animals kept as pets, being his property or of which he is in charge, to be buried or disposed of in such a manner as to cause a health nuisance; the burial or disposal to be carried out in a manner that may be prescribed by Council.

CHAPTER 3

KEEPING OF ANIMALS, POULTRY AND BEES

Definitions

19. In this Chapter, unless the context otherwise indicates -

“**animal**” means horse, pony, mule, donkey, cattle, pig, sheep, goat, ostrich, camel, rabbit, reptile, indigenous animal and other wild or exotic animal, but excludes dogs and cats kept as domestic pets;

“**cattery**” means any establishment where cats are bred or boarded;

“**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;

“**pet**” means a domestic animal, bird or poultry kept for companionship or amusement;

“**pet parlour**” means an establishment where pets are brushed, cleaned and groomed;

“**pet shop**” means an establishment where pets are kept for trading purposes;

“**poultry**” means any fowl, goose, duck, pigeon, dove, turkey, muscovy, guinea-fowl, peacock and/or peahen or bird whether domesticated or wild;

"proclaimed township" means an approved township as contemplated in sections 79, 103, 111 and 141(4) of the Town Planning and Townships Ordinance, 1986, (Ordinance No. 15 of 1986), or a township approved in terms of any prior law relating to townships;

"structure" means any stable, shed, pigsty, aviary, covering structure, poultry house, loft or building used for the keeping, housing or enclosing of animals and poultry.

General requirements relating to the keeping of animals and poultry

Numbers of animals and poultry and provisions for permits

20.(1) For the purpose of promoting public health and restricting health nuisances, the Council may from time to time determine –

(a) the number, kinds and gender of animals or poultry that may be kept per unit area and the areas within which such animals or poultry shall be prohibited;

(b) the kinds of animals and poultry for which a permit is required and the relevant application fee and annual fee for such permit.

(2) Applications for permits in terms of section 20 (1) (b) must be made on the prescribed form made available by the Council for such purpose.

(3) Permits issued in terms hereof are not transferable and shall only be valid for the specific property in respect of which the application was made.

(4) Notwithstanding anything to the contrary contained in this by-law, the Council may refuse to approve an application or grant approval subject to specific conditions if, in its opinion, the property owing to its location, siting or geographical features or size, is unsuitable for the keeping of animals or poultry.

(5) Notwithstanding the provisions of this by-law, the Council may after considering conditions particular to the property and on condition that no objection is received from adjoining neighbours, waive any or all of the requirements of this part and impose other conditions if appropriate.

Plans for structures

21.(1) The Council may require an application in terms of section 20 (1) (b) to be accompanied by a detailed site plan indicating all existing or proposed structures and fences on the property for which the permit is required.

- (2) The Council may require detailed plans and specifications of structures wherein it is proposed to keep animals and poultry, in order to evaluate whether or not to grant a permit applied for in terms of section 20 (1) (b).

General requirements relating to structures housing animals and poultry

- 22.(1) All structures housing animals and poultry shall be constructed in a workmanlike manner and of materials and design approved by Council.
- (2) All structures shall at all times be kept in a proper state of repair by the owner or occupier of the premises.

Premises to be kept clean

- 23.(1) All manure resulting from the keeping of animals and poultry shall, pending removal from the premises, be stored under shelter in sealed fly proof containers and disposed of on a regular basis, in an approved manner, so as to prevent any nuisance from being created.
- (2) All feed shall be stored in an approved rodent proof place, container or storeroom.
- (3) The premises for keeping of animals and poultry shall be kept in such condition as not to attract or provide harbourage for rodents.
- (4) Carcasses shall be disposed of at the owner's expense and in a manner approved by the Council.
- (5) The Council may from time to time determine that a fly and rodent proof manure store and feed store of adequate size and constructed of permanent material, is required on premises where animals are kept.

Specific requirements relating to the keeping of animals

Permit provisions

24. In order to promote public health no person shall keep, or permit to be kept, any animal other than an approved pet on an erf in a proclaimed township, or other area as may be designated by Council, without the written permission of the Council.

Removal/Impoundment of animals kept without a permit

- 25.(1) Whenever animals are kept without a permit as required in terms of section 24 Council may by written notice require the owner of such animals to have them removed within a period stated in such notice.
- (2) Any person failing to comply with a notice as stipulated in sub-section (1) is guilty of an offence and may be liable to prosecution.
- (3) An authorised official may seize any animal the owner of which has failed to comply with a notice as stipulated in sub-section (1) and impound or cause to be impounded any such animal at a pound or other facility designated by Council for such purpose, whereafter the legislation applicable to animals impounded in the municipal area shall be applied in relation to such animals.

Siting of structures for the keeping of animals

- 26.(1) No structure, kraal or paddock that accommodates animals shall be sited -
- (a) within 15m of any boundary of the erf which abuts a residential erf in a proclaimed township;
 - (b) within 6m of any boundary of the erf which abuts any road or public open space situated in a residential area;
 - (c) within 15m from any dwelling, inhabited outbuilding, shop or building where food is processed.
- (2) The provisions of sub-section (1) do not apply to persons keeping animals for slaughter for religious and cultural purpose as provided for in terms of section 35.

Specific requirements relating to the keeping of poultry**Permit provisions**

27. No person may keep poultry on an erf in a proclaimed township or more than 1000 poultry on premises zoned for agricultural purposes except in terms of a permit issued by Council authorising that activity.

Structures for the keeping of poultry

- 28.(1) No structure or poultry run in which poultry is kept shall be sited -

- (a) within 1.5m from any boundary of a residential erf; and
 - (b) within 1,5m from any dwelling, inhabited outbuilding or shop.
- (2) All structures in which animals or poultry are kept shall be suitably screened from any street to the satisfaction of the Council.
- (3) No structure in which poultry is kept shall have a height in excess of 3,5m.

Dog Kennels and Catteries

Permit required

29. No person may use any premises as a kennel or a cattery, wherever situated, except in terms of a permit issued by Council authorising that activity.

Requirements for premises

30. Every kennel and cattery shall comply with the following requirements –

- (1) Dogs and cats shall be kept in separate enclosures which shall be -
 - (a) constructed of durable materials and with adequate access for cleaning, disinfecting and de-vermination purposes;
 - (b) with a floor constructed of concrete or other durable and impervious material brought to a smooth finish and graded to a channel 100mm wide, extending over the full width of the floor and situated within the enclosure, which channel shall drain into a gully connected to the Council sewer system by means of a pipe of approved material with a minimum diameter of 100mm or to another approved disposal system;
 - (c) with a kerb 150mm high along the entire length of the channel referred to in sub-section (b), to prevent storm water from such area from entering the channel.
- (2) Every enclosure referred to in sub-section (1) shall contain a roofed shelter for the accommodation of dogs and cats of which -
 - (a) every wall shall be constructed of brick, stone, concrete or other durable material and shall have a smooth internal surface without cracks or open joints;

- (b) the floor shall be of concrete or other impervious and durable material brought to a smooth finish without cracks or open joints and the surface between the floor and the walls of a permanent structure shall be coved;
- (3) In the case of dogs, a dog kennel of moulded fibre cement or other similar material which is movable and placed on a base constructed of concrete or other durable material with an easily cleaned finish, without cracks or open or open joints, may be provided instead of a shelter contemplated in sub-section (2) and if the base of such kennel is not rendered waterproof, a raised sleeping board which will enable the dog to keep dry shall be provided in every such kennel.
- (4) A concrete apron at least 1m wide shall be provided at the entrance of the enclosure over its full width, the apron to be graded to allow for the drainage of water away from the enclosure.
- (5) A supply of potable water, adequate for drinking and cleaning purposes, shall be provided in or adjacent to every enclosure.
- (6) Separate isolation facilities for sick dogs and cats shall be provided to the satisfaction of the Council.
- (7) If cages are provided for the keeping of cats, such cages shall be of durable impervious material and constructed so as to be easily cleaned.

Pet shops and pet parlours

Permit required

31. No person may use any premises as a pet shop or pet parlour, wherever situated, except in terms of a permit issued by Council authorising that activity.

Requirements for premises

32. No person shall conduct a business of a pet shop or pet parlour in or upon any premises—
- (a) in which there is direct internal access with any room or place used for human habitation or in which clothing is stored or sold or food for human consumption is prepared, stored, sold or consumed.

Duties of trader

33. Every person who conducts the business of a pet shop shall –

- (1) Provide cages for housing animals, poultry or birds, and the following requirements shall be complied with:-
 - (a) the cages shall be constructed entirely of metal or other durable impervious material and shall be fitted with a removable metal tray below the floor thereof to facilitate cleaning.
- (2) Maintain the premises and every cage, tray, container, receptacle, basket and all apparatus, equipment and appliances used in connection with the pet shop, in a clean, sanitary condition, free from vermin and in good repair;
- (3) Take effective measures for the prevention of harbouring or breeding and for the destruction of flies, cockroaches, rodents and other vermin and for the prevention of offensive odours arising from the keeping of pets on the premises.

Keeping of bees**Permit and requirements**

34. (1) No person may keep bees on any premises unless –

- (a) that person is the holder of a permit authorising that activity;
- (b) every bee hive is situated a minimum of thirty metres from any boundary of the premises, public place or building used for human habitation or from any place used for the keeping of animals, poultry and birds;
- (c) the bees are kept in an approved bee hive;
- (d) the bee hive is –
 - (i) kept in an area inaccessible to children and animals;
 - (ii) kept in the shade at all times;
 - (iii) supplied with a source of drinking water within five metres of the hive.

- (2) No person may dump or deposit any garbage, compost, grass cuttings or manure within five metres of any bee hive.

Keeping of and slaughtering animals for religious and cultural purposes

Written permission required

35. (1) No person may keep an animal in a proclaimed township for the purpose of slaughtering it for religious or cultural purposes without the written permission of Council.
- (2) Application for approval must be made on the prescribed form and such application must be submitted not less than 3 working days prior to the event, such days to be working days of a ordinary 5 day working week.
- (3) Prior written permission must be obtained from the owner, tenant or person in control of the premises where such slaughtering is to occur, if the person performing the slaughter is not the owner, tenant or person in control of the premises.
- (4) The permission granted by Council in terms of sub-section (1) does not provide indemnity to the applicant from compliance with any other law, or legal action related to, but not limited to, disturbances of the peace, liability for damage to property and injury to any person and the conveyance and transport of animals.

Requirements

36. Any person who keeps an animal on premises in a proclaimed township for the purpose of slaughtering it for religious or cultural purposes must –
- (a) not keep such animal prior to slaughtering for a period in excess of 24 hours;
- (b) slaughter the animal in a position which cannot, as far as reasonably possible, be observed by any person on neighbouring premises or any member of the public;
- (c) obtain the animal from an area that has not been declared a tuberculosis or brucellosis quarantine area in terms of the Animal Diseases Act, 1984 (Act No. 35 of 1984);
- (d) handle the meat in a hygienic manner at all times;

- (e) dispose of any portions of the animal which are not used or consumed, in a manner which will not become a health nuisance;
- (f) undertake to be appraised by an authorised official of the health risks of consuming meat not examined at an abattoir and methods of reducing the health risks of consuming such meat;
- (g) use the meat derived from the slaughtered animal solely for the purposes of the religious or cultural feast.

Withdrawal of Councils permission for keeping of animals, poultry and bees

- 37 (1) Permission of the keeping of animals, poultry and/or bees may be withdrawn by Council at any time if –
- (a) the keeping of such animals, poultry and/or bees poses a nuisance to any person;
 - (b) the provisions of this by-law are contravened.

General provisions relating to the keeping of animals, poultry and bees

38. (1) Whenever, in the opinion of Council, animals, poultry or bees kept on any premises, whether or not such premises have been approved by Council under this by-law, are a nuisance or danger to health, Council may by written notice require the owner of occupier of such premises, within a period to be stated in such notice, to remove the cause of and to abate such nuisance or danger to health and to carry out such work of do such things as Council may deem necessary for the said purpose.
- (2) Any person who keeps animals, poultry or bees is guilty of an offence if such person -
- (a) keeps animals, poultry or bees without Councils permission;
 - (b) contravenes or fails to comply with any provisions of this by-law;
 - (b) fails to comply with any notice issued in terms of or for the purposes of this by-law;
 - (c) fails to comply with any lawful instruction given in terms of or for the purposes of this by-law;

(d) obstructs or hinders any authorised representative or employee of the Council in the execution of his or her duties under this by-law.

(2) Any premises on which animals, poultry or bees are already legally being kept shall be exempted from complying with requirements in respect of accommodation for animals and poultry for a period of 12 months from date of coming into operation of this by-law.

(3) All permits, authorisations and concessions to keep animals, poultry or bees granted in terms of any by-law or regulation repealed by section 86 shall be deemed to have been granted in terms of this by-law.

CHAPTER 4

MEDICAL WASTE MANAGEMENT

Application

39. This by-law applies to all persons who generate, collect, receive, store, transport, treat, dispose of, or handle health care risk waste in any form in the municipal area.

Definitions

40. In this chapter, unless the context otherwise indicates -

"consignment" means each individual load of health care risk waste, comprising one or more containers containing health care risk waste, transported by a health care risk waste transporter;

"controlled combustion treatment" means any method, technique or process for microbial inactivation or for otherwise altering the biological, chemical or physical characteristic of health care risk waste so as to render the material unrecognisable and render all sharps unusable, and ensure that all blades are broken, and in order to reduce the hazards which the health care risk waste presents and to facilitate disposal by means of, typically, a controlled combustion technology;

"domestic health care risk waste generator" means a household or other facility which generates reasonably minimal quantities of health care risk waste, such as plasters, bandages, nappies or sanitary pads, during the course of daily life; but does not include households or facilities which generate health care risk waste such as sharps waste, or households where

there is one or more chronically ill persons requiring the use of equipment such as a dialysis machine;

"genotoxic waste" includes certain cytostatic drugs, vomit, urine, or faeces from patients treated with cytostatic drugs, genotoxic substances or chemicals which have mutagenic, tetragenic or carcinogenic properties;

"health care general waste" means the non-hazardous component of health care waste and can include liquids but excludes any health care waste generated from isolation wards;

"health care risk waste" means waste capable of producing an infectious disease. Health care risk waste includes any of the following –

(a) laboratory waste, including, but not limited to, all of the following –

(i) human or animal specimen cultures from health care and pathological laboratories;

(ii) cultures and stocks of infectious agents from research and industrial laboratories;

(iii) wastes from the production of bacteria, viruses, or the use of spores, discarded, live and attenuated vaccines, and culture dishes and devices used to transfer, inoculate, and mix cultures; and

(iv) waste containing any microbiological specimens sent to a laboratory for analysis;

(b) human surgery specimens or tissue removed at surgery or autopsy;

(c) animal parts, tissues or fluids suspected or known to be infected with any zoonotic disease;

(d) waste, which at the point of transport from the generator's site, or at any point thereafter, contains recognizable fluid blood, fluid blood products and containers or equipment containing blood that is fluid or blood from animals known to be infected with any zoonotic disease;

(e) waste containing discarded materials contaminated with excretion, exudates, or secretions from humans or animals who or which are required to be isolated by infection control staff, the attending physician or surgeon, the attending veterinarian, or the local health officer, in order to protect others from highly communicable diseases

or from isolated animals known to be infected with any zoonotic disease;

- (f) all waste generated in isolation wards;
- (g) infectious liquids;
- (h) sharps waste;
- (i) chemical waste which consists of discarded solid, liquid, and gaseous chemicals, including pharmaceutical waste and other hazardous waste from diagnostic and experimental work and from cleaning, housekeeping, and disinfecting procedures;
- (j) waste containing any radio-active material;
- (k) any waste, specimen, tissue, fluid, liquid, or sharp which resembles health care risk waste.

“health care waste” is health care general waste and health care risk waste;

“health care waste generator” means any person, whose acts or processes produce health care waste and includes, but is not limited to -

- (a) home based care givers and organisations;
- (b) medical and dental practitioners, clinics, hospitals, surgery centres, laboratories, research laboratories, and general practitioners;
- (c) veterinary practitioners, clinics, and hospitals;
- (d) traditional healers; and
- (e) tattoo artists, body pierces, undertakers, and embalmers.

“health care risk waste transfer station” means any person who receives but does not treat health care risk waste. Health care risk waste transporters who store health care risk waste are also health risk care waste transfer stations;

“leak proof container” means a container which is constructed of impermeable material and has a strength sufficient to preclude ripping,

tearing, or bursting under normal conditions of usage and handling of the waste-filled container;

"major generator of health care waste" means a generator of health care risk waste that, in the opinion of an authorised official, generates such quantities of such waste that it may be deemed to be a major generator;

"parametric monitoring" is the monitoring of compliance of a health care risk waste treatment facility with the requirements of this by-law using operating parameters such as time, temperature, pressure, or size as an indicator of treatment efficiency;

"pathological waste" is that waste that includes tissues, organs, body parts, human foetuses and deceased animals infected with zoonotic diseases, blood, and body fluids, but excludes teeth, hair and nails;

"pharmaceutical waste" means all pharmaceutical products and medicinal chemicals that are no longer usable in patient treatment and which have been returned to patient care areas, and that have become outdated or contaminated or are no longer required, as well as items contaminated with cytotoxic pharmaceuticals;

"performance testing" is the testing conducted at a non-combustion health care risk waste treatment facility prior to the facility being issued with an authorisation in terms of this by-law, which testing is carried out using typical and representative health care risk waste or a challenged load;

"puncture resistant container" means a rigid container which, when sealed cannot be re-opened without difficulty and which is not easily penetrated under normal use;

"reduced monitoring" is the reduced monitoring regime which may be carried out by a health care risk waste treatment facility after a period of documented compliance with all performance requirements in terms of this by-law;

"sharps container" means a puncture resistant container so designed to limit unauthorised access to the contents, and which is spill proof under normal handling conditions;

"sharps waste" includes any device having acute rigid corners, edges, or protuberances capable of cutting or piercing, including, but not limited to, all of the following;

(a) hypodermic needles, syringes, blades, and needles with or without attached tubing; and

(b) broken glass items, such as Pasteur pipettes and blood vials contaminated with health care risk waste;

"storage" means the holding of health care wastes in a manner that does not constitute treatment or disposal of health care risk waste;

"tracking document" means the health care waste-tracking document specified in this by-law;

"transport" means the movement of health care risk waste from the point of generation to any intermediate point and finally to the point of treatment or disposal. Transport does not include the movement of health care risk waste from a health care risk waste generator to another health care risk waste generator for the purposes of testing and research, or internal transport;

"transport operator" means a person or enterprise engaged in the transportation of health care risk waste;

"treatment" means any method, technique, or process designed to change the biological character or composition of any health care waste so as to eliminate its potential for causing disease, pollution impact on the environment and risk to health.

Registration

41. All health care risk waste generators, transporters, transfer stations and treatment facilities must be registered with Council in order to generate, transport, store or treat health care risk waste -

(a) within 60 (sixty) days from the date on which this by-law come into force, any health care risk waste treatment facility, which has not been issued with a registration permit, must obtain a temporary authorisation certificate which shall be obtained by submitting an application to Council;

(b) on application in terms of sub-section (a), Council will issue the treatment facility with a certificate of temporary authorisation, which will be valid for 120 (one hundred and twenty) days from the date on which it was issued;

(c) within 120 (one hundred and twenty) days of being issued with such a certificate of temporary authorisation, a treatment facility must submit a

report to Council, which report shall include at least the results of the tests and other information as set out in section 57 (2) of this by-law;

(d) in the event that the results of the tests required in section 57 (2) of this by-law indicate that the applicant does not comply with the minimum environmental performance requirements for controlled combustion and non-combustion treatment facilities, the applicant's report must include a plan detailing the steps which the applicant will take, and the time frames in which these steps are to be taken, in order to achieve compliance with the provisions of this by-law;

(e) within 90 (ninety) days of the date on which the applicant submits a report in terms of sub-section (c), Council must either grant or deny registration.

General prohibitions

42.(1) No person may containerise, collect, transport, sort, recover, treat, store, dispose of, or otherwise manage health care risk waste other than in accordance with this by-law and in a manner that results in, or creates a reasonable risk of harm to human health or the environment.

(2) No transporter, transfer facility, treatment facility or disposal facility may accept health care risk waste from any generator, transporter, transfer facility or treatment facility that is not registered with Council.

(3) No generator, transporter, or transfer facility, may supply any health care risk waste to any transporter, transfer facility, treatment facility or disposal facility that is not registered with Council.

Segregation

43.(1) All health care risk waste generators must, at the point of generation, segregate and keep separate all health care risk waste from health care general waste.

(2) No person shall dispose of health care risk waste together with health care general waste.

(3) No health care risk waste may be disposed of in the domestic waste service.

Waste minimisation, re-use and recycling

44. Where ever possible health care risk waste generators must manage the impacts of health care risk waste in its operations by minimising and eliminating the generation of health care risk waste at source.

Packaging

45. (1) All health care risk waste generators must –

- (a) ensure that at the point of generation health care risk waste is placed in containers approved and colour coded for the storage of the particular types of waste generated;
 - (b) mark health care risk waste containers in accordance with SABS Code of Practice 0248: Handling and Disposal of Waste Material within Health Care Facilities;
 - (c) clearly indicate their name and address and the date of packaging on all containers containing health care risk waste generated at their facility;
 - (d) secure leak proof containers and puncture resistant containers to prevent damage handling, storage or transport.
- (2) All persons must place leak proof containers containing health care risk waste in one or more rigid puncture resistant containers prior to storage or transport from the facility.
- (3) Rigid puncture resistant containers shall be leak proof, have tight fitting covers, and be kept clean and in good repair.
- (4) Liners with a capacity of 60 (sixty) litres or more must be at least 80 (eighty) microns in thickness.
- (5) Liners with a capacity of less than 60 (sixty) litres must be at least 60 (sixty) microns in thickness.
- (6) Liners used as barriers in puncture resistant containers that are at no time removed from such puncture resistant containers, other than for the final treatment of the contents, must be at least 40 (forty) microns in thickness.
- (7) All liners and disposable containers must be manufactured from polypropylene or polyethylene polymers; or polymers that cause, at a

maximum, equivalent environmental impacts to those caused by polypropylene or polyethylene polymers when disposed by incineration, or treated by means of any available alternative technology.

- (8) Lids used for pathological or anatomical waste containers must provide an airtight seal to prevent the emission of odours.
- (9) For the purpose of ensuring sufficient tensile strength, the maximum allowable percentage of recycled materials in all liners is 10 (ten) percent, provided that for outer packaging the maximum allowable percentage of recycled materials is 15 (fifteen) percent.

Internal transport

General requirements

- 46. (1) All health care risk waste generators, transporters and treatment facilities must minimise the manual handling and lifting of health care risk waste containers by employees by providing alternative means of carrying out these functions.
- (2) In relation to health care risk waste generators of such waste must ensure that -
 - (a) the internal transport of the waste occurs in such a manner so as not to cause a risk of harm to any person, taking into consideration public sensitivity and exposure when designing the collection and transport routes of health care risk waste;
 - (b) all persons must place the waste in one or more leak proof containers for the purpose of internal transport;
 - (c) all major generators of health care risk waste shall provide the necessary equipment and implement a manoeuvrable, wheeled internal transport system for such waste.

Collection from point of generation

- 47. Health care risk waste at all major generators shall –
 - (a) be collected and removed from wards, departments and similar on a daily basis and conveyed to an approved central storage facility;

- (b) ensure that no health care risk waste is handled by health care risk waste management staff unless containerised, and no segregation is undertaken by such staff once containerised;
- (c) ensure approved personal protective equipment is used when handling health care risk waste containers.

Internal transport between point of generation and storage facility

- 48.(1) Where it is reasonably practicable, given the number of containers to be transported, health care risk waste shall be transported on purpose - made trolleys with sufficient storage space and designed to avoid spillage, breakage and other damage.
- (2) Health care risk waste containers shall not be loaded onto transportation trolleys higher than the design level, and must be secured to prevent them from dropping of the trolleys.
- (3) Unless the contents of the trolley are reasonably inaccessible, the trolleys are locked and do not constitute a risk of contact with infectious agents to others, the trolleys shall not be left unattended.

On site storage

- 49.(1) All major generators of health care risk waste shall establish a lockable storage facility which is protected against the elements, rodents and other disease vectors and which has sufficient capacity to store up to for 8 (eight) days of waste generated at the facility.
- (2) Any pathological waste not treated within 24 (twenty four) hours of generation thereof must be stored at a temperature below minus 2 (two) degrees centigrade.
- (3) No person shall store sharps waste for more than 6 (six) months.
- (4) If a person is unable to control the odour from stored health care risk waste and the odour poses a nuisance, that person must effect more frequent removal or other suitable mechanism to abate the nuisance.
- (5) All areas used for the storage of health care risk waste containers must be –
- (a) secured so as to deny access by unauthorised persons;

- (b) clearly marked with warning signs on, or adjacent to, the exterior of entry doors, gates, or lids;
- (d) secured by use of locks on entry doors, gates, or receptacle lids;
- (e) maintained so as to prevent the entry of animals and natural elements and to prevent them from becoming breeding sites or food sources for insect vectors or rodents;
- (f) closed and secured on completion of the collection round.

General transportation requirements

50.(1) All health care risk waste transporters shall –

- (a) transport untreated health care risk waste in leak proof and puncture resistant containers in separate vehicle compartments;
- (b) not transport untreated health care risk waste in the same vehicle with other waste unless the untreated health care risk waste is contained separately and kept separate from other waste by barriers;
- (c) provide and require all persons manually handling containers of untreated health care risk waste to wear clean protective gloves and coveralls, changeable laboratory coats, or other protective clothing and the manual handling of health care risk waste containers is minimised;
- (d) ensure loading or transfer of health care risk waste of a mass in excess of 15 (fifteen) kg is not be carried out manually;
- (e) ensure access to health care risk waste vehicles is safe and unobstructed and containers are secured when loaded;
- (f) ensure the maximum allowable stacking height for the particular types of containers is adhered to;
- (g) ensure that no health care risk waste container is left unattended;
- (h) ensure health care risk waste collection vehicles are equipped with approved spill kits;
- (i) ensure health care risk waste collection vehicles are clearly marked as transporting health care risk waste;

- (j) ensure that all health care risk waste is placed in a sealed compartment that is both watertight and hermetically sealed; the door entrance is lipped so as to prevent the egress of fluids; the vehicle is refrigerated; the compartment insides are coved to ensure easier cleaning and all joints are sealed with an appropriate sealant and all doors are lockable;
 - (k) ensure that at the end of each shift the vehicle is be cleaned and sanitised, so as to help prevent the spread of infectious waste/disease;
 - (l) ensure that each container is labelled with a tracking label so that at all times during transit, it is possible to identify the facility from which a particular container was collected.
- (2) All generators intending to transport their health care risk waste outside of the municipal area must obtain the prior written approval of Council and such approval may only be granted if the generator can show that the health care risk waste will be transported to a waste treatment facility or transfer station that is competent to handle such waste.
- (3) All health care risk waste imported into the municipal area must be transported in a manner that complies with this by-law.

Tracking documents for the transportation of health care risk waste

51.(1) All health care risk waste transporters shall –

- (a) maintain completed tracking documents for all health care risk waste transported;
- (b) immediately provide any person from whom health care risk waste has been received with a copy of the tracking document for such persons health care risk waste records;
- (c) provide a transfer station or treatment facility with a copy of the tracking document for their health care risk waste records immediately the waste has been delivered to such facility;
- (c) provide a returned copy of the tracking document duly signed by the health care risk waste transfer station or treatment facility to the person from whom the health care risk waste was received;

- (d) maintain a copy of such tracking documents for a minimum of 3 (three) years and must make available, upon request, copies of any tracking documents that are required to be maintained;
 - (e) ensure that whilst transporting the health care risk waste the tracking document is in his or her possession and the tracking document must be shown upon demand to any authorised official.
- (2) Tracking documents shall include, but shall not be limited to the information contained in the prescribed form supplied by Council.
- (3) If the waste is transported by rail, vessel, or air, the railway operator, vessel operator, or airline must enter on the shipping papers any information concerning the waste, which any competent authority may require.

Standards for disinfection of reusable medical containers and vehicles

52. Any person who undertakes the disinfection of reusable medical containers and vehicles shall -

- (a) develop written and documented standard operating procedures for conducting of this operation; it shall include relevant methodologies for microbial indicator organisms and indicator methodologies for disinfectant strengths;
- (b) establish a quality control/assurance system to monitor the effectiveness of the disinfection process and all operational quality control/assurance methods will be documented;
- (c) ensure that all bacterial samples are processed by an accredited laboratory;
- (d) the sampling regime includes samples from pre and post disinfection;
- (e) compile a monthly report recording information on the quality control/assurance system and the microbial results of the sampling process data and this will be kept for the perusal by the authorities; for a period of three years.

Minimum environmental, health and safety performance standards for health care risk waste treatment facilities.

Atmospheric emissions

53. All persons operating a health care risk waste treatment facilities shall ensure that –

- (a) the facility complies with Department of Environmental Affairs and Tourism guidelines;
- (b) if the facility has an incinerator the operators are registered in terms of schedule 2 of the Atmospheric Pollution Protection Act for a Department of Environmental Affairs and Tourism license;
- (c) if the facility treats the health care risk waste by means of an autoclaving process and steam is generated by means of a boiler the operators are registered with Council;
- (d) all suitable measures are taken to control emissions of pathogens, odours and other gasses from exhausts, vents or other similar outlets;
- (e) records of details of filters replacements and inspection reports are kept and maintained for a period of three years;
- (f) records of the quantities and types of fuel used for the generation of heat are maintained;
- (g) records of the exit height, internal flue diameter, exit velocity and temperature of flue gasses are kept.

Discharge to sewer

54. All persons operating a health care risk waste treatment facilities shall ensure that Department of Environmental Affairs and Tourism and Council permit requirements relating to sanitation are adhered to.

Solid waste residues after treatment

55.(1) All persons operating a health care risk waste treatment facility shall ensure that –

- (a) all treated health care risk waste is disposed of in a registered and permitted solid waste disposal site;
- (b) all sharps are macerated to ensure that no physical safety danger exists.

- (2) Records of the quantity of treated health care risk waste disposed of at solid waste disposal sites must be kept by both health care risk waste treatment facility operators and landfill operators.

Microbial inactivation standards

- 56.(1) All persons operating non combustion treatment facilities must achieve the following microbial inactivation standards -

(a) Vegetative bacteria, fungi, lipophilic/hydrophilic viruses, parasites and mycobacteria: $\geq 6 \text{ Log}_{10}$ reduction;

(b) *B. stearothermophilus* spores or *B. subtilis* spores: $\geq 4 \text{ Log}_{10}$ reduction.

- (2) The following representative biological indicators shall be used to indicate microbial inactivation standards -

(a) amongst others, the following organisms may be used for test purposes -

(i) Vegetative Bacteria:

Staphylococcus aureus (ATCC 6538)

Pseudomonas aeruginosa (ATCC 15442)

(ii) Fungi:

Candida albicans (ATCC 18804)

Penicillium chrysogenum (ATCC 24791)

Aspergillus niger

(iii) Viruses:

MS-2 *Bacteriophage* (ATCC 15597 – B1)

(iv) Parasites:

Cryptosporidium spp. oocysts and *Giardia* spp. cysts

(v) Mycobacteria:

Mycobacterium terrae

Mycobacterium phlei

Mycobacterium bovis (BCG) (ATCC 35743)

(vi) Spores:

Bacillus stearothermophilus (ATCC 7953)

Bacillus subtilis (ATCC 19659)

- (b) details of any organisms, including but not limited to species and cultures, which are not listed in sub-section (1) which are to be used for testing in terms of these microbial inactivation standards, must be submitted by the facility in writing to Council for approval at least 1 (one) month prior to testing and such approval must be granted or denied by Council within 1 (one) month of receiving a submission from an applicant.

Performance testing requirements

57.(1) The following performance tests must be complied with prior to an authorisation being issued to a non-combustion health care risk waste treatment facility, -

- (a) the responsible person must conduct a performance test at the facility in order to demonstrate, using representative health care risk waste, that is, selected general waste that has the approximate composition of health care risk waste, together with indicator organisms; that the facility is able to achieve the microbial inactivation standards specified;
- (b) the parameters for parametric monitoring for effective performance, including but not limited to temperature, maximum throughput, and time must be determined by the responsible person and the facility must thereafter operate within these parameters, unless it is demonstrated during the performance test that the parameters need to be adjusted;
- (c) once it has been demonstrated that the facility is able to meet the microbial inactivation standards, using representative waste, health care risk waste must be used to conduct a further performance test in order to demonstrate that the facility is able to meet the microbial inactivation standards specified;
- (d) the performance test must thereafter be carried out daily for 4 (four) consecutive days using both representative and actual health care risk waste, as determined by the responsible person and for the duration of this performance test a reference sample must be included with each run, that is, a sample that has undergone the same preparation, transportation and storage as the entire batch, in order to determine the microbial inactivation standards achieved during treatment;
- (e) the performance test must demonstrate that the facility can satisfy the microbial inactivation standards on a challenge load. A challenge load is, a load that is considered to offer a considerable challenge to the

facility. The operator, in collaboration with the responsible person, shall determine what constitutes a challenge load, and prior approval must be obtained from Council in writing at least 1 (one) month prior to the challenge load being tested.

- (2) During the performance testing phase for batch processes, each load shall be tested against the bacterial spores *B subtilis* or *B stearothermophilus*; and for continuous processes, the process shall be tested every 2 (two) hours against the bacterial spores *B subtilis* or *B stearothermophilus*, in terms of the microbial inactivation standards specified.
- (3) The responsible person for purposes of this section shall be an independent analyst from an accredited testing laboratory or a health practitioner licensed in terms of the Occupational Health and Safety Act, 1993.
- (4) The results of testing during this performance testing phase must be submitted as a report to Council. The report should at a minimum -
 - (a) provide details of the batch and tube numbers for each vial used;
 - (b) record the date and time of each test run;
 - (c) provide the results of the tests on each microbial species;
 - (d) provide details of the sampling, storage and testing procedures used; and
 - (e) provide an evaluation of the results obtained, together with a comparison of results obtained in any previous report.

Regular testing programme

- 58.(1) Upon the successful completion of the performance testing programme regular testing requirements must be complied with by the facility for 12 (twelve) months after the date of issue of such authorisation -
- (a) for batch processes, each load must be tested against the bacterial spores *B stearothermophilus* or *B subtilis*, in terms of the microbial inactivation standards;
 - (b) for continuous processes, the process must be tested every 2 (two) hours against the bacterial spores *B stearothermophilus* or *B subtilis*, in terms of the microbial inactivation standards specified;

- (c) the system must be tested daily against bacterial spores *B subtilis* or *B stearothermophilus*, in terms of the microbial inactivation standards;
 - (d) the system must be tested at least once a month against mycobacteria, including *M.Bovis* BCG, *M.phlie* or other equivalent mycobacteria; and for *B. subtilis* or *B. stearothermophilus*, in terms of the microbial inactivation standards, using vials prepared by an accredited laboratory;
 - (e) should the results of any test conducted as part of the regular testing programme, indicate that the facility is unable to achieve the microbial inactivation standards, the facility must immediately notify Council in writing and upon such notification, Council may require the facility to commence with a further testing programme, in accordance with the performance testing requirements, as provided for, and using actual health care risk waste;
 - (f) parametric monitoring may not be the only method of monitoring undertaken, unless a particular exemption is granted by Council following a motivation, supported by documentation, submitted by the facility;
- (2) The results of the regular testing programme must be submitted to Council as a report every 3 months for the period for which the programme is undertaken.

Reduced routine testing programme

- 59.(1) Once a facility has demonstrated that it is able to meet the criteria required by the regular testing programme, Council may permit in writing, a reduced frequency of testing. The motivation for such a reduction must be prepared or certified by the responsible person and submitted to Council.
- (2) If such permission is granted by Council, the facility must nevertheless continue to demonstrate that it is able to meet the standards of microbial inactivation. Should the facility at any stage not comply with such standards of microbial inactivation, the facility must immediately notify Council in writing. Upon such notification, Council may require the facility to commence a further testing programme in accordance with the performance testing requirements, using actual health care risk waste.
- (3) Substitution of some or the entire routine testing programme by parametric monitoring may be permitted by Council, provided that the

facility is able to demonstrate that it has the appropriate controls and a quality management system in place.

- (4) The results of the reduced routine testing programme must be submitted to Council as a report every 6 (six) months.

CHAPTER 5

ACCOMMODATION ESTABLISHMENTS

Definitions

60. In this Chapter unless the context otherwise indicates -

"accommodation establishment" means any premises in which accommodation is provided for gain to five or more people, with or without meals;

"boarder" means any person to whom lodging or both lodging and meals in an accommodation establishment is or are supplied by the proprietor for reward or gain;

"overcrowding" means

- (a) a residential occupancy in excess of 12 occupants per sanitary convenience; and/or
- (b) occupancy of habitable rooms (being all rooms in a dwelling excluding kitchens, bathrooms and sanitary conveniences) utilised for sleeping purposes where such occupation exceeds 1 adult person per 4 m² and/or 1 child under 10 years of age per 2 m², or in situations where double bunks are used for sleeping purposes, occupation exceeds 3m² per adult person (occupying a double bunk bed) and/or 2m² per child under 10 years occupying a double bunk.

"proprietor", in relation to an accommodation establishment, means the natural person who carries on or who is charged with carrying on business by supplying lodging or both lodging and meals for reward or gain and includes an owner of said property.

Requirements for premises

61. Every accommodation establishment shall comply with the following requirements -

- (a) the premises intended to be used or already in use as an accommodation establishment shall be in good structural order and repair, both internally and externally;
- (b) all furniture, linen, utensils, fittings and equipment provided by the proprietor shall be clean and in good order and sufficient for the purpose thereof;
- (c) every room shall be provided with adequate means of lighting and ventilation so as to enable such room to be used at all times without detriment to health or safety or causing a nuisance;
- (d) it shall be provided with an approved refuse holding area;
- (e) sanitary fixtures must be provided as prescribed in the National Building Regulations and Building Standards Act and such fixtures must be designated for the different sexes;
- (f) separate compartments must be provided for baths, or showers and toilets and must be so located that they are easily accessible to those persons they are intended to serve;
- (g) baths, showers and washbasins on the premises shall be served at all times with running hot and cold water;
- (h) in the case where meals are supplied provision must be made for a dining room to the satisfaction of Council. This shall not apply to an accommodation establishment where only a "continental" breakfast is provided for consumption by boarders in their bedrooms;
- (i) where meals are provided or cooking takes place, an adequately equipped kitchen must be provided;
- (j) every bedroom or dormitory must be provide with -
 - (i) a single or double bunk bed, manufactured of metal or some other durable material and equipped with a mattress, for every person housed in the room;
 - (ii) adequate storage facilities for every person making use of the room for safeguarding the person's clothing and other possessions;
 - (iii) every bed, including a double bunk bed, in a dormitory must be so placed that its sides are at least one metre away from any part of any other bed.

Duties of the proprietor

- 62.(1) The proprietor of an accommodation establishment shall be responsible for the due compliance with and observation of the provisions of this by-law, and further he shall be responsible for the acts, omissions and defaults of his employees or agents in such regard, and any breach of this by-law by himself, by any member of his family or by any of his employees or agents shall be deemed to be a breach by the proprietor personally of this by-law.
- (2) The proprietor of an accommodation establishment shall, to the satisfaction of the Council, at all times -
- (a) maintain the whole of the accommodation establishment in a clean and sanitary condition;
 - (b) keep the furniture, utensils, linen and equipment in a sound condition and clean state;
 - (c) supply only wholesome food to the boarders and other persons on the premises.
- (3) The proprietor of an accommodation establishment shall not -
- (a) allow any portion of the premises other than an approved bedroom to be used by any person for sleeping purposes; provided that the aforesaid prohibition shall not apply to any boarder occupying a bedroom in so far as it consists of a stoep or porch which has been suitably converted;
 - (b) accommodate any boarder in the same bedroom with another person unless such persons are of the same family or both of them have given their consent thereto,
 - (c) conduct the business of the said accommodation establishment in such a manner so as to cause any nuisance or annoyance to residents of neighbouring properties;
 - (d) permit the preparation of food on the premises other than in an approved kitchen;
 - (f) permit overcrowding on the premises.
- (4) Notwithstanding compliance with all of the preceding provisions, no person may operate an accommodation establishment unless the property

is appropriately zoned in accordance with the zoning scheme applicable thereto, and in compliance with all applicable law.

CHAPTER 6

HAIRDRESSER AND BARBER

Definitions

63. In this Part, unless the context otherwise indicates –

“hairdresser or barber” means a person who carries on business by cutting, shaving, shampooing, curling, straightening or otherwise treating or removing people’s hair or beards or providing beauty treatment for reward or gain;

“styptic” means a substance applied to stop bleeding.

Requirements for premises

64. (1) Subject to section 66 no person shall conduct the business of hairdresser or barber elsewhere than on premises that meet the requirements of this by-law.

(2) Hairdresser premises shall be of such location, design, construction and finish and shall be so equipped, in such condition and so appointed that they can be used at all times for the purpose for they were designed, equipped and appointed –

(a) without causing a health nuisance; and

(b) without causing the spread of communicable diseases or health conditions.

(3) For the purpose of sub-section (2) hairdresser or barber premises shall meet the following requirements -

(a) the walls and floors must be constructed of a material that is easy to clean and which prevents cut hair from being dispersed;

(b) adequate lighting and ventilation, must be provided;

(c) all shelves, fixtures and table tops on which instruments are placed must be constructed of an approved material that is durable, non-absorbent, and easy to clean;

- (d) adequate facilities, must be available for the washing of hair and hands;
- (e) an approved system for the disposal of waste water must be provided;
- (f) adequate storage facilities must be provided;
- (g) approved water and toilet facilities must be available.

Minimum required health standards

65. Any person operating a hairdresser or barber business, or employed in such a business must –

- (a) maintain the premises, tools, equipment and clothing in a hygienic and good condition at all times;
- (b) equip the premises with adequate means to disinfect and sterilise instruments and equipment that may come into direct contact with any customer's hair or skin;
- (c) provide employees on the premises with approved protective clothing and equipment;
- (d) collect all hair clippings and other waste in an approved container after every service;
- (e) store or dispose of waste in an approved manner;
- (f) adequately train any person working on the premises;
- (g) not permit any animal on the premises unless it is a guide dog accompanying a blind person;
- (h) ensure that every brush, comb, razor, scissors, clippers or other instruments, appliance or implement which has or have been used upon any person has, or have, before being used upon any other person, been disinfected in one of the following ways -
 - (i) immersion in boiling water; or
 - (ii) immersion in a disinfectant solution; or
 - (iii) treatment in an approved disinfecting apparatus in an approved manner;

- (i) ensure that no styptic substance other than in liquid or powder form and applied as a spray or by means of a clean, new piece of cotton-wool is used on any person;
- (j) wash and clean all plastic and cloth towels after each use;
- (k) wash his or her hands with soap and water or disinfectant before and after rendering each service to a client.

Exemptions

66.(1) A person in charge of a hairdresser or barber business may apply to Council for exemption from any of the provisions of this by-law.

(2) Upon receipt of an application referred to in sub-section (1) Council shall consider the application and exemption shall not be granted unless Council is satisfied that –

- (a) the provision from which exemption is requested imposes unreasonable requirements in the case in question; and
- (b) the granting of such exemption does not or will not result in conditions that constitute a health nuisance or danger to the health of the community.

Provisions apply to beauty and similar treatment

67. The provisions of this by-law shall apply *mutatis mutandis* to any beauty treatment, manicuring or similar treatment.

CHAPTER 7

Tattooing and Body Piercing of Humans

Requirements

- 68.(1) Adequate facilities, must be available for the washing of equipment, and hands.
- (2) Only professional tattooing and body piercing machines designed and assembled in a manner which prevents contamination of sterilised needle sets may be used for applying permanent tattoos or body piercing.

- (3) All clip cords and spray bottles must have triggers; grasp areas must be protected by a plastic covering which must be disposed of after use on each client.
- (4) Work surfaces must be smooth and impervious and disinfected after rendering services to each client.
- (5) Equipment and supplies must be stored in clean, designated storage cabinets.
- (6) Instruments and equipment used for any procedure must be sterilised after use on each client.
- (7) All tubes and needles must be stored in single service, sterile, sealed autoclave bags that must be opened in the presence of the client.
- (8) A person responsible for tattooing or piercing must wash his hands with soap and hot water before attending to a client and new latex or nitrile examination gloves must be worn by the operator for the duration of the procedure for each client.

CHAPTER 8

CHILD CARE FACILITIES

Definitions

69. In this Part, unless the context otherwise indicates –

“child care facility” means any premises maintained or used, whether for profit or otherwise, for the temporary or partial care of 7 or more children under 18 years of age apart from their parents, but does not include any boarding school, school hostel or any establishment which is maintained or used mainly for the tuition or training of children and which is controlled by or which has been registered or approved by the State.

Written permission required

70. (1) No child care facility may be operated without the written permission of Council.
- (2) Written approval in terms of sub-section (1) does not exempt any person from the requirements of any other law related to the care of children and/or the use of the premises concerned.

- (3) Notwithstanding sub-section (1) all child care facilities legally in operation at the time of promulgation of this by-law shall be exempted from requiring Councils written approval for a period of 1 year from such promulgation.

Conditions for operation of a child care centre

- 71.(1) For the purpose of ensuring the wellbeing, health and safety of the children in care at a child care facility Council shall determine conditions regarding –
- (a) numbers and ages of children that may be cared for;
 - (b) numbers of care givers that must be available for the care of the children;
 - (c) sanitary and ablution facilities required;
 - (d) food preparation facilities required;
 - (d) standards of structures in which children are accommodated;
 - (e) measures that must be taken to ensure for the wellbeing, health and safety of the children;
 - (f) furniture and equipment that must be provided;
 - (g) arrangements to ensure the adequate nutrition of the children whilst in care;
 - (h) records that must be kept;
 - (i) daily programmes that must be instituted for the physical, intellectual children and social development of the children;
 - (j) premises where the operation of a child care facility may be –
 - (i) restricted;
 - (ii) prohibited; or
 - (iii) exempted from any specific provision of this by-law.

- (2) Any person wishing to operate a child care facility must comply with the conditions as determined by Council in terms of sub-section (1) prior to the commencement of the operation of such child care facility as well as adhere to such conditions on an ongoing basis.

Withdrawal of Councils permission to operate a child care facility

72. Permission of the operating of a child care facility may be withdrawn by Council at any time if –

- (a) the care or humane treatment of the children is denied or neglected;
- (b) the conditions as determined by Council under section 71 of this by-law are not adhered to;
- (c) the provisions of this by-law are contravened.

General provisions relating to the operation of a child care facility

73. (1) Any person who operates a child care facility is guilty of an offence if such person –

- (a) operates a child care facility without Councils permission;
 - (b) contravenes or fails to comply with any provisions of this by-law;
 - (c) fails to comply with and adhere to the conditions as determined by Council in terms of section 71 of this by-law;
 - (d) fails to comply with any notice issued in terms of or for the purposes of this by-law;
 - (e) fails to comply with any lawful instruction given in terms of or for the purposes of this by-law;
 - (f) obstructs or hinders any authorised representative or employee of the Council in the execution of his or her duties under this by-law.
- (2) All permits and authorisations to operate a child care centre granted in terms of any by-law or regulation repealed by section 86 shall be deemed to have been granted in terms of this by-law.

CHAPTER 9

SWIMMING POOLS AND SPA-BATHS

Definitions

74. In this Chapter, unless the context otherwise indicates –

“spa-bath” means a structure constructed of an approved material, provided with a controlled circulating water supply and used for bathing, excluding a spa bath situated at a private home which is not used for commercial purposes;

“spa-bath keeper” means any person who owns or controls the operation of a spa-bath;

“swimming pool” means a structure with a controlled water supply used for swimming or bathing, including a children's swimming and paddling pool, but excluding a swimming pool at a private home which is not used for commercial purposes;

“swimming pool keeper” means any person who owns or controls the operation of a swimming pool.

Requirements for premises

75. No person may operate a swimming pool or spa bath in or on any premises which do not comply with the following requirements -

- (a) readily accessible change-rooms, showers and toilet facilities must be provided separate for each sex in compliance with the National Building Regulations and Building Standards Act;
- (b) every swimming-pool must be surrounded by a wall or fence as prescribed by the National Building Regulations and Building Standards Act;
- (c) the surface of the floor area surrounding any spa-bath or swimming-pool must be constructed of an impervious, non-slip material;
- (d) an adequate number of refuse receptacles must be provided on the premises.

Duties of spa-bath keepers

76. Every spa-bath keeper must -

- (a) keep the premises in a safe, clean and sanitary condition and in good repair at all times;
- (b) provide a properly maintained approved first-aid box in a prominent, easily accessible and protected position;
- (c) purify, treat and maintain the spa-bath water at an approved quality level at all times;
- (d) provide and maintain, in good working order, equipment for testing the quality of the spa-bath water;
- (e) be capable of undertaking routine tests on the water quality in the spa-bath and interpreting the tests results; and
- (f) maintain a daily record of the spa-bath water quality.

Duties of swimming pool keepers

77. Every swimming pool keeper must –

- (a) keep the premises in a safe, clean and sanitary condition at all times;
- (b) provide a properly maintained approved first-aid box in a prominent, easily accessible and protected position;
- (c) be qualified and proficient in life saving, rendering first aid, use of a resuscitation appliance, the operation of the swimming pool and testing and maintaining the safety of the swimming pool water;
- (d) ensure that the swimming pool water is purified, treated and maintained at an approved quality at all times;
- (e) provide and maintain, in proper working order, equipment for testing the quality of the swimming pool water;
- (f) be capable of undertaking routine tests on the water quality in the swimming pool and interpreting the tests results; and
- (g) maintain a daily record of the swimming pool water quality.

Water supply

- 78.(1) Unless the prior written approval of the Council has been obtained, no person operating a spa-bath or swimming pool may use water from a source other than a municipal supply to clean, fill or maintain the water in a swimming pool or spa-bath.
- (2) An authorised official appointed by Council must -
- (a) take samples of a swimming pool or spa-bath water, at intervals which he or she considers appropriate for the purpose of a chemical analysis or bacteriological examination of that water;
 - (b) submit the samples to an analyst authorised by Council to conduct such analysis.

Safety of water

79. Every spa-bath keeper and swimming pool keeper must ensure that the water in the spa-bath keeper and swimming pool complies with the following requirements -
- (a) it must be free from floating, suspended or settled debris or swimming organisms and the walls, floor, access ladders, steps and gutters must be free from slime and algae;
 - (b) the PH value of the water must be not less than 7 and not greater than 8;
 - (c) where chlorine based disinfectants are used, a minimum free available chlorine residual of 0,5 mg/l, with a maximum free available chlorine residual of 3 mg/l, must be maintained;
 - (d) if a disinfectant other than chlorine is used, the residual level must be equivalent in effect to the requirements of sub-section (c);
 - (e) the total viable bacteriological count of any sample submitted for analysis, must not exceed 100 organisms per ml of water; and
 - (f) *Escherichia coli* type 1 bacteria must not be present in any 100 ml of water.

CHAPTER 10

GENERAL PROVISIONS

Right of entry and inspection

- 80.(1) Any duly authorised employee of the Council 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 sub-section (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 inspection.

Service of documents and process

- 81.(1) A notice, order or other document is regarded as having been properly served if -
- (a) it has been delivered to the person concerned personally;
 - (b) it has been sent by registered post or speed post to the person to whom it is addressed at his or her last known address;
 - (c) it is served on a person apparently not less than 16 years of age and apparently in charge of the premises at the addressee's last known address;
 - (d) if the address of the person concerned in the Republic of South Africa is unknown, if it has been served on that person's agent or representative in the Republic of South Africa in the manner provided for in paragraph (a),(b) or (c); or
 - (e) if the address of the person concerned and of his or her agent or representative in the Republic of South Africa is unknown, if it has been posted in a conspicuous place on the premises to which it relates.
- (2) A notice, order or other document which may in terms of this by-law be served on the owner or occupier of premises may be addressed to the owner or occupier of the specified premises and need not bear the name of the owner or occupier.

Municipal remedial work

82. The Council may, subject to the provisions of any other law, enter any premises and do anything on the premises that it reasonably considers necessary –

- (a) to ensure compliance with this by-law or with any compliance notice issued in terms of or for the purposes of this by-law; or
- (b) to reduce, remove or minimise any health nuisance.

Cost orders

83.(1) The Council may recover any costs reasonably incurred by it in taking measures contemplated in section 82 from any person who was under a legal obligation to take those measures, including –

- (a) a person on whom a compliance notice referred to in section 81 (a) that required those steps to be taken, was served;
- (b) the owner or occupier of the premises concerned; or
- (c) any person responsible for creating a health nuisance.

(2) Council may issue a cost order requiring a person who is liable to pay costs incurred by the Council in terms of sub-section (1), to pay those costs by a date specified in the order and such order constitutes prima facie evidence of the amount due.

Offences and penalties

84.(1) Any person who –

- (a) contravenes or fails to comply with any provisions of this by-law; or
- (b) fails to comply with any notice issued in terms of or for the purposes of this by-law; or
- (c) fails to comply with any lawful instruction given in terms of or for the purposes of this by-law; or
- (d) obstructs or hinders any authorised representative or employee of the Council in the execution of his or her duties under this by-law, is guilty of an offence and liable on conviction to a fine as determined by Council from time to time or in default of payment to imprisonment for a period not exceeding six months and in the case of a continuing offence, to a further fine as determined by Council from time to time,

or in default of payment to imprisonment not exceeding one day, for every day during the continuance of such offence after a written notice has been issued by the Council and served on the person concerned requiring the discontinuance of such offence.

- (2) In addition to any penalty imposed in terms of sub-section (1) the person so convicted shall be liable to pay the cost of repair of any damage caused or costs incurred in remedying any damage resulting from such an offence.

Exemptions

85. Notwithstanding the provisions of this by-law, the Council may exempt any person and/or class of persons from any or all of these requirements and may impose any other requirements it deems appropriate.

Repeal of by-law

86. Any by-law promulgated by the municipality or any erstwhile municipal council presently comprising an administrative unit of the municipality and pertaining to any matter regulated in this by-law shall be repealed from the date of promulgation of this by-law.

Commencement

87. The date of commencement of this by-law shall be the date of publication in the Provincial Gazette.

SCHEDULE 1

Health Nuisances

General nuisances

1. An owner or occupier of premises creates a health nuisance if he or she causes or allows -
 - (a) any premises or part thereof to be of such a construction or in such a state as to be offensive, injurious or dangerous to health;
 - (b) any street, stream, pool, lagoon, ditch, gutter, watercourse, sink, cistern, water-closet, earth closet, pail closet, urinal, cesspool, cesspit, drain, sewer, dung pit, slop tank, ash heap or dung heap to be so foul or in such a state or so situated or constructed as to be offensive or to be injurious or dangerous to health;

- (c) any stable, kraal, shed, run or premises used for the keeping of animals or birds and which is so constructed, situated, used or kept as to be offensive or to be injurious or dangerous to health;
- (d) any accumulation of refuse, offal, manure or other matter which is offensive or is injurious or dangerous to health;
- (e) any public building to be so situated, constructed, used or kept as to be unsafe or to be injurious or dangerous to health;
- (f) any dwelling to be occupied without proper and sufficient supply of potable water within a reasonable distance;
- (g) any factory or industrial or business premises not to be kept in a clean state and free from offensive smells arising from any drain, water closet, earth-closet, urinal or any other source, or not ventilated so as to destroy or render harmless and inoffensive as far as practicable any gas, vapour, dust or other impurity generated, or so overcrowded or so badly lighted or ventilated, as to be offensive or dangerous to the health of those employed therein or thereon;
- (h) any residential, factory, industrial or business premises to cause or give rise to any smell or effluvium which is offensive or injurious or dangerous to health;
- (i) any residential premises to be overcrowded;
- (j) any other activity, condition or thing declared to be a nuisance by the Minister in terms of the National Health Act (61 of 2003)

Pest control

2. (1) An owner or occupier of premises creates a health nuisance if -
- (a) the premises are maintained in a manner that attracts or harbours rodents or other pests, or is conducive to the breeding thereof;
 - (b) flies are being attracted to, or can breed on, the premises, in significant numbers as to be offensive because –
 - (i) manure or any other organic material is being kept or used; or
 - (ii) any other substance that attracts flies is used or kept other than for the purposes of trapping or killing flies;
 - (c) mosquitoes can breed in significant numbers on the premises because;

- (i) containers in which mosquitoes can breed, such as tyres, bottles, crockery, and tins, have been left or are kept on the premises;
 - (ii) tanks, barrels and similar containers in which mosquitoes can breed are not fitted with mosquito-proof covers or mosquito wire gauze screens in a manner that prevents mosquitoes gaining access to water contained in them;
 - (iii) gutters and down pipes are sagging or clogged so that stagnant water can accumulate in them; or
 - (iv) approved measures have not been taken to prevent mosquitoes breeding in ponds, excavations, wells, swimming pools or any other stagnant water source on the premises.
- (2) The following measures are approved measures for the purposes of sub-section (1)(c)(iv) –
- (a) draining accumulated water at least once every seven days;
 - (b) covering accumulated water with oil at least once every seven days; and
 - (c) in the case of wells, providing a mosquito-proof cover and a pump.

Air pollution

3. An owner or occupier of premises creates a health nuisance if–
- (a) any waste on the premises is burned outside except in an approved appliance;
 - (b) ash, grit, soot or smoke is emitted from any chimney or appliance or from any other means on the premises in a manner or quantity that is offensive or injurious or dangerous to health;
 - (c) the erection or destruction of a building or structure causes dust to be discharged into the surrounding atmosphere in a manner or quantity that is offensive or injurious or dangerous to health;
 - (d) any dust, fume, gas or vapour is generated on, and emitted from the premises due to any activity or process and discharged into the surrounding atmosphere in a manner or quantity that is offensive or injurious or dangerous to health;

Fouling and littering of streets, public places and open spaces.

4. (1) A person creates a health nuisance if he or she;
- (i) throws, dumps, stores, keeps or drops any objectionable material on or in a street, road, bridge, thoroughfare, open space, vacant stand, public place or erf, spruit or watercourse, or causes or permits it to be thrown, dumped or dropped there, or cause or permit any such liquid to flow into such a place, in such a manner as to be offensive or cause a health nuisance.
 - (ii) carries, conveys or permits to be carried or conveyed through or in any street or public place, any objectionable material which is or may become a health nuisance, unless such objectionable material is covered or sealed with suitable material in order to prevent the creation of any health nuisance.
- (2) The person who has contravened sub-section (1) must remedy, to the satisfaction of Council, any damage to the environment which resulted from such contravention.
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