



PROVINCE OF THE EASTERN CAPE
IPHONDO LEMPUMA KOLONI
PROVINSIE OOS-KAAP

**Provincial Gazette
Igazethi Yephondo
Provinsiale Koerant**

Vol. 24

BISHO/KING WILLIAM'S TOWN
24 APRIL 2017
24 APRIL 2017

No. 3830

PART 1 OF 2

We all have the power to prevent AIDS



**AIDS
HELPLINE**

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DEPARTMENT OF HEALTH

Prevention is the cure

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No FUTURE QUERIES WILL BE HANDLED IN CONNECTION WITH THE ABOVE.

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Closing times for **ORDINARY WEEKLY** 2017 EASTERN CAPE PROVINCIAL GAZETTE

The closing time is **15:00** sharp on the following days:

- **23 December**, Friday, for the issue of Monday **02 January 2017**
- **30 December**, Friday, for the issue of Monday **09 January 2017**
- **09 January**, Monday, for the issue of Monday **16 January 2017**
- **16 January**, Monday, for the issue of Monday **23 January 2017**
- **23 January**, Monday, for the issue of Monday **30 January 2017**
- **30 January**, Monday, for the issue of Monday **06 February 2017**
- **06 February**, Monday, for the issue of Monday **13 February 2017**
- **13 February**, Monday, for the issue of Monday **20 February 2017**
- **20 February**, Monday, for the issue of Monday **27 February 2017**
- **27 February**, Monday, for the issue of Monday **06 March 2017**
- **06 March**, Monday, for the issue of Monday **13 March 2017**
- **13 March**, Monday, for the issue of Monday **20 March 2017**
- **17 March**, Friday, for the issue of Monday **27 March 2017**
- **27 March**, Monday, for the issue of Monday **03 April 2017**
- **03 April**, Monday, for the issue of Monday **10 April 2017**
- **07 April**, Friday, for the issue of Monday **17 April 2017**
- **13 April**, Thursday, for the issue of Monday **24 April 2017**
- **21 April**, Friday, for the issue of Monday **01 May 2017**
- **28 April**, Friday, for the issue of Monday **08 May 2017**
- **08 May**, Monday, for the issue of Monday **15 May 2017**
- **15 May**, Monday, for the issue of Monday **22 May 2017**
- **22 May**, Monday, for the issue of Monday **29 May 2017**
- **29 May**, Monday, for the issue of Monday **05 June 2017**
- **05 June**, Monday, for the issue of Monday **12 June 2017**
- **12 June**, Monday, for the issue of Monday **19 June 2017**
- **19 June**, Monday, for the issue of Monday **26 June 2017**
- **26 June**, Monday, for the issue of Monday **03 July 2017**
- **03 July**, Monday, for the issue of Monday **10 July 2017**
- **10 July**, Monday, for the issue of Monday **17 July 2017**
- **17 July**, Monday, for the issue of Monday **24 July 2017**
- **24 July**, Monday, for the issue of Monday **31 July 2017**
- **31 July**, Monday, for the issue of Monday **07 August 2017**
- **04 August**, Friday, for the issue of Monday **14 August 2017**
- **14 August**, Monday, for the issue of Monday **21 August 2017**
- **21 August**, Monday, for the issue of Monday **28 August 2017**
- **28 August**, Monday, for the issue of Monday **04 September 2017**
- **04 September**, Monday, for the issue of Monday **11 September 2017**
- **11 September**, Monday, for the issue of Monday **18 September 2017**
- **18 September**, Monday, for the issue of Monday **25 September 2017**
- **22 September**, Friday, for the issue of Monday **02 October 2017**
- **02 October**, Monday, for the issue of Monday **09 October 2017**
- **09 October**, Monday, for the issue of Monday **16 October 2017**
- **16 October**, Monday, for the issue of Monday **23 October 2017**
- **23 October**, Monday, for the issue of Monday **30 October 2017**
- **30 October**, Monday, for the issue of Monday **06 November 2017**
- **06 November**, Monday, for the issue of Monday **13 November 2017**
- **13 November**, Monday, for the issue of Monday **20 November 2017**
- **20 November**, Monday, for the issue of Monday **27 November 2017**
- **27 November**, Monday, for the issue of Monday **04 December 2017**
- **04 December**, Monday, for the issue of Monday **11 December 2017**
- **11 December**, Monday, for the issue of Monday **18 December 2017**
- **18 December**, Monday, for the issue of Monday **25 December 2017**

LIST OF TARIFF RATES FOR PUBLICATION OF NOTICES

COMMENCEMENT: 1 APRIL 2016

NATIONAL AND PROVINCIAL

Notice sizes for National, Provincial & Tender gazettes 1/4, 2/4, 3/4, 4/4 per page. Notices submitted will be charged at R1000 per full page, pro-rated based on the above categories.

Pricing for National, Provincial - Variable Priced Notices		
Notice Type	Page Space	New Price (R)
Ordinary National, Provincial	1/4 - Quarter Page	250.00
Ordinary National, Provincial	2/4 - Half Page	500.00
Ordinary National, Provincial	3/4 - Three Quarter Page	750.00
Ordinary National, Provincial	4/4 - Full Page	1000.00

EXTRA-ORDINARY

All Extra-ordinary National and Provincial gazette notices are non-standard notices and attract a variable price based on the number of pages submitted.

The pricing structure for National and Provincial notices which are submitted as **Extra ordinary submissions** will be charged at **R3000** per page.

GOVERNMENT PRINTING WORKS - BUSINESS RULES

The **Government Printing Works (GPW)** has established rules for submitting notices in line with its electronic notice processing system, which requires the use of electronic *Adobe Forms*. Please ensure that you adhere to these guidelines when completing and submitting your notice submission.

CLOSING TIMES FOR ACCEPTANCE OF NOTICES

1. The *Government Gazette* and *Government Tender Bulletin* are weekly publications that are published on Fridays and the closing time for the acceptance of notices is strictly applied according to the scheduled time for each gazette.
2. Please refer to the Submission Notice Deadline schedule in the table below. This schedule is also published online on the Government Printing works website www.gpwonline.co.za

All re-submissions will be subject to the standard cut-off times.

All notices received after the closing time will be rejected.

Government Gazette Type	Publication Frequency	Publication Date	Submission Deadline	Cancellations Deadline
National Gazette	Weekly	Friday	Friday 15h00 for next Friday	Tuesday, 12h00 - 3 days prior to publication
Regulation Gazette	Weekly	Friday	Friday 15h00, to be published the following Friday	Tuesday, 12h00 - 3 days prior to publication
Petrol Price Gazette	As required	First Wednesday of the month	One week before publication	3 days prior to publication
Road Carrier Permits	Weekly	Friday	Thursday 15h00, to be published the following Friday	3 days prior to publication
Unclaimed Monies (justice, labour or lawyers)	January / As required 2 per year	Any	15 January / As required	3 days prior to publication
Parliament (acts, white paper, green paper)	As required	Any		3 days prior to publication
Manuals	As required	Any	None	None
State of Budget (National Treasury)	Monthly	Any	7 days prior to publication	3 days prior to publication
Legal Gazettes A, B and C	Weekly	Friday	One week before publication	Tuesday, 12h00 - 3 days prior to publication
Tender Bulletin	Weekly	Friday	Friday 15h00 for next Friday	Tuesday, 12h00 - 3 days prior to publication
Gauteng	Weekly	Wednesday	Two weeks before publication	3 days after submission deadline
Eastern Cape	Weekly	Monday	One week before publication	3 days prior to publication
Northern Cape	Weekly	Monday	One week before publication	3 days prior to publication
North West	Weekly	Tuesday	One week before publication	3 days prior to publication
KwaZulu-Natal	Weekly	Thursday	One week before publication	3 days prior to publication
Limpopo	Weekly	Friday	One week before publication	3 days prior to publication
Mpumalanga	Weekly	Friday	One week before publication	3 days prior to publication
Gauteng Liquor License Gazette	Monthly	Wednesday before the First Friday of the month	Two weeks before publication	3 days after submission deadline
Northern Cape Liquor License Gazette	Monthly	First Friday of the month	Two weeks before publication	3 days after submission deadline
National Liquor License Gazette	Monthly	First Friday of the month	Two weeks before publication	3 days after submission deadline
Mpumalanga Liquor License Gazette	2 per month	Second & Fourth Friday	One week before	3 days prior to publication

GOVERNMENT PRINTING WORKS - BUSINESS RULES**EXTRAORDINARY GAZETTES**

3. *Extraordinary Gazettes* can have only one publication date. If multiple publications of an *Extraordinary Gazette* are required, a separate Z95/Z95Prov *Adobe* Forms for each publication date must be submitted.

NOTICE SUBMISSION PROCESS

4. Download the latest *Adobe* form, for the relevant notice to be placed, from the **Government Printing Works** website www.gpwonline.co.za.
5. The *Adobe* form needs to be completed electronically using *Adobe Acrobat / Acrobat Reader*. Only electronically completed *Adobe* forms will be accepted. No printed, handwritten and/or scanned *Adobe* forms will be accepted.
6. The completed electronic *Adobe* form has to be submitted via email to submit.egazette@gpw.gov.za. The form needs to be submitted in its original electronic *Adobe* format to enable the system to extract the completed information from the form for placement in the publication.
7. Every notice submitted **must** be accompanied by an official **GPW** quotation. This must be obtained from the *eGazette* Contact Centre.
8. Each notice submission should be sent as a single email. The email **must** contain **all documentation relating to a particular notice submission**.
 - 8.1. Each of the following documents must be attached to the email as a separate attachment:
 - 8.1.1. An electronically completed *Adobe* form, specific to the type of notice that is to be placed.
 - 8.1.1.1. For *National Government Gazette* or *Provincial Gazette* notices, the notices must be accompanied by an electronic Z95 or Z95Prov *Adobe* form
 - 8.1.1.2. The notice content (body copy) **MUST** be a separate attachment.
 - 8.1.2. A copy of the official **Government Printing Works** quotation you received for your notice .
(Please see *Quotation* section below for further details)
 - 8.1.3. A valid and legible Proof of Payment / Purchase Order: **Government Printing Works** account customer must include a copy of their Purchase Order. **Non-Government Printing Works** account customer needs to submit the proof of payment for the notice
 - 8.1.4. Where separate notice content is applicable (Z95, Z95 Prov and TForm 3, it should **also** be attached as a separate attachment. (Please see the *Copy Section* below, for the specifications).
 - 8.1.5. Any additional notice information if applicable.
9. The electronic *Adobe* form will be taken as the primary source for the notice information to be published. Instructions that are on the email body or covering letter that contradicts the notice form content will not be considered. The information submitted on the electronic *Adobe* form will be published as-is.
10. To avoid duplicated publication of the same notice and double billing, Please submit your notice **ONLY ONCE**.
11. Notices brought to **GPW** by "walk-in" customers on electronic media can only be submitted in *Adobe* electronic form format. All "walk-in" customers with notices that are not on electronic *Adobe* forms will be routed to the Contact Centre where they will be assisted to complete the forms in the required format.
12. Should a customer submit a bulk submission of hard copy notices delivered by a messenger on behalf of any organisation e.g. newspaper publisher, the messenger will be referred back to the sender as the submission does not adhere to the submission rules.

GOVERNMENT PRINTING WORKS - BUSINESS RULES**QUOTATIONS**

13. Quotations are valid until the next tariff change.
 - 13.1. **Take note:** GPW's annual tariff increase takes place on **1 April** therefore any quotations issued, accepted and submitted for publication up to **31 March** will keep the old tariff. For notices to be published from 1 April, a quotation must be obtained from **GPW** with the new tariffs. Where a tariff increase is implemented during the year, **GPW** endeavours to provide customers with 30 days' notice of such changes.
14. Each quotation has a unique number.
15. Form Content notices must be emailed to the *eGazette* Contact Centre for a quotation.
 - 15.1. The *Adobe* form supplied is uploaded by the Contact Centre Agent and the system automatically calculates the cost of your notice based on the layout/format of the content supplied.
 - 15.2. It is critical that these *Adobe* Forms are completed correctly and adhere to the guidelines as stipulated by **GPW**.
16. **APPLICABLE ONLY TO GPW ACCOUNT HOLDERS:**
 - 16.1. **GPW** Account Customers must provide a valid **GPW** account number to obtain a quotation.
 - 16.2. Accounts for **GPW** account customers **must** be active with sufficient credit to transact with **GPW** to submit notices.
 - 16.2.1. If you are unsure about or need to resolve the status of your account, please contact the **GPW** Finance Department prior to submitting your notices. (If the account status is not resolved prior to submission of your notice, the notice will be failed during the process).
17. **APPLICABLE ONLY TO CASH CUSTOMERS:**
 - 17.1. Cash customers doing **bulk payments** must use a **single email address** in order to use the **same proof of payment** for submitting multiple notices.
18. The responsibility lies with you, the customer, to ensure that the payment made for your notice(s) to be published is sufficient to cover the cost of the notice(s).
19. Each quotation will be associated with one proof of payment / purchase order / cash receipt.
 - 19.1. This means that **the quotation number can only be used once to make a payment.**

GOVERNMENT PRINTING WORKS - BUSINESS RULES**COPY (SEPARATE NOTICE CONTENT DOCUMENT)**

20. Where the copy is part of a separate attachment document for Z95, Z95Prov and TForm03
- 20.1. Copy of notices must be supplied in a separate document and may not constitute part of any covering letter, purchase order, proof of payment or other attached documents.
- The content document should contain only one notice. (You may include the different translations of the same notice in the same document).
- 20.2. The notice should be set on an A4 page, with margins and fonts set as follows:
- Page size = A4 Portrait with page margins: Top = 40mm, LH/RH = 16mm, Bottom = 40mm;
Use font size: Arial or Helvetica 10pt with 11pt line spacing;
- Page size = A4 Landscape with page margins: Top = 16mm, LH/RH = 40mm, Bottom = 16mm;
Use font size: Arial or Helvetica 10pt with 11pt line spacing;

CANCELLATIONS

21. Cancellation of notice submissions are accepted by **GPW** according to the deadlines stated in the table above in point 2. Non-compliance to these deadlines will result in your request being failed. Please pay special attention to the different deadlines for each gazette. Please note that any notices cancelled after the cancellation deadline will be published and charged at full cost.
22. Requests for cancellation must be sent by the original sender of the notice and must be accompanied by the relevant notice reference number (N-) in the email body.

AMENDMENTS TO NOTICES

23. With effect from 01 October 2015, **GPW** will not longer accept amendments to notices. The cancellation process will need to be followed according to the deadline and a new notice submitted thereafter for the next available publication date.

REJECTIONS

24. All notices not meeting the submission rules will be rejected to the customer to be corrected and resubmitted. Assistance will be available through the Contact Centre should help be required when completing the forms. (012-748 6200 or email info.egazette@gpw.gov.za). Reasons for rejections include the following:
- 24.1. Incorrectly completed forms and notices submitted in the wrong format, will be rejected.
- 24.2. Any notice submissions not on the correct *Adobe* electronic form, will be rejected.
- 24.3. Any notice submissions not accompanied by the proof of payment / purchase order will be rejected and the notice will not be processed.
- 24.4. Any submissions or re-submissions that miss the submission cut-off times will be rejected to the customer. The Notice needs to be re-submitted with a new publication date.

GOVERNMENT PRINTING WORKS - BUSINESS RULES**APPROVAL OF NOTICES**

25. Any notices other than legal notices are subject to the approval of the Government Printer, who may refuse acceptance or further publication of any notice.
26. No amendments will be accepted in respect to separate notice content that was sent with a Z95 or Z95Prov notice submissions. The copy of notice in layout format (previously known as proof-out) is only provided where requested, for Advertiser to see the notice in final Gazette layout. Should they find that the information submitted was incorrect, they should request for a notice cancellation and resubmit the corrected notice, subject to standard submission deadlines. The cancellation is also subject to the stages in the publishing process, i.e. If cancellation is received when production (printing process) has commenced, then the notice cannot be cancelled.

GOVERNMENT PRINTER INDEMNIFIED AGAINST LIABILITY

27. The Government Printer will assume no liability in respect of—
 - 27.1. any delay in the publication of a notice or publication of such notice on any date other than that stipulated by the advertiser;
 - 27.2. erroneous classification of a notice, or the placement of such notice in any section or under any heading other than the section or heading stipulated by the advertiser;
 - 27.3. any editing, revision, omission, typographical errors or errors resulting from faint or indistinct copy.

LIABILITY OF ADVERTISER

28. Advertisers will be held liable for any compensation and costs arising from any action which may be instituted against the Government Printer in consequence of the publication of any notice.

CUSTOMER INQUIRIES

Many of our customers request immediate feedback/confirmation of notice placement in the gazette from our Contact Centre once they have submitted their notice – While **GPW** deems it one of their highest priorities and responsibilities to provide customers with this requested feedback and the best service at all times, we are only able to do so once we have started processing your notice submission.

GPW has a 2-working day turnaround time for processing notices received according to the business rules and deadline submissions.

Please keep this in mind when making inquiries about your notice submission at the Contact Centre.

29. Requests for information, quotations and inquiries must be sent to the Contact Centre **ONLY**.
30. Requests for Quotations (RFQs) should be received by the Contact Centre at least **2 working days** before the submission deadline for that specific publication.

GOVERNMENT PRINTING WORKS - BUSINESS RULES

PAYMENT OF COST

31. The Request for Quotation for placement of the notice should be sent to the Gazette Contact Centre as indicated above, prior to submission of notice for advertising.
32. Payment should then be made, or Purchase Order prepared based on the received quotation, prior to the submission of the notice for advertising as these documents i.e. proof of payment or Purchase order will be required as part of the notice submission, as indicated earlier.
33. Every proof of payment must have a valid **GPW** quotation number as a reference on the proof of payment document.
34. Where there is any doubt about the cost of publication of a notice, and in the case of copy, an enquiry, accompanied by the relevant copy, should be addressed to the Gazette Contact Centre, **Government Printing Works**, Private Bag X85, Pretoria, 0001 email: info.egazette@gpw.gov.za before publication.
35. Overpayment resulting from miscalculation on the part of the advertiser of the cost of publication of a notice will not be refunded, unless the advertiser furnishes adequate reasons why such miscalculation occurred. In the event of underpayments, the difference will be recovered from the advertiser, and future notice(s) will not be published until such time as the full cost of such publication has been duly paid in cash or electronic funds transfer into the **Government Printing Works** banking account.
36. In the event of a notice being cancelled, a refund will be made only if no cost regarding the placing of the notice has been incurred by the **Government Printing Works**.
37. The **Government Printing Works** reserves the right to levy an additional charge in cases where notices, the cost of which has been calculated in accordance with the List of Fixed Tariff Rates, are subsequently found to be excessively lengthy or to contain overmuch or complicated tabulation.

PROOF OF PUBLICATION

38. Copies of any of the *Government Gazette* or *Provincial Gazette* can be downloaded from the **Government Printing Works** website www.gpwonline.co.za free of charge, should a proof of publication be required.
39. Printed copies may be ordered from the Publications department at the ruling price. The **Government Printing Works** will assume no liability for any failure to post or for any delay in despatching of such *Government Gazette*(s).

GOVERNMENT PRINTING WORKS CONTACT INFORMATION

Physical Address:
Government Printing Works

149 Bosman Street

Pretoria

Postal Address:

Private Bag X85

Pretoria

0001

GPW Banking Details:
Bank: ABSA Bosman Street

Account No.: 405 7114 016

Branch Code: 632-005

For Gazette and Notice submissions: Gazette Submissions:

For queries and quotations, contact: Gazette Contact Centre:

E-mail: submit.egazette@gpw.gov.za
E-mail: info.egazette@gpw.gov.za
Tel: 012-748 6200

Contact person for subscribers: Mrs M. Toka:

E-mail: subscriptions@gpw.gov.za
Tel: 012-748-6066 / 6060 / 6058

Fax: 012-323-9574

PROVINCIAL NOTICES • PROVINSIALE KENNISGEWINGS

PROVINCIAL NOTICE 70 OF 2017**TRADITIONAL LEADERS ELECTED TO PARTICIPATE IN MUNICIPALITIES****GOVERNMENT GAZETTE NOTICE: PROVINCE OF THE EASTERN CAPE**

NOTICE FOR PUBLICATION OF IDENTIFIED TRADITIONAL LEADER TO PARTICIPATE IN UMZIMVUBU MUNICIPAL COUNCIL IN THE EASTERN CAPE IN TERMS OF SECTION 81 OF LOCAL GOVERNMENT: MUNICIPAL STRUCTURES ACT, 1998 (ACT NO. 117 OF 1998) AS AMENDED, REPLACING THE DECEASED TRADITIONAL LEADER WHO WAS PREVIOUSLY GAZZETTED

EASTERN CAPE HOUSE OF TRADITIONAL LEADERS:

I, Fikile D. Xasa, Member of the Executive Council responsible for Cooperative Governance and Traditional Affairs in the Eastern Cape Province under the powers delegated to me by Section 81 (2) (a) of Local Government: Municipal Structures Act, (Act No. 117 of 1998) and after having consulted the Provincial House of Traditional Leaders in respect of the by-elections of the traditional leader to participate in the UMzimbubu Municipal Council, hereby make known for general information that **Mr Phila Mdutyana, ID No: 710426 5763 089** has been democratically elected by the respective traditional leaders replacing **Nkosi Simphiwe Alfred Mdutyana, ID No: 591225 5718 083** who is deceased who was previously gazetted on Gazette No.3700.


SIGNED: F.D. XASA

**MEMBER OF THE EXECUTIVE COUNCIL RESPONSIBLE FOR
COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS**

DATE: 29/03/2017

LOCAL AUTHORITY NOTICES • PLAASLIKE OWERHEIDS KENNISGEWINGS

LOCAL AUTHORITY NOTICE 48 OF 2017**MBIZANA LOCAL MUNICIPALITY**

The Municipal Manager hereby publishes, in terms of section 13 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 By-laws Relating to the Establishment and Control over Commonages which by-laws come into operation on the date of publication thereof.

BY-LAWS RELATING TO THE ESTABLISHMENT AND CONTROL OVER COMMONAGES**PREAMBLE**

WHEREAS the Council of the Municipality is vested with legislative authority in terms of the Constitution of the Republic of South Africa, 1996;

AND WHEREAS the Council in the exercise of its functions has the right to control commonages on land in the jurisdiction of the Municipality and matters connected therewith;

NOW THEREFORE be it enacted by the Council as follows:

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2. Reservation of land as common pasture
3. Office of the Commonage Manager
4. Grazing permit required to graze stock on common pasture
5. Application for and issue of grazing permit
6. Refusal to renew, withdrawal and transfer of grazing permits
7. Duties of the Commonage Manager
8. Prescripts
9. Waiver of provisions
10. Appeal
11. Penalty Clause
12. Repeal of by-laws

1. DEFINITIONS

In these by-laws, words used in the masculine gender include the feminine, the singular includes the plural and vice versa and unless the context indicates otherwise –

"administrative unit", for the purpose of these by-laws, means a former municipality contemplated in section 14[3] of the Local Government: Municipal Structures Act, 1998 [Act No. 177 of 1998];

"Municipality" means the _____ Municipality, a local municipality established in terms of section 12 of the Local Government: Municipal Structures Act, 1998;

"Municipal land" means land situated inside the area of jurisdiction of the Municipality, but outside the boundaries of any township of which the Municipality is the owner, or of which the control, to the entire exclusion of the owner, is vested in the Municipality;

"Municipal Manager" means the person appointed as such in terms of section 82 of the Local Government: Municipal Structures Act, 1998;

"these by-laws" includes the prescripts issued in terms of section [7]; and

"township" means a township as defined in section 1 of the Land Survey Act, 1997 [Act No. 8 of 1997] or any similar legislation.

2. RESERVATION OF LAND AS COMMON PASTURE

(1) The Municipality may, in respect of land owned by the Municipality and subject to the provisions of any law or any restriction regarding the use of land in the title deed of that land, by notice in the Provincial Gazette and with effect from a date mentioned in such notice –

- (a) reserve such land as common pasture;
- (b) at any time add any additional defined piece or pieces of municipal land to the common pasture so reserved; and
- (c) at any time withdraw partly or wholly any land which forms part of the common pasture from the reservation thereof as a pasture.

(2) The Municipality may not alienate or deal with the land referred to in subsection [1], except after notice in the Provincial Gazette –

- (a) stipulating which piece or pieces of land it intends to withdraw or alienate;
- (b) calling on interested persons to attend a meeting at a venue and on a date mentioned in the notice, to discuss the intended withdrawal or alienation; and
- (c) stating –

- (i) the intended date or dates of withdrawal or alienation of any such piece or pieces of land has been published; and
 - (ii) the Municipality has considered all representations received in response to such notice;
- (3) The alienation or dealing in land and the public notice referred to in subsection [2] may occur only after the lapse of any permit for grazing of stock on the piece or pieces of land that the Municipality intends to withdraw or alienate.

3. OFFICE OF THE COMMONAGE MANAGER

- (1) The Municipality must appoint a person as commonage manager, who must report to a manager designated by the Municipal Manager.
- (2) The commonage manager must be responsible for the proper management and maintenance of all land forming part of the commonage.
- (3) In the office of the commonage manager, the Municipality must appoint –
 - (a) for each piece of land forming part of the commonage, a ranger who must deal with the day-to-day administration of that piece of land;
 - (b) such persons as may be necessary to maintain proper records regarding land forming part of the commonage, maps, camps, allocation of stock, movement of stock, holders of grazing permits on the commonage, marking of stock, stock disease, payments and other matters regarding the administration of the commonage;
 - (c) a veterinary surgeon on a full-time or part time basis, to fulfill the functions prescribed by or under any law relating to stock.
- (4) A single ranger may be appointed for more than one piece of land if the pieces of land are so situated that it is practically possible for one ranger to maintain proper control over each of the pieces of land.
- (5) A ranger must visit the land for which he is appointed on a regular basis and must be present on the land for at least one full working day during each week of the year.
- (6) On a regular basis, but at least once every three months, the veterinary surgeon appointed by the Municipality must do an inspection on, report on and make recommendations to the commonage manager regarding the state of health of each animal on the commonage.

4. GRAZING PERMIT REQUIRED TO GRAZE STOCK ON COMMON PASTURE

No person may graze stock on the common pasture of the Municipality, unless –

- (a) he is the holder of a grazing permit issued by the Municipality and subject to the conditions of such permit;

- (b) the animal is the progeny of a female animal grazed in terms of a grazing permit contemplated in subsection [1] [a] and is not older than 6 months; and
- (c) he has paid the commonage fees, determined by the Municipality, in respect of the period for which the grazing permit was issued; provided that a permit holder may partly or wholly be exempted of such payment in terms of the Indigent Policy of the Municipality.

5. APPLICATION FOR AND ISSUE OF GRAZING PERMIT

- (1) An application for a grazing permit must –
 - (a) be directed to the Municipal Manager;
 - (b) be in writing on the form made available by the Municipality for that purpose;
 - (c) contain adequate proof that the applicant is a permanent resident within the area of jurisdiction of the Municipality; and
 - (d) contain such further particulars as the Municipality may require.
- (2) On receipt of an application for a grazing permit, the Municipal Manager must refer it to the commonage manager, who must verify the particulars contained in the application and report thereon to the Municipal Manager.
- (3) When considering the application, the Municipal Manager must take into account –
 - (a) the report of the commonage manager;
 - (b) the availability and condition of land in the common pasture of the Municipality to accommodate the required number of stock for which application is made;
 - (c) the criteria for categories of preference that applicants must take as set out in a notice published by the Municipality in a newspaper circulating in its area of jurisdiction and by such other means as the Municipal Manager may determine.
- (4) After consideration of the application, the Municipal Manager must –
 - (a) issue the permit as applied for by the applicant;
 - (b) issue a permit for a lesser number of stock than applied for; or

- (c) in writing notify the applicant that his application was not successful with stated reasons.
- (5) A person whose rights are affected may appeal to the Municipality against a finding of the Municipal Manager and, in respect of such appeal, the provisions of section 62 of the Local Government: Municipal Systems Act, 2000 are applicable.
- (6) A permit for the grazing of stock on the municipal common pasture is issued –
 - (a) for a period of one year or less and will lapse on the last day of June of each year;
 - (b) subject to the conditions set out in the permit;
 - (c) subject to prior payment of the fees determined by the Municipality in accordance with the applicable schedule of tariffs;
- (7) A permit for the grazing of stock on the municipal common pasture may be renewed twice without the submission of a new application provided that the permit holder has paid –
 - (a) all fees due to the Municipality under these by-laws; and
 - (b) a permit renewal fee as determined by the Municipality no later than the last day of May of the year in which the permit lapses;

6. REFUSAL TO RENEW, WITHDRAWAL AND TRANSFER OF GRAZING PERMITS

- (1) The Municipal Manager may refuse to renew the permit referred to in subsection [5] [6] if he is of the opinion that –
 - (a) due to the condition of the land to which the permit holder's stock is allocated, the permit should not be renewed; or
 - (b) there is sufficient evidence that the circumstances of the permit holder have changed to such an extent that the application of any new applicant must take preference in terms of a notice referred to in subsection [5] [3] [c].
- (2) A permit for the grazing of stock on the municipal common pasture may be withdrawn by the Municipality if the holder of the permit contravenes or fails to comply with –
 - (a) a condition subject to which the permit was issued;
 - (b) any provision of these by-laws; or
 - (c) a lawful direction by –
 - (i) the ranger in charge of the land on which his stock is grazed;
 - or

- (ii) the veterinary surgeon appointed by the Municipality.
- (iii) A permit to graze stock on the common pasture of the Municipality may not be transferred.

7. DUTIES OF THE COMMONAGE MANAGER

The commonage manager must –

- (a) divide each piece of land reserved as common pasture in terms of section 2[2] [a] in camps suitable for the grazing of stock and allocate a number to each camp;
- (b) provide, in each camp, such facilities as may be necessary for the maintenance of stock in that camp;
- (c) draft, or cause to be drafted, proper maps of each piece of land reserved as part of the common pasture, indicating at least the boundaries of camps, gates and waterholes;
- (d) allocate the stock of each permit holder to a specific camp or camps and notify such permit holder accordingly;
- (e) develop, implement and adjust according to changing circumstances, a proper program of rotation of grazing on land reserved as common pasture by the Municipality; and
- (f) keep proper records, open for inspection by any person who has an interest therein, regarding –
 - (i) all permit holders;
 - (ii) dates of expiry of all permits;
 - (iii) payments or exemptions of payment of all permit holders; and
 - (iv) any other matter which, in his opinion, needs to be recorded.

8. PRESCRIPTS

- (1) The Municipality may issue prescripts relating to the control, management and use of the municipal common pasture, including –
 - (a) the construction and maintenance of dipping tanks, the monies payable in connection with the use thereof, and the persons responsible for the payment thereof;
 - (b) the marking of stock kept thereon;
 - (c) the prohibition of the keeping of dangerous and undesirable animals thereon, and the definition of such animals;

- (d) the prevention and treatment of stock diseases in respect of stock kept thereon, and the exclusion of stock which in the opinion of the veterinary surgeon appointed by the municipality may spread such diseases;
 - (e) the destruction of carcasses of animals;
 - (f) the impounding of animals trespassing thereon or grazed thereon without a permit;
 - (g) the planting, care and protection, and the destruction, chopping or cutting off of grass, trees, shrubs or any other plants or crop, and the sale thereof;
 - (h) the burning of grass and the eradication of noxious weeds;
 - (i) the hunting of game thereon by any means, including the use of firearms or dogs;
 - (j) the duties and functions of rangers;
 - (k) the prohibition to put out poison; and
 - (l) generally, any matter which the Municipality deems necessary or expedient in connection with the control, management or use of the common pasture or the achievement of the objects of these by-laws.
- (2) A prescript issued in terms of subsection [1] must be –
- (a) published in a newspaper circulating in the area of jurisdiction of the Municipality;
 - (b) placed on the official notice board of the Municipality; and
 - (c) filed in the municipal code of the Municipality.
- (3) If the Municipal Manager is of the opinion that it is in the public interest, he may, for such period and subject to such conditions he may deem fit, exempt any person, group or category of persons in writing from compliance with any prescripts issued in terms of subsection [1].

9. WAIVER OF PROVISIONS

- (1) The Municipality may, if it deems it desirable to do so in the public interest, waive compliance with or relax the provisions of these by-laws; provided that any person whose rights are adversely affected by such waiver or relaxation will not be bound thereby.
- (2) In each case in which such waiver or relaxation has been granted to any person, the Municipality must serve a written notice upon such person citing the relevant provision waived or relaxed and the extent to which such provision has been waived and, in addition, the Municipality must keep a record containing an identical copy of each such notice, which record must be available for inspection by members of the public at the offices of the Municipality.

10. APPEAL

- (1) A person whose rights are affected by a decision of an official may appeal against that decision by giving written notice of the appeal and reasons to the Municipal Manager within 21 days of the date of the notification of the decision.
- (2) The Municipal Manager must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.
- (3) When the appeal is against a decision taken by –
 - (a) a staff member other than the Municipal Manager, the Municipal Manager is the appeal authority;
 - (b) the Municipal Manager, the Executive Committee is the appeal authority; or
 - (c) a political structure or political officer bearer, or a Councillor Council is the appeal authority.
- (4) The appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable time.

11. PENALTY CLAUSE

- (1) Any person who contravenes or fails to comply with any provision of these by-laws or any requirement or condition there-under is guilty of an offence.
- (2) Any person convicted of an offence in terms of subsection 11[1] is liable to a fine or to imprisonment for a period not exceeding one year, or to both a fine and such imprisonment.

12. REPEAL OF BY-LAW

- (1) All by-laws relating to a matter regulated in these by-laws proclaimed by an administrative unit now forming part of the Municipality are, with effect from the date of promulgation of these by-laws, hereby repealed.
- (2) Any permission obtained, right granted, condition imposed, activity permitted or any thing done under a repealed law, are deemed to have been obtained, granted, imposed, permitted or done under the corresponding provision [if any] of these by-laws, as the case may be.

LOCAL AUTHORITY NOTICE 49 OF 2017**MBIZANA LOCAL MUNICIPALITY DISPOSAL OF CONTAMINATED AND/ OR INFECTIOUS WASTE BY-LAW****MBIZANA LOCAL MUNICIPALITY**

The Municipal Manager of Mbizana Local Municipality hereby publishes, in terms of Section 13 of the Local Government Municipal Systems Act, 2000 [Act 32 of 2000] read with Section 162 of the Constitution of the Republic of South Africa Act 1996 [Act 108 of 1996] the By-Law Relating to the Disposal of Contaminated and or Infectious Waste which shall come into operation on the date of publication thereof.

DISPOSAL OF CONTAMINATED AND/ OR INFECTIOUS WASTE BY-LAWS

Definitions

1. In these by-laws unless the context indicates otherwise:

"Contaminated animal carcasses, body parts and bedding" means contaminated carcasses, body parts and bedding of animals that were intentionally exposed to pathogens in research, in the production of biologicals, or the in vivo testing of pharmaceuticals.

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

"Council" means the Council of the Municipality or any duly authorised Committee or official of the Council.

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

"Human blood and blood products" means waste such as serum, plasma and other blood components.

MBIZANA LOCAL MUNICIPALITY DISPOSAL OF CONTAMINATED AND/ OR INFECTIOUS WASTE BY-LAW

"Infectious waste" means waste capable of producing an infectious disease.

"Isolation waste" means waste generated by hospitalised patients isolated to protect others from communicable diseases.

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

"Municipality" means the Municipality of Mbizana.

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

Storage of infectious waste

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

Transport of Infectious waste

3. (a) All containers of infectious waste must be sealed intact at the point of generation.

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- (b) The vehicle transporting infectious waste must be clearly marked indicating infectious waste in transit.
- (c) The vehicle used for the transport of infectious waste must be so designed that the driver's cab is separated from the load area. The load area must be enclosed with suitable sealable, lockable doors.
- (d) All infectious loads being carried or conveyed for disposal must be invoiced by the person or institution from which such waste is generated and the invoice must contain details of the premises from which the infectious waste was generated and the premises where the waste will be disposed of.

Removal and disposal of infectious waste

- 4. (a) The Council may remove infectious waste from the premises of generation and dispose thereof in a safe, sanitary and supervised manner, and the owner of such premises or the owner of the waste as determined by the Council shall be liable to the Council for payment of the tariff charges in respect of the aforesaid removal services.
 - (b) Private contractors may, with the written consent of the Council and subject to such terms and conditions as it may determine, remove and dispose of infectious waste.
 - (c) Infectious waste may, with the written consent of the Council and subject to compliance with such terms and conditions as it may determine, be disposed of in an approved high temperature pollution free incinerator on the premises of origin of such waste.
 - (d) Unless otherwise determined by the Council, the burning temperatures in the primary and secondary chambers of the incinerator shall, at all times, exceed 800 degrees C and 1000 degrees C respectively and also have rapid cooling to prevent carcinogenic chemicals from entering the atmosphere.
 - (f) The Council may by resolution determine additional conditions pertaining to the storage, placement, removal and conveyance of contaminated and or infectious waste including conditions pertaining to vehicles used for the removal and transportation of such waste and such additional conditions shall apply in addition to the conditions contained in these by-laws.

Infectious waste

- 4. For the purpose of these by-laws, infectious waste shall include all the wastes referred to in section 1 hereof as well as contaminated animal carcasses, body parts, bedding, sharps, cultures and stocks of infectious agents and associated biologicals, human blood and blood products.

MBIZANA LOCAL MUNICIPALITY DISPOSAL OF CONTAMINATED AND/ OR INFECTIOUS WASTE BY-LAW

Penalties

5. Any person who contravenes or fails to comply with any provision of these by-laws or any instruction or permit issued thereunder shall be guilty of an offence and be liable on conviction to a fine not exceeding R1000 or such higher amount as is determined from time to time by the Minister of Justice as contemplated in section 1(1)(a) of the Adjustment of Fines Act 1991 (Act No. 101 of 1991) or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

Repeal of By-Laws

Any by-law relating to the disposal of contaminated and or infectious waste adopted by the municipality or any municipality now comprising an administrative unit of the municipality is repealed from the date of promulgation of these by-laws.

LOCAL AUTHORITY NOTICE 50 OF 2017**MUNICIPALITY OF MBIZANA****BUDGET APPROVAL PROCESS BY-LAWS**

The Municipal Manager hereby publishes, in terms of Section 13 of the Local Government Municipal Systems Act, 2000 [Act 32 of 2000] read with Section 162 of the Constitution of the Republic of South Africa Act 1996 [Act 108 of 1996] the By-Laws on the Budget Approval Process which shall come into operation on the date of publication thereof.

Preamble

WHEREAS a municipal council may make by-laws that prescribe rules and orders for its internal arrangements, its business and proceedings and the establishment, composition, procedures, powers and functions of its committees under the Constitution;

AND WHEREAS a municipality must administer its internal financial arrangements in an efficient, transparent, effective and responsible manner;

AND WHEREAS a municipal council must, for each financial year by way of an annual budget, appropriate money from its Revenue Fund for the requirements of the municipality under the Act;

NOW THEREFORE the municipality adopts the following as the "By-Laws on the Budget Approval Process".

[1] Definitions

In these by-laws, words used in the masculine gender include the feminine, the singular includes the plural and vice versa and unless the context otherwise indicates:-

"municipal council" means the municipality and includes the council of the municipality and any duly authorized committee or official of the municipality;

"municipal manager" means the person appointed by the municipal council in terms of section 82 of the Act as the municipal manager of the municipality and includes any person acting in such position or to whom the municipal manager has delegated a power, function or duty in respect of such a delegated power, function or duty.

"the Act" means the Local Government: Municipal Structures Act, 1998 [Act 117 of 1998] as amended.

[2] Budget Approval Process

- [2.1]** The municipal manager must no later than 30 November of each financial year appoint an official who is responsible for the drafting of the initial draft budget of each department of the municipality.
- [2.2]** The official referred to in sub-section 1, must, after considering the Integrated Development Plan of the municipality and departmental needs, complete a report on the budgetary requirements for his department.
- [2.3]** The municipal manager must by no later 31 December each year ensure that the budgets referred to in sub-section 2 are consolidated into a single document and that expenditure relating to the implementation of the Integrated Development Plan of the municipality is clearly marked therein.
- [2.4]** The municipal manager must by no later 15 January in each financial year submit the different components of the draft budget to each standing committee to which each draft budget relates.
- [2.5]** Each standing committee referred to in sub-section 4 must, after considering the capacity and operational requirements of the departments for which they are responsible, the requirements of the municipality's Integrated Development Plan and any political objectives, submit their comments on the relative components of the draft budget to the municipal manager by no later than 28 February in each financial year.
- [2.6]** The municipal manager shall refer the comments received by him in terms of sub-section 5, to the executive committee * for consideration, comment and report at its next meeting which shall take place no later than 31 March in each financial year.
- [2.7]** The report of the *executive committee in terms of sub-section 6 must, thereafter, be referred to a combined financial committee, comprising the chairpersons of the executive and all standing committees as well as such other members as the council may appoint, to consider and make recommendations on the draft budget with due regard to:
- [2.7.1]** the maximum administrable increase of capacity;
 - [2.7.2]** the operational requirements of the municipality;
 - [2.7.3]** the Integrated Development Plan of the municipality;
 - [2.7.4]** budgeting guidelines and parameters issued by the National Treasury.
- [2.8]** The comments and recommendations of the combined financial committee referred to in sub-section 7 must be referred to each department to which it relates for these departments to amend their departmental budgets by no later 15 April in each financial year.

- [2.9]** After the relevant departments have amended their budgets, the municipal manager shall submit such amended budgets to the *executive committee as final draft budgets for consideration by no later than 30 April in each financial year.
- [2.10]** After the *executive committee has agreed to the draft budgets referred to in sub-section 9, it will implement a public participation process complying with the Act and if the municipality has ward committees, such draft budgets must be submitted to such ward committees for consideration and comment by no later 15 May in each financial year.
- [2.11]** Once the process mentioned in sub-section 10 has been completed, the draft budgets with all the comments from the public participation process must be submitted to the executive committee who must consider same and make a final recommendation to the Council on the budget to be submitted for adoption.
- [2.12]** The final budget must be submitted to the municipal council for approval by no later than the 31st May in the year in which the budget has started.
- [2.13]** The final annual budget of the municipality must be approved by a decision taken by the municipal council of the municipality with a supporting vote of the majority of all its members.
- [2.14]** After the Council has adopted its budget, the Municipal Manager must, without delay-
- [a]** conspicuously display a copy of the resolution for a period of at least 30 days at the main administrative office of the municipality and at such other places within the municipality to which the public has access as the municipal manager may determine;
 - [b]** publish in a newspaper of general circulation in the municipality a notice stating-
 - [i]** that a resolution adopting the budget has been passed by the Council;
 - [ii]** that a copy of the resolution is available for public inspection during office hours at the main administrative office of the municipality and at the other places specified in the notice; and
 - [iii]** the date on which the determination will come into operation; and
 - [c]** seek to convey the information referred to in sub-section [b] to the local community by means of radio broadcasts covering the area of the municipality.

- [2.16]** The municipal manager must forthwith send a copy of the notice referred to in subsection 15 to the MEC for Local Government in the province of the Eastern Cape.
- [2.17]** Upon approval by Council, the Municipal Manager must submit the budget to the Minister of Finance within a period of fourteen days from the date of such approval.

*[variable, depends on whether or not the municipality has an Executive Committee–
if not insert the committee responsible for finance]

LOCAL AUTHORITY NOTICE 51 OF 2017**MBIZANA LOCAL MUNICIPALITY**

The Municipal Manager hereby publishes, in terms of section 13 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 By-laws Relating to Accommodation Establishments which come into operation on the date of publication thereof.

BY-LAWS RELATING TO ACCOMMODATION ESTABLISHMENTS**PREAMBLE**

WHEREAS the Council of the Municipality is vested with legislative authority in terms of the Constitution of the Republic of South Africa, 1996;

AND WHEREAS the Council of the Municipality in the exercise of its functions has the right to regulate accommodation establishments in the municipal area for the benefit of the resident or visiting public;

NOW THEREFORE be it enacted by the Council as follows:

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1. DEFINITIONS

In these by-laws, words used in the masculine gender include the feminine, the singular includes the plural and vice versa and, unless the context otherwise indicates –

"accommodation establishment" means any place in which accommodation is provided for gain to four or more people, with or without meals, but excludes a private home;

"authorized official" means:

- [a] an official of the Municipality; or
- [b] an official of another municipality; or
- [c] an official of another organ of state; or
- [d] a person contracted by the Municipality and with whom the Municipality has concluded an agreement either directly or on an agency basis for the rendering of services in terms of these by-laws and/or to which or to whom the Municipality has delegated a duty, function or power under these by-laws, provided that the official or person concerned must be a duly registered environmental health officer or health practitioner;

"Council" means the Council of the Municipality or any committee, political office bearer or official thereof acting by virtue of any power entrusted or delegated to it or him in terms of legislation with regard to the application and implementation of these by-laws;

"Compliance Notice" means a notice issued in terms of section 6 to comply with these by-laws or with the conditions of a permit issued in terms of these by-laws;

"dormitory" means a sleeping room in which sleeping accommodation is provided for four or more persons;

"permit" means a public health permit granted by the Municipality in terms of section 4;

"Municipality" means the Mbizana Local Municipality and includes the Council thereof and should the context so require also the authorized official;

"Prohibition Notice" means a notice issued in terms of section 7;

"public health" means the mental and physical health and well-being of people in the municipal area;

"public health hazard" means any actual threat to public health, and without limitation, includes –

- [a] unsanitary conditions;
- [b] circumstances that make it easier for a communicable disease to spread;
- [c] circumstances that make food or drink [including water for domestic consumption] unhygienic or unsafe to eat or drink; and
- [d] circumstances that allow pests to infest any place where they may affect public health;

"public health nuisance" means the use of any premises or place in a manner that creates conditions that significantly increase the risk of a public health hazard occurring or that compromises any aspect of public health to an extent that is more than trivial or insignificant.

2. REQUIREMENTS FOR PREMISES

- [1] Except under authority of permit issued by the Municipality in terms of these by-laws, no person may operate an accommodation 4

establishment on premises that do not comply with the following requirements:

- [a]** No room wholly or partly used by persons for sleeping in may be occupied by a greater number of persons than will allow:
- [i]** less than 11,3m² of free air space and 3,7m² of floor space for each person over the age of 10 years; or
 - [ii]** less than 5,7m² of free air space and 1,9m² of floor space for each person under the age of 10 years.
- [2]** No latrine, passage, staircase, landing, bathroom, cupboard, outbuilding, garage, stable, tent, storeroom, lean-to, shed, cellar or loft may be used as sleeping accommodation.
- [3]** If a dormitory is provided on the premises –
- [a]** a single bed, manufactured of metal or some other durable material and equipped with a mattress, must be provided for every person housed in the dormitory;
 - [b]** a separate locker must be provided for every person making use of the dormitory for safeguarding the person's personal clothing and other possessions;
 - [c]** every bed in a dormitory must be placed such that its sides are at least 1m away from any part of any other bed.
- [4]** An accommodation establishment must be provided with –
- [a]** an area for the preparation and cooking of food, adequate for the use of and easily accessible to any occupier residing in the premises;
 - [b]** adequate separate wash-up facilities; and
 - [c]** where meals are provided to persons housed on the premises –
 - [i]** a dining-room or adequate dining area with tables and chairs or benches; and
 - [ii]** unobstructed floor area [including the area occupied by tables, chairs and benches] of at least 1.2m² for every seat provided for dining purposes.
- [5]** An accommodation establishment must be provided with one or more showers that must each be –
- [i]** suitably placed in a separate compartment;
 - [ii]** easily accessible to all occupiers of the premises; and
 - [iii]** fitted with waste pipes which comply with the provisions of the National Building Regulations and Building Standards Act, 1977 [Act No. 103 of 1977], as amended.
- [6]** A bath fitted with a waste pipe may be substituted for each shower referred to in subsection [5] hereof.
- [7]** The facilities referred to in subsections [5] and [6] hereof must be designated for the different sexes.
- [8]** An accommodation establishment must be provided with sanitary facilities as prescribed in the National Building Regulations and Building Standards Act, 1977, and such fixtures must be designated for the different sexes.
- [9]** An accommodation establishment must be provided with an adequate supply of hot and cold running potable water.

- [10]** All rooms in an accommodation establishment must be provided with adequate ventilation and lighting as prescribed in the National Building Regulations and Building Standards Act, 1977.
- [11]** Openings in rooms in accommodation establishments such as doors, windows or fanlights may not be obstructed in a manner that interferes with the lighting or cross ventilation they provide.
- [12]** A separate room with metal bins or canvas laundry bags must be provided for the storage of dirty articles used in connection with the accommodation establishment, pending removal thereof to be laundered; and
- [13]** When articles used in connection with the accommodation establishment are laundered on the premises, a separate approved washing, drying and ironing area equipped with the necessary facilities for this purpose must be provided.
- [14]** A store-room for the storage of furniture and equipment and a separate linen room with cupboards or shelves for the storage of clean bed and other linen, towels, blankets, pillows and other articles used in connection with the accommodation establishment, must be provided.
- [15]** All walls and ceilings must have a smooth finish and be painted with a light-coloured washable paint, or have some other approved finish;
- [16]** The floor surface of every kitchen, scullery, laundry, bathroom, shower, ablution room, toilet and sluice room must be constructed of concrete or some other durable, impervious material brought to a smooth finish; and
- [17]** The floor surface of every habitable room must be constructed of an approved material.
- [18]** The following facilities must be provided for people who are employed and also reside on the premises:
- [a]** sleeping quarters equipped with a bed, mattress and locker that comply with the provisions of subsections [1], [2] and [3] for each employee; and
 - [b]** where employees are not provided with meals on the premises, food preparation and dining facilities that comply with the provisions of subsection [3][c].
- [19]** Adequate changing facilities must be provided for non-resident employees.
- [20]** Adequate ablution and sanitary facilities that comply with the provisions of subsection [6] and subsection [8] must be provided for resident and non-resident employees.
- [21]** An adequate refuse holding area must be provided and an approved refuse removal system must be maintained.
- [22]** All walls, floors and roofs must be constructed in a manner that prevents wind and rain entering the premises or dampness entering the interior surfaces of the walls and floors.
- [23]** All accesses to an accommodation establishment must have a door which when closed, prevents the wind or rain entering the premises; and
- [24]** All windows must be constructed in a manner that prevents rain entering the premises when the windows are closed.

2. DUTIES OF THE OPERATORS OF ACCOMMODATION ESTABLISHMENTS

Every person who operates an accommodation establishment must –

- [a]** keep the premises and all furniture, fittings, appliances, equipment, containers, curtains, covers, hangings and other soft furnishings, table linen, bed linen and other bedding, towels and cloths of whatever nature, used in connection with the accommodation establishment, in a clean, hygienic and good condition at all times;
- [b]** clean and wash any bed linen, towel, bath mat or face cloth after each use by a different person;
- [c]** take adequate measures to eradicate pests on the premises;
- [d]** provide a container made of a durable and impervious material, equipped with a close-fitting lid, in every toilet used by females;
- [e]** provide towel rails or hooks in every bathroom and in every room in which there is a wash-hand basin or shower;
- [f]** store all dirty linen, blankets, clothing, curtains and other articles used in connection with the accommodation establishment in the manner referred to in section 2[12];
- [g]** store all clean linen, towels, blankets, pillows and other articles used in connection with the accommodation establishment in the manner referred to in section 2[13];
- [h]** keep all sanitary, ablution and water supply fittings in good working order;
- [i]** keep every wall, surface and ceiling, unless constructed of materials not intended to be painted, painted at regular intervals to ensure that the area painted remains clean and in a good state of repair; and
- [j]** handle refuse in the manner referred to in section 2[21].

3. PERMIT TO OPERATE AN ACCOMMODATION ESTABLISHMENT

- [1]** Any person intending to obtain a permit to operate an accommodation establishment must apply to the Municipality in writing in a form stipulated by the Municipality, prior to operating such establishment.
- [2]** When the Municipality receives an application for a permit, it must ensure that the relevant premises are inspected by the authorized official as soon as reasonably possible.
- [3]** Before deciding whether or not to approve an application referred to in subsection [1], the Municipality –
 - [a]** must ensure that any persons in the vicinity of the premises whose health or wellbeing may be affected if the premises are used for an accommodation establishment, have been consulted and have had an opportunity to make representations with regard to such proposal; and
 - [b]** may request the applicant to provide any further information which the Municipality considers relevant to enable it to make a properly informed decision.

5. GENERAL TERMS APPLICABLE TO PERMITS

- [1] A permit issued in terms of these by-laws –
- [a] is not transferable from one person to another; and
 - [b] applies only to the premises specified in the permit.
- [2] Every permit must –
- [a] specify the address and other relevant details regarding the location of the premises concerned;
 - [b] describe the premises concerned;
 - [c] describe the authorized use or activity concerned;
 - [d] specify terms and conditions, if any; and
 - [e] indicate when it expires.
- [3] The Municipality may levy a fee for considering and granting a permit in terms of these by-laws and in accordance with the provisions of the applicable tariff policy.
- [4] The Municipality may refuse to consider an application until it has been provided with the information that it reasonably requires to make an informed decision and until the prescribed fee [if any] has been paid.

6. COMPLIANCE NOTICE

- [1] If an authorized official after inspecting the premises of an accommodation establishment reasonably believes that a public health hazard or public health nuisance exists on such premises or that the premises are being used for a purpose in contravention of these by-laws, he may serve a compliance notice on one or more of the following persons:
- [a] the owner of the premises;
 - [b] the occupier of the premises;
 - [c] any person apparently in charge of undertaking the aforesaid use on the premises.
- [2] A compliance notice must state –
- [a] why the authorized official believes that these by-laws are being contravened;
 - [b] the measures that must be taken –
 - [i] to ensure compliance with these by-laws; or
 - [ii] to eliminate or minimise any public health nuisance;
 - [iii] the time period within which the measures must be taken;
 - [iv] the possible consequences of failing to comply with the notice;and
 - [v] how to appeal against the notice.
- [c] If a person fails to comply with a Compliance Notice that requires a particular action to be taken, the Municipality may –
- [i] take the required action specified in the compliance notice; and
 - [ii] recover, as a debt, from the person to whom the notice was given, the costs and expenses reasonably incurred in taking the required action; or

[iii] direct that a prohibition notice be served on such person in terms of section 7 of these by-laws.

7. PROHIBITION NOTICE

[1] An authorized official may, after inspecting premises apparently used as an accommodation establishment contrary to these by-laws, serve a prohibition notice on the owner, occupier or user of such premises prohibiting the premises from being so used and requiring measures to be taken to ensure that this occurs.

[2] The authorized official must give the person on whom he intends serving a prohibition notice a reasonable opportunity to make representations before serving the notice unless he reasonably believes that the delay in doing so would significantly compromise public health, in which case the person on whom a prohibition notice is served must be given reasonable opportunity to make representations why it should be withdrawn.

[3] A prohibition notice must state –

[a] the reasons for serving the notice;

[b] whether or not the Municipality will withdraw the notice if certain measures are taken, and if so, the measures that must be taken;

[c] the possible consequences of failing to comply with the notice; and

[d] how to appeal against the notice.

[4] Unless a prohibition notice provides otherwise, it comes into effect when it is served under subsection [1] and remains in force until it is withdrawn.

[5] The authorized official must as soon as possible affix a copy of the notice in a conspicuous position on the premises.

[6] It is a defence for any person charged with failing to comply with a prohibition notice to prove that –

[a] he did not know of the existence of the prohibition order and could not reasonably be expected to have known of its existence; and

[b] he had complied with the prohibition notice within 48 hours of the time that the notice was affixed to the premises in terms of subsection [5].

8. WITHDRAWAL OF PROHIBITION NOTICE

[1] The authorized official must, within 48 hours of receiving a written request for the withdrawal of a prohibition contained in a Prohibition Notice, carry out an investigation of the premises.

[2] After completing the investigation, the authorized official must inform the person on whom the Prohibition Notice was served or that person's agent in writing, whether or not the prohibition has been removed or withdrawn.

[3] The Municipality may charge the owner or occupier of any premises where an investigation is carried out in terms of subsection [1], a fee as prescribed in the applicable tariff policy for undertaking the investigation.

9. SUSPENSION, CANCELLATION AND AMENDMENT OF PERMITS

- [1] An authorized official may suspend or cancel a permit with immediate effect if –
- [a] he reasonably believes that it is urgently necessary to do so to eliminate or to reduce a significant risk to public health posed by a public health hazard or a public health nuisance; and
 - [b] the holder of the permit fails to comply with a compliance notice that states that the permit may be suspended or cancelled without further notice if the holder fails to comply with such notice.
- [2] An authorized official may suspend or cancel a permit after giving the holder a reasonable opportunity, not exceeding 10 working days, of making representations as to why the permit should not be suspended or cancelled if –
- [a] he reasonably believes that it is desirable to do so to eliminate or reduce the risk to public health posed by a public health hazard or a public health nuisance; or
 - [b] the holder of the permit fails to comply with a compliance notice.
- [3] An authorized official may amend a permit by endorsing the permit or by written notice to the holder, if he reasonably believes that it is necessary to do so to protect public health or to take account of changed circumstances since the permit was issued.

10. APPEALS

- [1] A person whose rights are affected by a decision taken by any authorized official under these by-laws may appeal against the decision by giving written notice of the appeal and reasons to the Municipal Manager of the Municipality within 21 days of the date of the notification of the decision.
- [2] The Municipal Manager must promptly submit the appeal to the appropriate appeal authority referred to in section 62 of the Local Government: Municipal Systems Act, 2000.
- [3] The appeal authority must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.
- [4] An appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable period.

11. OFFENCES AND PENALTIES

A person is guilty of an offence and liable on conviction to a fine, or in default of payment to imprisonment for a period not exceeding 6 months, if he –

- [a] contravenes or fails to comply with any provisions of these by-laws;
 - [b] fails to comply with any notice issued in terms of these by-laws;
 - [c] fails to comply with any lawful instruction given in terms of these by-laws;
- or
- [d] obstructs or hinders any authorized official in the execution of his duties under these by-laws.

12. DELIVERY OF NOTICES

- [1] A notice, order or other document is to be regarded as having been properly served if –
- [a] it has been delivered to that person personally;
 - [b] sent by registered post to the person to whom it is addressed at his or their last known address;
 - [c] it is served on a person apparently not less than 16 years of age and apparently in charge of the premises at the addressee's last known address;
 - [d] if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided for in subsections [1][a], [b] or [c]; or
 - [e] if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the premises to which it relates.
- [2] A notice, order or other document that may in terms of these by-laws be served on the owner or occupier of premises –
- [a] may be addressed to the owner or occupier of the specified premises and need not name the owner or occupier; and
 - [b] if the Municipality does not know the address of the owner or occupier of the premises and cannot easily obtain it, the notice, order or other document is to be regarded as having been properly served if it is affixed to a conspicuous place on the premises.

13. WAIVER OF PROVISIONS

- [1] The Municipality may, if it deems it desirable to do so in the public interest, waive compliance with or relax the provisions of these by-laws: provided that any person whose rights are adversely affected by such waiver or relaxation will not be bound thereby.
- [2] In each case in which such waiver or relaxation has been granted to any person, the Municipality must serve a written notice upon such person citing the relevant provision waived or relaxed and the extent to which such provision has been waived and, in addition, the Municipality must keep a record containing an identical copy of each such notice, which record must be available for inspection by members of the public at the offices of the Municipality.

14. REPEAL OF BY-LAWS

- [1] Any by-law adopted by the Municipality or a municipality now forming an administrative unit of the Municipality and relating to any matter regulated by these by-laws are, from date of promulgation of these by-laws, hereby repealed.
- [2] Any permission obtained, right granted, condition imposed, activity permitted or anything done under a repealed law is deemed to have been obtained, granted, imposed, permitted or done under the corresponding provision [if any] of these by-laws, as the case may be.

LOCAL AUTHORITY NOTICE 52 OF 2017**MBIZANA LOCAL MUNICIPALITY ACCOMMODATION ESTABLISHMENTS BY-LAW****MUNICIPALITY OF MBIZANA**

The Municipal Manager hereby publishes, in terms of Section 13 of the Local Government Municipal Systems Act, 2000 [Act 32 of 2000] read with Section 162 of the Constitution of the Republic of South Africa Act 1996 [Act 108 of 1996] the By-Laws Relating to the Rules and Procedures of the Council and its Committee and for matters incidental thereto which by-laws shall come into operation on the date of publication thereof.

BY-LAWS RELATING TO THE RULES AND PROCEDURES OF THE COUNCIL**PREAMBLE**

AND WHEREAS the Constitution establishes local government as a distinctive sphere of government;

AND WHEREAS section 160[6] of the said Constitution authorizes a Municipal Council to adopt policies and make by-laws which prescribe Rules and Procedures for:

- [a] Its internal arrangements
- [b] Its business and proceedings; and
- [c] The establishment, composition, procedures, powers and functions of its Committees;

AND WHEREAS the Municipal Structures Act, the Municipal Systems Act, as well as other legislation provides for certain matters which may be included in the Rules and Procedures of a Municipality and be incorporated in the by-laws of a Municipality.

The Council of the Municipality hereby adopts the following by-laws :

[1] Definitions

In these Rules and Procedures, unless the context otherwise indicates

" **Accredited Organization**" means a community organization, excluding political parties, which in the opinion of the Council, has substantial support in the community, has a constitution, and is accredited by the Council;

"**Advisory Committee**" means a Committee established in terms of Section 17[4] of the Systems Act;

"**Code of Conduct for Councillors** " means the Code of Conduct for Councillors contained in Schedule 1 of the Systems Act

"**Chairperson**" means the Chairperson of a Standing or any other Committee established by the Council.

"**Chief Whip**" means the Whip of the ruling party in the Council who must, together with other Whips ensure the smooth functioning of the Council, or the member so designated by the political parties in the Council who do not enjoy an outright majority.

"**Committee**" means a Committee established in terms of sections 79 or 80 of the Structures Act;

- "Community"** means that body of persons comprising the residents, the ratepayers, any civic organization, non-governmental, private sector or labour organization or body which is involved in local affairs within the municipality;
- "Constitution"** means the Constitution of the Republic of South Africa, Act 108 of 1996, as amended;
- "Council"** means the Municipal Council of the Municipality, as referred to in section 157 of the Constitution;
- "Delegation"**, in relation to a duty, includes an instruction to perform the duty, and "delegate" has a corresponding meaning;
- "MEC for local government"** means the member of the Executive Council responsible for local government in the Eastern Cape Province;
- "Member"** means a member of the Council of the Municipality;
- "Municipal Manager"** means a person appointed by the Council in terms of section 82 of the Municipal Structures Act as Municipal Manager and includes any person acting in this post;
- "Municipal Systems Act"** means the Local Government: Municipal Systems Act, No 32 of 2000 as amended, herein referred to as the "Systems Act";
- "Municipal Structures Act"** means the Local Government: Municipal Structures Act, No. 117 of 1998, as amended, herein referred to as the "Structures Act";
- "Municipality"** means the Municipality of Mbizana
- "Party"** means a party registered in terms of the Electoral Commission Act, 1996 [Act No 51 of 1996]
- "Promotion of Access to Information Act"** means Act 2 of 2000 as amended;
- "Promotion of Administrative Justice Act"** means Act 3 of 2000 as amended;
- "Promotion of Equality and Prevention of Unfair Discrimination Act"** means Act 4 of 2000;
- "Ratepayer"** means a person who is liable to the Municipality for the payment of rates on property in the Municipality, any other tax, duty or levy imposed by the Municipality or fees for services provided either by the Municipality or in terms of a services delivery agreement concluded with the Municipality;
- "Resident"** means a person who is ordinarily resident in the Municipality;
- "Speaker"** means a member elected in terms of section 36 of the Structures Act to be the Speaker of the Municipal Council and the Acting Speaker where applicable;
- "Structure"**, means the Council of the Municipality or any Committee or other collective structures of the Municipality;
- "Ward"** means a Ward mentioned in item 2 of Schedule 1 of the Structures Act;
- "Whip"** means a member of a party in the Council appointed by that party as Whip to ensure, together with the Chief Whip, the smooth functioning of the proceedings of the Council in terms of these By-Laws.

CHAPTER I**ORDER OF BUSINESS AND RELATED MATTERS****COUNCIL MEETINGS****Part 1: Order of business****[2] Commencement of meeting of Council**

At each meeting of the Council, the chair shall be taken precisely at the time for which the meeting is convened as stated in the notice of the meeting and the business of the meeting shall be proceeded with immediately.

[3] Order of business

The business at ordinary meetings of the Council shall be disposed of in the following order:

- [a]** Opening and Welcoming;
- [b]** Election of Speaker if necessary;
- [c]** Consideration of applications for leave of absence from Council meetings received from members;
- [d]** Confirmation of minutes of previous Council meeting[s];
- [e]** Statements or Communications by the Speaker;
- [f]** Interviews with deputations;
- [g]** Statutory business;
- [h]** Consideration of reports by Committees, delegates, deputations and officials of the Council;
- [i]** Consideration of reports, communications, petitions and applications dealing with matters of urgency submitted by the Municipal Manager;
- [j]** Consideration of notices of motion and notices of questions which shall appear on the agenda in order in which they have been received by the Municipal Manager; and
- [k]** Consideration of motions of exigency;
- [l]** Closure

provided that the Chief Whip, may, at any time during the proceedings, move as a motion of course that any item appearing on the agenda shall have precedence and may briefly state the reasons for such motion. If such motion is seconded, it shall be put to the vote forthwith without discussion, and if carried, such item shall have precedence accordingly.

[4] Election of Speaker

The Speaker is the Chairperson of all Council meetings. If the Speaker is absent or not available to perform his/her functions, or during a vacancy, the Council must elect another member to act as Speaker.

[5] Statements and communications by Speaker

The Speaker may, without notice, make any statement or read any communication at any meeting.

[6] Attendance at meetings

- [1]** Every member present at a meeting of the Council shall sign his/ her name in the attendance register which shall be in bound book form and made available by the Municipal Manager for this purpose.
- [2]** The names of all members present at any Council meeting and of all members to whom leave of absence from any such meeting has been granted shall be recorded in the minutes of such meeting.
- [3]** All applications for leave of absence from Council meetings must be submitted in writing to the Municipal Manager or his/her nominee, prior to the commencement of the relevant meeting and must be considered by Council.
- [4]** If a member is absent from a Council meeting without the permission of the Council or if he/she fails to remain in attendance at such a meeting, the following fines may, subject to the provisions of subsection [6] be imposed and will automatically be deducted from the member's monthly allowance:
First meeting: R200 fine.
Second meeting: R500 fine.
- [5]** A member who is absent from three or more consecutive meetings of the Council will, subject to compliance with the provisions of subsection [7] and the approval of the MEC for local government, be removed from office as a member.
- [6]** Before imposing a fine in terms of subsection [4] above, the Speaker must
- [6.1]** inform the relevant member in writing of such member's absence from a specified meeting or of his/her failure to remain in attendance at such meeting;
- [6.2]** afford the relevant member the opportunity to submit, within 10 working days from date of such letter, written reasons for his/her failure to attend the meeting in question or remain in attendance thereat and why he/she could not apply for leave of absence, as stipulated in subsection [3], above.
- [6.3]** If no response is received from the member within the prescribed period, the fine referred to in subsection [4] will be imposed and will automatically be deducted from the member's allowance.
- [6.4]** In the event of a written response being received from the member, such response must be presented to the Speaker who shall decide on good grounds whether or not the fine should be imposed.
- [6.5]** In the event of the relevant member not being in agreement with the decision of the Speaker aforesaid, he/she may appeal, within 21 days of being informed of the decision of the Speaker, to the Council which shall make a final and binding decision on the matter.
- [7]** Before the Council removes a member in terms of subsection [5] above, the Speaker must inform the relevant member in writing of such member's alleged breach of subsection [5] and of his/her intention to move that the member be removed from office.
- [7.1]** The relevant member must be afforded 10 working days from date of the letter to comment in writing to the Speaker on his/her alleged breach of subsection [5].
- [7.2]** The Speaker shall submit a written report on the alleged breach of subsection [5] by the member concerned together with the response, if any, from such member, to the next meeting of the Council or to a Special meeting of the Council which may be called to deal specifically with this matter.

[7.3] The Council shall, thereafter, deal with the matter in accordance with the rules and procedures pertaining to the enforcement of the Code of Conduct for Councillors.

[7] Agendas and Minutes

[1] All matters submitted for the consideration of the Council shall be contained in a written agenda signed by the Municipal Manager which agenda shall be circulated to all members by the Municipal Manager at least 7 working days before a meeting. Matters to be considered by the Council in open session shall be contained in an agenda separate to those matters to be considered by the Council in Committee.

[2] Minutes of the proceedings of every meeting of the Council shall be in writing and shall be submitted for confirmation at the next ordinary meeting of the Council.

[3] The minutes shall be taken as read for the purpose of confirmation if a copy thereof was sent to each member at least forty-eight hours prior to the meeting.

[4] Except as to accuracy, no motion or discussion on the minutes shall be permitted.

[5] A motion of course to correct the minutes shall be permissible and, if carried, the minutes shall be corrected accordingly.

[6] If there is a dispute about the contents and accuracy of the minutes:

[a] the relevant debate, if it had been recorded, must be transcribed; or

[b] if the debate had not been recorded, the Municipal Manager must submit a report to the Council setting out his or her recollection of the debate; and

[c] after considering the transcription of the relevant minutes or the report by the Municipal Manager as the case may be, the Council may, by vote, decide on the minutes with only those members who were present at the time of the disputed debate being entitled to vote in the event that the disputed debate was not recorded.

[7] Except in respect of confidential minutes, copies of all minutes of the Council must be made available to the public, subject to payment of the prescribed fee for reproduction thereof, if any.

[8] The minutes of all meetings of the Council shall be compiled in book form with the pages numbered consecutively and, after confirmation thereof, they shall be signed by the Speaker on the last page and each other page shall be initialed by the Speaker.

[9] The Municipal Manager shall be responsible for the safekeeping of all the minutes of the Council.

[8] Deputations

[1] A deputation wishing to interview the Council shall give the Council at least seven days notice of its intention to do so and shall send a memorandum to the Municipal Manager setting out briefly the representations to be made and the source of the deputation.

- [2] The Municipal Manager shall submit the memorandum to the Speaker and, if the Speaker is of the opinion that it should be brought before the Council, the Municipal Manager shall notify the deputation to attend the Council meeting at a specified time. Should the request be refused by the Speaker, reasons for such refusal must be given by the Speaker and conveyed to the deputation by the Municipal Manager.
- [3] The Speaker may allow any deputation to address the Council without written notice having been given if, in his/ her opinion, the matter to be presented is of an urgent nature.
- [4] A deputation shall not consist of more than ten members.
- [5] Except with the consent of the Speaker or in reply to questions from members, only two members of a deputation shall address the Council.
- [6] Except with the consent of the Speaker, a member of a deputation shall not address the Council for more than ten minutes.
- [9] **Notices of motion and notices of questions**
- [1] The Speaker shall not accept any motion except a motion of exigency or a motion of course, unless notice thereof has been given in terms of subsection [3].
- [2] The Speaker shall not allow any question to be put except one put in terms of section 15 unless notice thereof has been given in terms of subsection [3].
- [3] Every notice of intention to introduce a motion or put a question shall be in writing, signed and dated by the member submitting the same and specifying in full the motion or question, and shall be delivered to the Municipal Manager at least seven working days before the date of the meeting at which it is intended to be introduced or put.
- [10] **Absence of mover or questioner**
- In the event of the mover or questioner not being in attendance at the meeting of the Council when called upon by the Speaker to introduce a motion or put a question standing in his/her name on the agenda, any other member may introduce such motion or put such question in his/her own name, unless the original mover or questioner has notified the Municipal Manager in writing of a substitute member to introduce the relevant motion or put the relevant question.
- [11] **Motions and questions on matters dealt with by a Committee**
- [1] A member shall not give notice of a motion in regard to any matter assigned to a Committee, unless such motion has previously been submitted to such Committee or unless it is in the form of a reference to such Committee for consideration and report.
- [2] The Chairperson of a Committee may, if he/she is of the opinion that the matter is one of urgency, give notice of his/her intention to introduce a motion or put a question on a matter assigned to such Committee, notwithstanding the fact that such motion or question has not been considered previously by such Committee.

[12] Rescission of resolution

- [1] If a member wishes to give notice of his/her intention to move the rescission or alteration of a resolution, or part thereof, of the Council, he/she shall give such notice by delivery to the Municipal Manager of a notice of motion in writing, which notice of motion shall be signed and dated by such member and shall state at which meeting of the Council it will be introduced, and it shall be in the hands of the Municipal Manager at least seven working days before the said meeting. Such notice of motion shall further state that the mover will move that the resolution, which shall be mentioned, be rescinded or altered, as the case may be, and stating, in the case of an alteration, the exact alteration desired.
- [2] If a Committee has resolved to recommend to the Council that a resolution, or part thereof, of the Council be rescinded or altered, notice of intention to move such rescission or alteration shall be given by the inclusion of such recommendation in a report of the Committee to the Council, and the Municipal Manager shall send a copy of such report as well as information concerning the meeting at which it will be considered to each member, at the address which each member is required to furnish to the Municipal Manager for the purpose of the delivery of official communications, to reach him/her as least twenty four hours before the meeting at which the recommendation will be considered.
- [3] Except upon the recommendation of a Committee, a resolution, or part thereof, shall not be reviewed at any meeting of the Council unless the permission of the majority of the members present at such meeting has been obtained.

[13] Recommendation of Committee

- [1] The adoption of a recommendation contained in a report which is submitted to the Council by a Committee shall be deemed to have been moved pro forma by the Chairperson of such Committee or, in his/her absence or when he/she opposes such recommendation, by a member of such Committee deputed by him/her to act at the time when the Speaker of the meeting intimates that such recommendation is open for discussion, and such pro forma motion need not be seconded, nor shall it preclude the Chairperson of such Committee from exercising his/her right to speak thereon.
- [2] Any matter submitted for decision in terms of subsection [1] may be amended prior to a decision being taken thereon.
- [3] The proposal to amend must be seconded.
- [4] The Council must decide a proposal to amend first, and only thereafter take a decision on the substantive matter before it.
- [5] An amendment may not amount to a negation of the matter submitted for a decision.

[14] Questions

- [1] After any motion or amendment has been moved and seconded, or at the conclusion of every speech thereon, a member may put any question relevant to such motion or amendment.
- [2] No supplementary questions shall be put except by the member who put the original question, and then only in respect of matters arising from the reply to such original question.
- [3] The Speaker shall not disallow any such question; provided that the member to whom such question is directed may either reply thereto forthwith or require that notice thereof be given in terms of section 9.

[15] Motions of exigency

- [1] A member may direct the attention of the Council to any matter which does not appear on the agenda and of which no previous notice has been given, by stating briefly the subject and without comment thereon moving "that the question to which attention has been directed be considered forthwith as a matter of exigency".
- [2] For the purposes of these by-laws, such motion shall be referred to as a motion of exigency.
- [3] If such motion is seconded and carried by a two-thirds majority of the members present at the meeting, the mover shall be permitted, without notice, to have the matter considered by means of a motion or question; provided that no motion of exigency shall be in order while any other question is being considered.
- [4] No motions of exigency shall be put to any Committee.

Part 2: Related Matters**[16] Motions of course**

In addition to the motions provided for elsewhere, the following shall be regarded as motions of course:

- [a] That the consideration of any particular item appearing on the agenda shall have precedence;
- [b] That any report referred to in the agenda be received, adopted, acted upon or referred back;
- [c] That any document before the Council be acted upon in the manner specified in the motion;
- [d] That action be taken in regard to any matter submitted for consideration in the manner specified in the motion;

- [e]** That the Council do now resolve itself into Committee;
- [f]** That certain persons proposed for appointment be eliminated as provided in section 43 and;
- [g]** A motion referred to in section 28.

[17] Recording a protest

- [1]** A member may, when he/she is in the minority on a question which has been decided, forthwith request that his/her dissent or protest be entered in the minutes of the meeting in which the decision of the Council is recorded, and such dissent or protest shall be entered accordingly.
- [2]** Dissent or protest which casts an improper reflection on or imputes any improper motive to the Council or any member or employee of the Council shall be entered verbatim in the minutes to enable the accused member or employee to respond thereto and, in the event of the accused member or employee being in a position to respond to such accusation at the meeting, such response shall also be included verbatim in the minutes.
- [3]** In the event of the accused member or employee not being available at the meeting referred to in subsection [2], the Municipal Manager shall forward a copy of the said verbatim minutes to the accused member or employee for comment and such comment shall be submitted to the next meeting of the Council for consideration.
- [4]** The Council shall decide whether or not the allegation is substantiated and, in the event of such substantiation, action shall be taken against the accused member or employee in terms of the Code of Conduct for Councillors or the employee disciplinary code of the Council as the case may be.
- [5]** In the event of the Council deciding that the allegation is not or cannot be substantiated, the member making such allegation shall be called upon to apologize to the accused member or employee and such apology shall be entered in the minutes.
- [6]** In the event of the member making the accusation refusing to apologize aforesaid, the Council shall take disciplinary action against such member in terms of the Code of Conduct for Councillors on the grounds that such member has brought the Council in disrepute.
- [7]** Nothing contained in this section shall prohibit a member or employee from taking legal action on the basis of the infringement of a personal right against the member making the relevant accusation.
- [8]** This section shall not be interpreted in a manner which negates any privileges and immunities which members may enjoy in terms of Section 28 of the Structures Act or Section 72 of these by-laws.

[18] Motion or question reintroduced or put again

No motion which has been rejected by the Council or a Committee of the Council and no question put in accordance with the provisions of section 9 and replied to at any meeting of the Council or a Committee of the Council shall again be moved or put within a period of three months of such meeting, except with the consent of the majority of the whole Council.

[19] Member to address Speaker

A member speaking at a meeting of the Council or any person addressing the Council shall address the chair.

[20] Length of speeches

[1] Except with the consent of the Speaker, a member shall not speak for more than five minutes on any subject.

[2] The mover of an original motion or of any amendment may, however, speak for ten minutes on such motion or amendment, or for such extended period as the Speaker may permit.

[21] Order of precedence

If two or more members rise to speak at the same time, the Speaker shall determine who shall have precedence.

[22] Precedence of Speaker

Whenever the Speaker wishes to speak during a debate, any member then speaking or offering to speak shall keep quiet and all members shall be silent so that the Speaker can be heard without any interruption.

[23] Relevance

A member who speaks shall confine his/her speech strictly to the motion or question under discussion or to an explanation or a point of order.

[24] Member may speak once only except mover or original motion

[1] A member shall not address the Council more than once on any motion or amendment unless with the consent of the majority of members present at the meeting.

[2] The mover of an original motion may, however, speak to the motion and reply to the debate, but in so replying, he/she shall confine him / herself strictly to replying to the questions of previous speakers and shall not introduce any new points of discussion into the debate.

- [3] The right of reply to a debate shall not extend to the mover of an amendment which, having been carried, has become the substantive motion.

[25] Point of order and personal explanation

A member or the Municipal Manager may seek the permission of the Speaker to address the meeting -

- [a] On a point of order with a view to calling attention to any departure from these by-laws; or
- [b] In personal explanation, in order to explain some material part of his/her former speech which may have been misunderstood, and any person so asking shall be heard forthwith, unless the Speaker rules the point of order or explanation to be inadmissible.

[26] Speaker's ruling on point of order

- [1] The ruling of the Speaker on a point of order or on the admissibility of a personal explanation shall be final and shall not be open to discussion.
- [2] The ruling of the Speaker upon any point of order raised as to the interpretation of these by-laws shall be entered in the minutes.

[27] Withdrawal of motion, amendment or question

- [1] A motion, amendment or question may, without discussion and with the permission of the seconder, be withdrawn by the mover.
- [2] A member shall not speak upon such motion or amendment after the mover has indicated its withdrawal.

Part 3: Order of debate: Motions

[28] Order of debate

When a motion is under discussion at any meeting of the Council no further motion shall be received except the following:

- [a] That the motion be amended;
- [b] That consideration of the question be postponed;
- [c] That the Council do now adjourn;
- [d] That the Council do now adjourn for a caucus meeting;
- [e] That the debate now be adjourned;
- [f] That the question now be put, and;
- [g] That the Council proceed to the next business.

[29] That the motion be amended

- [1] Every amendment shall be relevant to the motion on which it is moved.
- [2] An amendment shall be put in writing, signed by the mover, handed to the Speaker or Municipal Manager and be read out before being moved.
- [3] An amendment shall not be discussed or put to the Council until it has been seconded.
- [4] If there are any amendments to a motion, the amendment last proposed shall be put to the vote first, and if carried, the question shall be resolved accordingly.
- [5] If the amendment last proposed is not carried, the amendment proposed immediately prior to such amendment shall be put to the vote.
- [6] No further amendment shall be moved to a motion or amendment after the Speaker has commenced to take a vote on such motion or amendment.

[30] That consideration of the question be postponed

- [1] A member may at the conclusion of a speech, move that consideration of the question be postponed to a fixed date.
- [2] Such motion shall be seconded but need not be put in writing.
- [3] The mover of such motion may speak for not more than ten minutes, but the seconder shall not be permitted to speak beyond formally seconding it.
- [4] Upon such motion being moved, the mover of the question under discussion may, without prejudice to his/her ultimate right to reply to the debate if the motion that the question be postponed is not carried, be heard in reply for five minutes, after which the motion shall be put without further discussion.
- [5] If postponement to a fixed date is agreed to, the question shall be placed first on the list of points of discussion for the day on which the postponed motion shall be considered.

[31] That the Council do now adjourn

- [1] A member may, except during the course of a speech by another member or while a vote is being taken, may move "that the Council or the Committee do now adjourn".
- [2] Such motion shall be seconded but need not be put in writing.
- [3] The mover may speak to the motion for five minutes, but the seconder shall not speak beyond formally seconding the motion.
- [4] If the motion is carried, the Council shall forthwith adjourn; provided that the Speaker may direct that the meeting proceed first to dispose of unopposed business.

- [5] If a motion that the Council do now adjourn is not carried, the Speaker shall not accept another such motion until a period of half an hour has elapsed.
- [6] A specific member shall not, on the same day, during the course of any one meeting of the Council move or second more than one motion to adjourn.
- [7] Save as provided in subsection [3], no discussion on a motion to adjourn shall be permitted, except that the member who first rises for that purpose may speak against such motion for not more than five minutes.
- [8] No amendment to such motion shall be moved except in relation to the period of adjournment.
- [9] If a motion to adjourn a meeting of the Council has been carried during a debate and prior to the closure thereof, then upon consideration of the subject of such debate at the adjourned meeting, the member who moved the adjournment shall be entitled to speak first.
- [10] No business shall be transacted at an adjourned meeting except such as is set out on the agenda for the meeting.
- [11] The Speaker has the right to adjourn a meeting at any time after every two hours for a maximum of 10 minutes, but not during the taking of a vote.
- [32] **That the Council now adjourn for a caucus meeting**
- [1] A party whip may, at any time, except while a vote is being taken, move "that the Council now adjourn for a caucus meeting".
- [2] Such motion shall be seconded but need not be put in writing.
- [3] The mover may speak to the motion for five minutes, but the seconder shall not speak beyond formally seconding the motion.
- [4] The Speaker shall decide whether or not to allow the request for a caucus meeting. If the request is refused by the Speaker, he/she shall give reasons for refusing such request, which reasons shall be entered into the minutes. The ruling of the Speaker on the request will be final and not be open for discussion. If the request for a caucus meeting is approved by the Speaker, the Council shall forthwith adjourn, provided that the Speaker may direct that the meeting proceed first to dispose of other business.
- [5] The Speaker shall impose a time limit for the proposed caucus meeting.
- [6] The caucus requesting the adjournment, shall gather at another venue.
- [7] If the caucus members have not taken their seats at the time when the Council is required to reconvene, the Council shall proceed with its normal business, provided a quorum of members is present.

[8] If a quorum of members is not present, the meeting will adjourn for 10 minutes. If the caucus members do not return within 10 minutes, the meeting will be closed by the Speaker and the reasons for such closure will be stated in the minutes.

[33] That the debate now be adjourned

[1] After 30 minutes of debate on a specific matter or matters a member may, at the conclusion of any speech, move that the debate be adjourned.

[2] Such motion shall be seconded but need not be put in writing.

[3] The mover of such motion may speak to it for five minutes, but the seconder shall not speak beyond formally seconding it.

[4] Save as provided in subsection [3] no discussion on such motion shall be permitted except in relation to the period of adjournment, and the member who first rises for that purpose may speak against it for five minutes.

[5] If such motion is carried, the meeting shall proceed to the next business on the agenda, and the discussion of the adjourned debate, unless otherwise resolved, shall be resumed at the next ordinary meeting.

[6] On the resumption of the adjourned debate, the member who moved the adjournment shall be entitled to speak first.

[7] If a motion that a debate be adjourned is not carried, the Speaker shall not accept another such motion until half an hour has elapsed.

[8] A specific member shall not, during the course of any one debate, move or second more than one motion to adjourn the debate.

[34] That the question now be put

[1] After 30 minutes of debate on a specific matter, a member may at the conclusion of a speech, move, without discussion, that the question now be put, and the motion, if seconded, shall be put forthwith. If the motion is carried, the motion or amendment under discussion shall be put forthwith.

[2] A second motion that the question now be put shall not be moved within fifteen minutes.

[35] That the Council proceed to the next business

[1] After 30 minutes of debate on a specific matter, a member may at the conclusion of a speech on any question move, without discussion, that the Council proceed to the next business, and the motion, if seconded, shall be put forthwith.

[2] When a motion is carried that the Council proceed to the next business, the question under discussion shall be deemed to have lapsed.

- [3] During a debate on the same question, a second motion that the Council proceed to the next business shall not be moved within fifteen minutes of such first motion.

Part 4: Council in Committee

- [36] **Application of these by-laws in the case of special meetings and meetings of the Council in Committee**

These by-laws [excluding the provision that a member may only speak once] shall, insofar as the conduct of meetings is concerned, apply to Special Council meetings and meetings of the Council in Committee.

- [37] **Committee of the whole Council**

- [1] A member may at any time after the confirmation of the minutes during a meeting of the Council move "that Council/Committee do now resolve itself into Committee", and may briefly state the reasons for such motion. If such motion is seconded, it shall be put to the vote forthwith without discussion.

- [2] If such motion is carried, the place of meeting shall be cleared of all members of the public and the press.

- [3] A member may during the course of the discussion in Committee move "that the Council / Committee do now resume" and may briefly state the reasons for such motion. If such motion is seconded, it shall be put to the vote forthwith without discussion.

- [4] If the Council resumes without the question in Committee having been disposed of, the debate shall resume at the point at which the Council resolved itself into Committee.

Part 5: Unopposed Business

- [38] **Unopposed business**

- [1] When a meeting of the Council has been in progress for not less than two hours, the Speaker may interrupt the proceedings and direct that the Council proceed forthwith to dispose of unopposed business.

- [2] After the disposal of such business, the proceedings shall resume at the point at which they were interrupted, unless all other remaining business has been adjourned until a future meeting.

- [3] For the purposes of these by-laws, an item on the agenda shall be deemed to be opposed business if a member signifies his/her intention to discuss such item immediately after the Speaker has intimated to the meeting that such item is open for discussion; provided that no item shall be deemed to be opposed by reason only of questions being put in connection therewith.

Part 6: Quorum**[39] Quorum**

- [1]** A majority of members allocated to the Municipality must be present at a meeting of the Council before a vote may be taken on any matter.
- [2]** All questions concerning matters mentioned in section 160[2] of the Constitution are determined by a decision taken by a Municipal Council with a supporting vote of a majority of the members.
- [3]** A resolution to dissolve the Council in terms of Section 34[1] of the Structures Act must be taken by a supporting vote of at least two thirds of the members allocated to the Municipality.
- [4]** All other questions before a Council are decided by a majority of the votes cast.
- [5]** Whenever during a meeting of the Council there is no quorum, the Speaker shall adjourn the meeting temporarily and, if, within ten minutes thereafter, there is still no quorum, the names of the members present shall be entered in the minutes by the Municipal Manager and the Speaker shall declare the meeting to be closed.

Part 7: Decisions and voting**[40] Decisions by Council**

- [1]** If, on any question at a Council meeting, except those mentioned in sections 39 [2] and [3] of these by-laws, there is an equality of votes, the Speaker must exercise a casting vote in addition to his/her deliberative vote as a member.
- [2]** Before the Council takes a decision on any of the under-mentioned matters, it must first require the responsible Committee or a Special Committee established by the Council for such purposes, to submit to it a report and recommendation on the matter -
 - [a]** Any matter mentioned in section 160[2] of the Constitution;
 - [b]** The approval of an integrated development plan for the Municipality and any amendment to an approved plan; and
 - [c]** The appointment of and conditions of service of the Municipal Manager and a head of a department of the Municipality.

[41] Voting by show of hands

- [1]** Except as otherwise provided in any law or resolved by the Council, the decision of the Council on any question before it shall be determined by a show of hands.

[42] Voting by division

- [1]** Immediately after a question has been put to a meeting of the Council for the purpose of being voted upon, put to the vote, or immediately after the decision upon a show of hands has been declared by the Speaker, any two members may demand a division, and the Speaker shall, thereupon, request those members who desire to support such demand to rise in their places.
- [2]** Upon a division being about to be taken, the Speaker shall request all members who wish to participate in such a voting to remain in the venue of the meeting and those who do not wish to participate in such a voting to leave the venue of the meeting within two minutes, and thereafter, no member shall enter or leave such venue of the meeting.
- [3]** Whenever a division is taken, the Municipal Manager shall call out the names of all members in alphabetical order and shall record the vote of every member present as "for" or "against" and shall record the names of absentee members.
- [4]** The Speaker shall, from such record, declare the decision of the Council and the number of members who voted for or against the question.
- [5]** All divisions shall be entered in the minutes.

[43] Procedure in conducting a ballot

- [1]** Where a question, other than the appointment or election of a person or persons, is to be decided by ballot, a ballot paper containing the question to be decided shall be handed to each member who shall signify his/her vote by means of a cross in the appropriate column according to whether he/she is in favour of or against the proposal.
- [2]** Where the appointment or election of one or more persons from among a number of persons proposed is to be decided, each member shall be handed a ballot paper and he or she shall signify his or her vote or votes, as the case may be -
 - [a]** In the case where the names of the persons proposed appear on such ballot paper, by means of a cross opposite the name or names of the person or persons whom he or she favours according to the number of vacancies to be filled, or
 - [b]** In the case where the names of the persons proposed do not appear on such ballot paper, by writing the name or names of the person or persons whom he/she favours on the ballot paper according to the number of vacancies to be filled.
- [3]** After the ballot papers have been marked as provided in subsection [1] or [2], they shall be folded and placed in a ballot box provided by the Municipal Manager.
- [4]** The Municipal Manager and two members appointed by the Speaker for this purpose shall act as counters under direction of the Speaker and shall count the votes on a written and signed statement, and the Speaker shall thereafter announce such result.

- [5]** Where any ballot is taken in terms of subsection [1], the Speaker shall declare the majority vote to be the decision of the Council on the question in respect of which such ballot has been taken; provided that, in the case of an equality of votes, the question in respect of which the ballot has been taken shall be determined by lot in accordance with the applicable regulations.
- [6]** Where a ballot is taken in terms of subsection [2] and more than one vacancy is to be filled from among a number of persons proposed, the Speaker shall declare those persons appointed or elected to the vacancies, as the case may be, who have received the greatest number of votes; provided that -
- [a]** If all the persons in respect of whom the ballot has been taken have received an equal number of votes, the question shall be determined by lot in the manner prescribed by the applicable regulations, or
- [b]** If, owing to an equality of votes, all the vacancies have not been filled, the process of balloting shall continue in respect of those persons who remain unappointed or unelected, and if, after any balloting as aforesaid, only one vacancy still requires to be filled, such vacancy shall be filled in accordance with the provisions of subsection [7].
- [7]** Where a ballot is taken in terms of subsection [2] for the filling of one vacancy only and -
- [a]** There are only two persons to fill the vacancy, the person who receives the votes of the majority of the members present shall be declared by the Speaker to have been duly appointed or elected, as the case may be; provided that in the case of an equality of votes, the question shall be determined by lot in the manner prescribed by the applicable regulations, or
- [b]** There are more than two persons to fill such vacancy, the person who receives the votes of the majority of the members present shall be declared by the Speaker to have been duly appointed or elected, as the case may be; provided that -
- [i]** If no person receives the votes of the majority of the members present, the person who has received the smallest number of votes shall be eliminated and a fresh ballot shall be taken in respect of the remaining persons, unless the Council has by resolution determined that the names of all persons but the person who has received the largest number of votes be eliminated and, in such event, such person shall be declared by the Speaker to have been duly appointed or elected, as the case may be;
- [ii]** Unless the Council has in terms of paragraph [i] of this proviso determined by resolution to eliminate all but the person who received the largest number of votes, the process of elimination as provided therein shall be repeated as often as is necessary until only two persons remain to fill the vacancy, and in such event the vacancy shall be filled in accordance with the provisions of sub-section [7][a];

- [iii]** If, as a result of a ballot taken in respect of those persons who have not been eliminated in accordance with paragraphs [i] and [ii] of this proviso, two or more persons receiving the smallest number of votes in such ballot have received an equal number of votes, a separate ballot shall be taken in respect of such persons, and the person or persons, as the Council may decide, receiving the smallest number of votes in such separate ballot shall be eliminated and thereafter the process of balloting as hereinbefore provided shall, if necessary, be proceeded with, or
- [iv]** Notwithstanding the provisions of paragraphs [i], [ii] and [iii] of this proviso, if all the persons in respect of whom any ballot is taken in terms of subsection [7][b] have received an equal number of votes in such ballot, the question shall be determined by lot in the manner prescribed by the applicable regulations.
- [8]** If any ballot paper contains votes in favour of a larger number of persons than the number of vacancies to be filled, such ballot paper shall be rejected, and the votes appearing thereon shall not be counted.
- [9]** A member may register one vote only in favour of a person, and if any ballot paper contains more than one vote in favour of any person, only one of such votes shall be counted.
- [10]** All ballot papers issued to members shall be of equal size and of the same colour, and any ballot paper placed in the ballot box, not being a ballot paper handed to a member as hereinbefore provided, shall be rejected, and the votes appearing thereon shall not be counted.

CHAPTER 2

DELEGATIONS

[44] Delegation to Committees and other functionaries

- [1]** The Council must develop a system of delegation that will maximize administrative and operational efficiency and provide for adequate checks and balances, and, in according with that system may -

 - [a]** delegate appropriate powers, excluding a power mentioned in section 160[2] of the Constitution, the power to set tariffs, the power to enter into a service delivery agreement in terms of Section 76[b] of the Systems Act, and the power to approve or amend its integrated development plan which powers are herein referred to as reserved powers to its:

Standing Committees

Other Committees or elected office bearers; and

Municipal Manager or, with the consent of the Municipal Manager, any of its other officials;

[b] instruct any such Committee or functionary to perform any of the Council's duties except in respect of reserved powers; and

[c] withdraw any delegation or instruction.

[2] A delegation or instruction in terms of subsection [1] -

[a] must be in accordance with the Constitution; the Structures Act and the Systems Act;

[b] must be in writing;

[c] is subject to any limitations, conditions and directions the Municipal Council may impose;

[d] may include the power to sub-delegate a delegated power;

[e] does not divest the Council of the responsibility concerning the exercise of the power or the performance of the duty; and

[3] The Council -

[a] Must –

[i] at the request in writing of at least one quarter of the members; or

[ii] at the request in writing of the Chairperson of a Committee; or

[iii] at the request in writing of the Municipal Manager on the grounds that a decision of the Council was administratively unfair, ultra vires, or has adversely affected the rights of the public; or

[iv] at the request in writing of a Whip; or

[v] at the request in writing of at least 300 ratepayers on the grounds that their rights have been adversely affected; or

[vi] when an appeal in terms of section 62 of the Systems Act is received in writing from a person, stating that his/her rights or legitimate expectations has been materially and adversely affected by a decision taken by a political structure, political office bearer or member in terms of a delegated authority –

review any decision taken by such political structure, political office bearer or member in consequence of a delegation or instruction, and either confirm, vary or revoke same without prejudice to any vested rights which will or have accrued to a person or persons in whose favour such decision was made or who will benefit from such decision.

[45] Duty to report to delegating authorities

- [45.1]** A political structure, political office bearer, member or official of a Municipality to whom a delegating authority has delegated or sub-delegated a power or duty, must report to the delegating authority at such intervals as the delegating authority may require, on decisions taken in terms of that delegated or sub-delegated power or duty. If no such intervals are specifically determined by the delegating authority, such reports shall be made at least bi-annually.
- [45.2]** The Municipal Manager shall report to the Council on any power delegated to him/her and which he sub-delegates to another official of the Council.

[46] Review of delegations

- [1]** On the election of a new Council, the delegations of the Municipality must be reviewed in terms of Section 59[2][f] of the Systems Act; and to this end-
- [2]** The Municipal Manager must submit a report to the Council on existing delegations issued by the Council and other delegating authorities and recommendations on any changes thereto.

CHAPTER 3**INTERNAL STRUCTURES AND COMMITTEES****Part 1: Criteria for establishment of Committees****[47] Criteria for establishment of Committees**

The Municipality may establish Committees in terms of the Structures Act if the establishment of such Committees are necessary, taking into account:

- [a]** The extent of the functions and powers of the Municipality;
- [b]** The need for the delegation of those functions and powers in order to ensure efficiency and effectiveness in their performance;
- [c]** The financial and administrative resources of the Municipality available to support the proposed Committees;
- [d]** The need to develop a culture of Municipal governance that compliments formal representative government with a system of participatory government; and
- [e]** The right of communities to participate in the decision making process of the Municipality.

Part 2: Ward Committees

If the municipality is a type that must have Ward Committees, then the following rules and procedures will apply to such Committees:

[48] Object of Ward Committees

The object of a Ward Committee is to enhance participatory democracy at local level.

[49] Establishment of Ward Committees

- [1]** The Council must establish Ward Committee for each of its Wards;
- [2]** A Ward Committee consists of the member representing a Ward in the Council who shall be Chairperson of the Committee and not more than 10 persons;
- [3]** The Council must make rules regulating the procedure to elect the 10 members of a Ward Committee taking into account the need for women to be equitably represented thereon and for the Committee to reflect a diversity of interests in each Ward;
- [4]** The Council must, further, make rules regulating the circumstances under which members of Ward Committees vacate office and the frequency of Ward Committee meetings.
- [5]** The Council must make administrative arrangements to enable Ward Committees to perform their functions and exercise their powers effectively and, to this end, shall make adequate provision in its operating budget for such expenditure;

[50] Functions and powers of Ward Committees

- [1]** A Ward Committee may make recommendations on any matter affecting its Ward to the Ward member or through the Ward member to the Council as the case may be;
- [2]** The Council shall determine the method of communication between Ward Committees and the Council itself;

[51] Term of office of members

Members of Ward Committees, excepting the Chairperson, are elected for a term of office determined by the Council.

[52] Vacancies

If a vacancy occurs among the members of a Ward Committee, the vacancy must be filled in accordance with a procedure determined by the Council.

[53] Remuneration of members

- [1] With the exception of the Chairperson of a Ward Committee who is a member of the municipality, no remuneration is payable to members of Ward Committees;
- [2] Subject to national legislation, the Council may pay to members of Ward Committees excepting its Chairperson out of revenue reasonable out-of-pocket expenses associated with their duties as members of Ward Committees.

[54] Dissolution of Ward Committees

The Council may dissolve a Ward Committee if the Committee fails to fulfill its object.

Part 3: Other Committees**[55] Establishment of other Committees**

- [1] The Council may -
- [a] establish one or more Committees necessary for the effective and efficient performance of any of its functions or the exercise of any of its powers;
 - [b] appoint the members of such a Committee from among its members; and
 - [c] dissolve a Committee at any time.
- [2] The Council -
- [a] must determine the functions of a Committee;
 - [b] may delegate duties and powers to a Committee;
 - [c] must appoint the Chairperson of a Committee;
 - [d] may authorize a Committee to co-opt advisory members who are not members of the Council within the limits determined by the Council;
 - [e] may remove a member of a Committee at any time; and
 - [f] may determine a Committee's procedures provided that, unless where specifically otherwise indicated, the rules and procedures pertaining to Council meetings as set out in these by-laws shall, with the necessary adjustments apply to meetings of committees of the Council and any reference to the Speaker must be read as being a reference to the Chairperson of a Committee.

Part 4: Advisory Committees

[56] Establishment of advisory Committees

The Council may establish one or more advisory Committees consisting of persons who are not members to advise Council on any matter within the Council's competence.

Part 5: Incidental Matters

[57] Incidental matters: Committees

- [1]** The members of a Standing Committee shall hold office until their successors have been appointed or until such Committee is dissolved, except as hereinafter provided.
- [2]** The Council may at any time withdraw, extend or modify any reference to a Committee but any proposal to do so shall first be referred to that Committee for consideration and report.
- [3]** A Committee may at any meeting grant leave of absence to any member; provided that leave of absence shall not be granted in respect of a period prior to such meeting, and
 - [a]** A member who, without leave of absence, fails to attend three consecutive meetings of such Committee shall cease to be a member thereof provided that the provisions of section [7] of these by-laws shall, with the necessary adjustments, be applied prior to the removal of a member of a committee in terms of this subsection.
 - [b]** Such a leave of absence must be in writing and submitted to the Municipal Manager before the commencement of the relevant meeting.
- [4]** A member of a Committee may resign from such Committee by notice in writing, signed by him/ her and submitted to the Municipal Manager and such resignation shall take effect upon receipt thereof in the office of the Municipal Manager.
- [5]** The Municipal Manager shall notify Council of a vacancy on a Committee at the first ordinary meeting of the Council after it has arisen and such vacancy shall, unless otherwise decided, be filled by the Council.
- [6]** During the absence on leave granted to any member by the Council, any other member may be appointed to act in his/her place on any Committee of which he/ she is a member.

- [7] Except in the case of any emergency, members of a Committee shall be given notice of every meeting of such Committee by the Municipal Manager who shall send an agenda to each member so that the same may in the ordinary course of events be delivered at his/her address at least twenty-four hours before the hour of the meeting.
- [8] Failure to give notice of a Committee meeting shall not affect the validity of such meeting.
- [9] A member may attend any Committee meeting, and the Speaker may with the consent of such Committee permit such member to address such Committee.
- [10] The Chairperson of a Committee shall have a casting vote in addition to his/her deliberative vote.
- [11] The majority vote of the members of a Committee present and voting by show of hands shall constitute a decision of the Committee; provided that any two members present and voting may require the names of the persons voting and the votes cast to be minuted.
- [12] Every Committee shall submit a report or reports of its proceedings to the Council for consideration or noting, as the case may be.
- [13] The reports of a Committee shall be drawn up in consecutively numbered sections and shall contain the recommendations or decisions, as the case may be, on the matters reported upon by a Committee.

CHAPTER 4

OFFICE BEARERS

Speaker

[58] Election of Speaker

- [1] At its first sitting after its election, or when necessary to fill a vacancy, the Municipal Council must elect its Speaker from among the members.
- [2] The Municipal Manager of the Municipality or, if the Municipal Manager is not available, a person designated by the MEC for local government presides over the election of a Speaker.
- [3] The election of the Speaker shall take place in accordance with the procedures contained in Schedule 3 of the Structures Act
- [4] A member must hold office as Speaker and Mayor at the same time.

[59] Functions of Speaker

The Speaker -

- [a]** presides at meetings of the Council;
- [b]** performs the duties and exercises the powers delegated to the Speaker in terms of section 32 of the Structures Act;
- [c]** must ensure that the Council meets at least quarterly;
- [d]** must maintain order during meetings;
- [e]** must ensure compliance in the Council and Council Committees with the Code of Conduct for Councillors.
- [f]** Must ensure that Council meetings are conducted in accordance with these By-Laws and any other relevant rules and procedures which the Council, by resolution, may adopt.

[60] Term of office of Speakers

The Speaker is elected for a term ending, subject to section 39 of the Structures Act, when the next Council is declared elected.

[61] Vacation of office

The Speaker vacates office during a term if that person -

- [a]** resigns as Speaker;
- [b]** is removed from office; or
- [c]** ceases to be a Member.

[62] Removal from office

[62.1] The Municipal Council by resolution may remove its Speaker from office.

[62.2] Prior notice of an intention to remove the Speaker shall be contained in a notice of motion to this effect signed by a majority of the members of the Council and be lodged with the Municipal Manager at least 21 days before the meeting at which it will be introduced.

[62.3] The aforesaid notice of motion shall contain the grounds on which it is intended to remove the Speaker from office.

[62.4] Upon receipt of the notice of motion referred to in subsection [62.2] the Municipal Manager shall forward a copy thereof to the Speaker and request the Speaker to

comment on the contents thereof and advance written reasons with the Municipal Manager within a period of 7 days from the date of receipt of the said notice of motion by him/her, as to why he/she should not be removed from office

- [62.5]** The notice of motion together with the comments of the Speaker shall be tabled at the meeting referred to in subsection [62.2].
- [62.6]** Prior to the adoption of a resolution to remove the Speaker, the Council shall afford the Speaker if he/she so desires an opportunity to be heard on the matter and to make verbal representations on his/her submission submitted in terms of subsection [62.4].
- [62.7]** At the same meeting that the Council resolves to remove its Speaker, it shall appoint a new Speaker or an acting Speaker provided that a new Speaker shall be elected at a Special Council meeting called specifically for this purpose no later than 30 days from the date the Speaker is removed from office in terms of this section.

[63] Acting Speakers

If the Speaker of a Municipal Council is absent or not available to perform the functions of Speaker the Council must elect another member to act as Speaker.

CHAPTER 5

COUNCIL AND COMMITTEE MEETINGS

[64] Maintenance of order at Council and Committee meetings

- [1]** Any person other than a member who behaves in a disorderly or unseemly manner or interrupts the proceedings at any meeting shall, if the Speaker or Chairperson so directs, be removed from the place where the meeting is held.
- [2]** If a member behaves in a disorderly or an unseemly manner, or obstructs the business of any meeting of the Council or any Committee thereof, or challenges the ruling of the Speaker or Chairperson on any point of order, or declines to withdraw any expression when required to do so by the Speaker or Chairperson, or indulges in tedious repetition or unbecoming language, or contravenes any provision of these by-laws the Speaker or Chairperson shall direct such member to behave properly, and, if speaking, to discontinue his/her speech and resume his seat.
- [3]** In the event of a persistent disregard of the directions of the Speaker or Chairperson, the Speaker or Chairperson shall direct such member to retire from the place of meeting for the remainder of the meeting and may, if necessary, cause him/ her to be ejected there from.
- [4]** Any such person or member who -
- [a]** refuses or fails to comply with a direction of the Speaker or Chairperson given in terms of these by-laws;

- [b] returns to the place of meeting prior to the conclusion of the meeting from which he/she was directed to retire, or
- [c] offers resistance whilst being ejected from the place of meeting: shall be guilty of an offence.

CHAPTER 6

MISCELLANEOUS MATTERS

[65] Frequency of meetings of Council and Committees

- [1] The Council must meet at least quarterly
- [2] Other Committees and Advisory Committees must meet regularly , depending on the matters to be considered.

[66] Speaker to call Council meetings

- [1] The Speaker of the Council decides when and where the Council meets, subject to the provision that a Council must at least meet once per quarter, but if a majority of the members requests the Speaker in writing to convene a meeting, the Speaker shall convene such meeting at a time set out in the request.
- [2] The Speaker of the Council who fails or refuses to call a meeting at the request of the members in terms of subsection [1] shall be guilty of an offence;
- [3] The Municipal Manager or, in the absence of a Municipal Manager, a person designated by the Provincial Minister, must call the first meeting of Council within 14 days after the Council has been declared elected.
- [4] Notwithstanding the provisions of subsection [1], the Municipal Manager may, in a case of an emergency, having obtained the consent of the Speaker, call a special meeting of Council. No business other than specified in the notice shall be transacted at such a special meeting and such a meeting may from time to time be adjourned; provided that if the total number of serving members is present at a special Council meeting and no objections are raised, an urgent matter not specified in such notice may be dealt with after disposal of the business of which notice has been given. The Municipal Manager shall give notice in writing to every member of the day and hour of every special or adjourned Council meeting, unless adjourned to any time on the same day, not less than 12 hours, or in an urgent case such short shorter period as may be agreed to by the Speaker. The notice shall specify the business to be transacted at the meeting.
- [4] The Municipal Manager may, in a case of an emergency, having obtained the consent of the relevant Chairperson, or in his/her absence, the consent of the majority of the relevant Committee, call a special meeting of a Standing Committee. No business other than specified in the notice shall be transacted at such a special meeting. The Municipal Manager shall give notice in writing to every member of the respective Standing

Committee of the day and hour of every such special Committee meeting not being less than 12 hours, or such shorter period as may be agreed to by the Chairperson of the said Committee. The notice shall specify the business to be transacted at such meeting.

[67] Admission of public to meetings

[1] Subject to subsection [2], members of the public have the right to attend all Council meetings and Committee meetings.

[2] Subject to the provisions of section 20 [2] of the Systems Act, the Speaker, in the case of the Council or the Chairperson, in the case of any other Committee, may close a meeting or part of the proceedings of a meeting of the relevant body to the public if, in the opinion of the Speaker or Chairperson, as the case may be:

- [a]** sensitive and personal staff matters are to be discussed at a meeting;
- [b]** sensitive land matters are to be discussed at a meeting the disclosure of which would be prejudicial to the interests of the Council;
- [c]** there might otherwise be unreasonable disclosure to the public of personal information regarding any person;
- [d]** trade secrets of any person might otherwise be disclosed;
- [e]** financial, commercial, scientific or technical information, other than trade secrets, of any person might otherwise be disclosed, and such disclosure would be likely to cause harm to the commercial or financial interests of such person;
- [f]** information which had been supplied in confidence by any person might be disclosed, and such disclosure could reasonably be expected to put such person at a disadvantage in contractual or other negotiations or to prejudice such person in commercial competition;
- [g]** information might be disclosed and such disclosure would give rise to an action for breach of a duty of confidence owed to any person in terms of an agreement;
- [h]** information might be disclosed and such disclosure could reasonably be expected to endanger the life or physical safety of any person, or would be likely to prejudice or impair the security of a building, structure or system, means of transport or any other property;
- [i]** information might be disclosed which is privileged from production in legal proceedings;
- [j]** information might be disclosed which contains trade secrets of the Municipality or financial, commercial, scientific or technical information, other than trade secrets, the disclosure of which would be likely to cause harm to the commercial or financial interests of the Municipality; or the disclosure of which could

reasonably be expected to put the Municipality at a disadvantage in contractual and other negotiations or to prejudice it in commercial competition; or

- [k] information might be disclosed about research being or to be carried out by or on behalf of any person or the Municipality and the disclosure of such information would be likely to expose any person or the Municipality or the subject-matter of the research to serious disadvantage.

[68] Public notice of meetings

The Municipal Manager must give public notice of the time, date and venue of every -

- [a] ordinary meeting of the Council;
- [b] standing Committee meeting of the Council; and
- [c] special or urgent meeting of the Council, except when time constraints make this impossible, by -
 - [i] annually publishing the program of Council and Standing Committee meetings for that year in the local press; and
 - [ii] publishing any amendments to the program referred to in subsection [i]
 - [ii] advertising special or urgent meetings on the official notice board[s] of the Municipality; and
 - [ii] if the Council so directs advertising such meetings in the press at least 7 days before a meeting is to be held.

[69] Attendance at Committee meetings

- [1] The Speaker and members have the right to attend meetings of any Committees of which they are not members.
- [2] Such persons may only address the Committee with the leave of the Chairperson and have no right to vote.

[70] Legislative procedure

- [1] Only a member or Committee of a Municipal Council may introduce a draft by-law in the Council.
- [2] A by-law must be made by a decision taken by the Council with a supporting vote of a majority of its members.
- [3] No by-law may be passed by the Council unless -
 - [a] all the members of the Council have been given reasonable notice t hereof;

- [b]** the intention of Council to draft a by-law dealing with a specific issue has been advertised and the public, Ward Committees and Accredited Organizations have been invited to make representations thereon, and Council has indeed considered such representations when drafting the draft by-law; and
 - [c]** the draft by-law has been published for public comment in a manner that allows the public, Ward Committees and Accredited Organizations an opportunity to make representations with regard to the draft by-law.
- [4]** Subsections [1] to [3], with the exception of section 3[b], also apply when the Council incorporates by reference, as a by-law, the provisions of
 - [a]** Legislation passed another legislative organ of state; or
 - [b]** Standard draft by-laws made for local government by any organ of state, body or person.

[71] Procedurally fair administrative action

Any administrative action which is taken by Council or any of its structures including political office bearers and officials acting under delegated power, or any decision adopted by the aforementioned which results in administrative action which materially and adversely affects the rights or legitimate expectations of the public or any person, must be procedurally fair.

[72] Reasons for administrative action

Any person whose rights have been materially and adversely affected by administrative action and who has not been given reasons for such action, and who has applied in writing for such reasons, must be given adequate reasons for same, unless it is reasonable and justifiable in the circumstances not to give reasons. In such an instance, the applicant must be informed of such circumstances.

[73] Privileges and immunities

- [1]** Subject to the conditions as set out in subsection [2] and further subject to provincial legislation to be promulgated in terms of Section 28[1] of the Structures Act, members are not liable to civil or criminal proceedings, arrest or imprisonment or damages for -
 - [a]** Anything that they have said in, produced before or submitted to the Council or any of its Committees; or
 - [b]** Anything revealed as a result of anything that they have said in, produced before or submitted to the Council or any of its Committees, subject to the conditions set out in subsection [2];

- [2] The above-mentioned privileges and immunities are subject to the following:
- [a] anything that has been said in, produced before or submitted to the Council or any of its Committees by a member being the truth;
 - [b] adherence by members to the provisions of the Promotion of Access to Information Act, and particularly the provisions relating to the mandatory protection of -
 - Privacy of a third party who is a natural person;
 - Safety of individuals, and protection of property;
 - Police dockets in bail proceedings, and protection of law enforcement and legal proceedings;
 - The economic interests and the financial welfare of the Republic and commercial activities of public bodies;
 - [c] adherence by members to provisions of the Promotion of Equality and Prevention of Unfair Discrimination Act and particularly the requirement that no member may unfairly discriminate against any person on the grounds of -
 - Race
 - Gender
 - Disability
 - [d] no member may propagate, advocate or communicate words against any person that could reasonably be construed to demonstrate a clear intention to -
 - Be harmful;
 - Incite harm;
 - Promote or propagate hatred.
 - [e] no member may subject any person to harassment.
 - [f] adherence to the provisions of the Code of Conduct for Councillors.

[74] Use of Language at Council and Committee meetings

- [1] Any member, official or member of the public may address Council in any of the languages determined by the Council in its language policy.

[75] Every Member to be in possession of a copy of these Rules and Procedures

- [1] The Municipal Manager shall supply a copy of these by-laws to every member upon election to the Council.
- [2] A member shall acknowledge receipt of these by-laws in writing and shall undertake to bind him/herself to the provisions contained therein, including the Code of Conduct for Councillors

[76] Penalties

Any person or member who contravenes a provision of these by-laws shall be guilty of an offence and be liable on conviction to a fine or imprisonment for a period of six months or to such imprisonment without the option of a fine or to both such fine and such imprisonment, and, in the event of such person being a member, the Council shall taken disciplinary action against him/her for a contravention of the Code of Conduct for Councillors.

[77] Repeal of By-Laws

Any by-laws relating to the rules and procedures of the Council and its Committees or any by-laws relating to the maintenance of order at meeting adopted by the municipality or any municipality now comprising an administrative unit of the municipality is repealed from the date of promulgation of these by-laws.

LOCAL AUTHORITY NOTICE 53 OF 2017

MBIZANA LOCAL MUNICIPALITY WARD COMMITTEES BY-LAW**MBIZANA LOCAL MUNICIPALITY**

The Municipal Manager hereby publishes, in terms of Section 13 of the Local Government Municipal Systems Act, 2000 [Act 32 of 2000] read with Section 162 of the Constitution of the Republic of South Africa Act 1996 [Act 108 of 1996] the By-Laws Relating to Ward Committees which shall come into operation on the date of publication thereof.

BY-LAWS RELATING TO WARD COMMITTEESDefinition

1. Any word or phrase in this notice shall have the same meaning assigned to it in the Local Government: Municipal Structures Act, Act 117 of 1998.

Preamble

2. **AND WHEREAS** the Municipal Structures Act, No. 117 of 1998, was enacted by parliament of the Republic of South Africa on the 18th December 1998 to provide for the establishment of Municipalities in accordance with the requirements relating to categories and types of Municipalities, to establish criteria for determining the category of Municipalities to be established in an area, to define the types of Municipalities that may be established in an area, to define the types of Municipalities that may be established within each category, to provide for appropriate electoral systems, and to provide for matters connected therewith.

AND WHEREAS the aforementioned Act makes provision for the establishment of Ward Committees.

AND WHEREAS the Mbizana Municipality is obliged, in terms of its founding proclamation promulgated in terms of Section 12 of the aforementioned Act to establish Ward Committees in all its Wards.

This notice shall serve as an Establishment Notice for Ward Committees in the Mbizana Local Municipality.

MBIZANA LOCAL MUNICIPALITY WARD COMMITTEES BY-LAW

Provisions of the Act

3. This notice is published pursuant to the provision of Section 72 [1] of the Local Government: Structures Act, 1998 which provides that only metropolitan and Local Municipalities of the types mentioned in Section 8 [c], [d], [g] and 9 [b], [d] and [f] of the Act may have Ward Committees, the object of which is to enhance participatory democracy in local government

Establishment Notice

- 4.1 To provide for the establishment of _____ Wards, from Ward 1 to _____ within the Municipality of Mbizana.
- 4.2 The established Ward Committees will serve as legally constituted, specialist consultative bodies within each ward in the Municipality of Mbizana.

FUNCTIONS AND POWERS OF WARD COMMITTEES

5. The functions and powers of Ward Committees shall be as follows:
 - 5.1 Subject to the provisions of Section 74 of Local Government: Municipal Structures Act, 1998, Ward Committees may make recommendation on any matter including but not limited to matters identified in Section 156 of the Constitution affecting their wards:
 - 5.1.1 to their respective Ward Councillors;
 - 5.1.2 through their respective Ward Councillors to the Council of the municipality or any duly authorised Committee or office bearer thereof.
 - 5.2 To encourage and promote the Masakhane campaign in their Wards.
 - 5.3 To delimitate and chair zonal meetings.
 - 5.4 To co-ordinate the work of community development forums.
 - 5.5 To create a functional communication channel and co-operative partnership between the Municipality and the community within their Wards.

MBIZANA LOCAL MUNICIPALITY WARD COMMITTEES BY-LAW

- 5.6 To ensure contact between the Municipality and community through the use of ward residents' and zonal meetings.
- 5.7 To encourage and recommend best measures for the improvement of municipal services and the payment of service charges.
- 5.8 To educate residents about municipal property in Wards.
- 5.9 To create harmonious relationships between residents of a Ward, Ward Councillors, geographic communities and the Municipality.
- 5.10 To facilitate public participation in the process of drafting Integrated Development Plans and the Land Development Objectives of the Municipality.
- 5.11 To act as advisory bodies on the implementation of Council policies affecting Wards.
- 5.12 To serve as official specialised participatory structures of the Municipality.
- 5.13 To receive and record complaints from communities within Wards and provide feedback on Council's responses thereto.
- 5.14 To execute such other functions as may be delegated to them by the Municipality from time to time in terms of Section 32 [1] [a] [iv] of the Local Government: Municipal Structures Act, 1998 with the object of enhancing participatory democracy in the municipality.

Functions of the Municipality

6. The Council of the Municipality:
 - 6.1 Shall make administrative arrangements including the provision of a secretariat or secretariats where necessary to enable Ward Committees to perform their functions and exercise their powers efficiently and effectively.
 - 6.2 Will be politically and administratively accountable through the Mayor for the smooth functioning of Ward Committees in conjunction with Ward Councillor and the secretariat of such Committees.
 - 6.3 Will assist a Ward Committee secretariat or secretariats with meeting venues and other logistics as may be required from time to time.

MBIZANA LOCAL MUNICIPALITY WARD COMMITTEES BY-LAW

- 6.4 Will provide members of Ward Committees and a Ward Committee secretariat or secretariats with adequate stationery and office equipment to enable them to perform their duties efficiently and effectively and to ensure proper minute and record keeping.
- 6.5 Will be responsible for the administration of elections and by-elections for members of Ward Committees.

Application of rules

7. In terms of Section 73 [3] [a] of the Local Government: Municipal Structures Act, the Municipality must make rules regulating the procedure to elect members of a Ward Committee taking into account the need-
- for women to be equitably represented in a Ward Committee; and
 - for a diversity of interests in a Ward to be represented on a Ward Committee-
- and to this end-
- 7.1 The Council shall, by resolution, but subject to Clause 8 and after consultation with Ward Councillors determine the interest groups who qualify for representation in Ward Committees.
- 7.1 The Ward Councillor after discussion with the Mayor, Municipal Manager and the official responsible for Ward Committees, shall cause to be published a notice in the local press calling upon various interest groups recognised by the Council in Wards to forward their nominations for members of Ward Committees to the Municipal Manager on the prescribed form within a period of fourteen days from the date of first publication of the notice.
- 7.2 Within 21 days after expiry of the period referred to in Clause 7.1, the Ward Councillor shall call a general meeting of all residents registered as voters in a Ward for which he or she has been elected for the purpose of electing by majority vote of all such registered voters present at such meeting, the nominees who will represent the various interest groups in Ward Committees.
- 7.3 An elected nominee shall confirm his/her availability to serve in a Ward Committee by signing an approved acceptance of form.
- 7.4 The Ward Councillor shall preside over the meeting referred to in Clause 7.2 above.

MBIZANA LOCAL MUNICIPALITY WARD COMMITTEES BY-LAW

- 7.5 Upon being elected a Member of a Ward Committee, each member shall be given a copy of the Code of Conduct for Councillors contained in Schedule 1 of the Municipal Systems Act 2000 and shall sign a declaration to the effect that he understands its contents and agrees to be bound by its provisions.

Composition of Ward Committees

- 8.1 Representation on Ward Committees shall not be according to party political affiliation and shall include religious, youth, civic, education, sport, culture, business, welfare and women's organisations.
- 8.2 In areas where there are many similar interest groups, a need may exist to cluster them in order to ensure the broadest representation in Ward Committees.
- 8.3 Ward Committees may form sub-committees in accordance with the Committees of Council or as their local circumstances may require.

Meeting Procedures

- 9.1 The members of the Ward Committee shall meet at least once per quarter and shall report details of their activities and their recommendations on matters referred to them to the Municipal Manager through their Ward Councillor at least quarterly or when required by the Municipal Manager.
- 9.2 A Ward Councillor shall chair meetings of the Ward Committee for which he or she is responsible.
- 9.3 In the event where a Ward Councillor is not available to chair a meeting of a Ward Committee, the Committee shall nominate from amongst its members an interim chairperson for the particular meeting.
- 9.4 The Ward Committees shall elect its secretary from among its members and such secretary shall keep records of documents, agenda and minutes, consult with the Ward Councillor, call Ward Committee and Ward Residents' meetings provided that the Council may, itself, provide secretarial services to Ward Committees.
- 9.5 A member who is absent from three consecutive meetings without first obtaining leave of absence from a Ward Committee shall be disqualified as a member thereof.

MBIZANA LOCAL MUNICIPALITY WARD COMMITTEES BY-LAW

9.6 The Order of business at and quorum for meetings of Ward Committees shall be as follows:

- (a) Opening.
- (b) Applications for leave of absence.
- (c) Minutes of the previous meeting.
- (d) Reports of the members.
- (e) Reports of the chairperson.
- (f) Reports of the Municipal Manager
- (g) Future course of action.
- (h) Date of next meeting.
- (i) Closure

9.7 All decisions of Ward Committee shall be adopted by a majority vote of the members present.

9.8 The quorum for a meeting a Ward Committee shall be a majority of its members. The Chairperson of a Committee shall not, however, be regarded as a member of a Ward Committee for the purpose of determining a quorum.

9.9 All matters requiring a decision or recommendation from a Ward Committee will be referred to the Secretariat thereof in writing by the Municipal Manager or his/her nominee.

9.10 Meetings of Ward Committees shall, with the necessary adjustments, be conducted in accordance with the Standing Rules of Order adopted by the Council.

Term of Office of Members

10.1 The term of office of a member of a Ward Committee shall be a period of two years.

10.2 The Council may after consultation with community organisations and interest groups represented in Ward Committee, extend the period of office of Ward Committees for such period as the Council may determine, provided that such period shall not exceed the period of office of the Council itself.

Vacancies

11.1 A vacancy in a Ward Committee shall arise if a member thereof:

11.1.1 Dies.

MBIZANA LOCAL MUNICIPALITY WARD COMMITTEES BY-LAW

- 11.1.2 Is dismissed in accordance with the resolution of the Ward Committee or by the Mayor in consultation with the Ward Councillor on the grounds that such member has contravened the Code of Conduct for Councillors contained in Schedule 1 of the Municipal Systems Act 2000 provided that, before dismissing a member of a Ward Committee in terms of this Clause, a fair hearing complying with the rules of natural justice shall be held in connection with the alleged misconduct.
- 11.1.3 Ceases to be a member of the organisation he/she represents.
- 11.1.4 Is insolvent or declared mentally incompetent.
- 11.1.5 Fails to attend three [3] consecutive meetings of a Ward Committee or any sub-committee of which he may be member.
- 11.1.6 Resigns.
- 11.1.7 Is no longer a resident of a particular Ward, the interests of which he or she was nominated to serve.
- 11.1.8 Is elected/nominated as a Councillor.
- 11.2 Whenever a vacancy in the Ward Committee arises, the Secretary of the relevant Ward Committee shall report the circumstances thereof to the relevant Ward Committee which shall, through its Chairperson report same to the Mayor.
- 11.3 If a vacancy arises in the Committee, a by-election shall be held to fill such vacancy and the procedures referred to in Section 7 shall be followed with regard to the filling of such vacancy.

Dissolution

- 12.1 A Ward Committee may be dissolved by the Council under the following circumstances:
 - 12.1.1 When the Ward Councillor for the responsible ward dies or is disqualified in terms of any law to be a Councillor.
 - 12.1.2 When it has exceeded its authority or acted ultra vires its functions and powers.
 - 12.1.3 When it seeks to prescribe to a Ward Councillor how to perform his or her functions.

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- 12.1.4 When it fails to meet three [3] consecutive times.
- 12.1.5 When members thereof decide to dissolve.
- 12.1.6 When there are, on reasonable grounds, allegations of misrepresentation, corruption, and dishonesty against a Ward Committee which, if proven, will bring the Municipality in disrepute or is likely to bring the Municipality into disrepute and the Council decides, upon the recommendation of the Mayor and after consultation with the Ward Councillor, that it would be in the interests of the Council to dissolve such Committee.

Remuneration

- 13.1 Subject to national legislation, no remuneration is payable to members of Ward Committee for the attendance by them of meeting of Ward Committees.
- 13.2 The council may reimburse members of Ward Committees for travel costs and other out-of-pocket expenses incurred by them in connection with the performance of their duties and obligations provided that proof of such expenditure is submitted to the satisfaction of the Council.

Overall responsibility for Ward Committees

- 14.1 The Mayor shall be responsible for the overall functioning of Ward Committees and shall at least once per quarter hold a meeting with all Ward Councillors in order to discuss matters of common concern affecting Wards and the problems being experienced by Ward Committees.
- 14.2 The Mayor shall on a 6 monthly basis submit a written report to the Council on the activities of Ward Committees, the general matters being considered by them, their recommendations concerning Council policies, any problems they are experiencing, recommendations to resolve such problems and any other incidental matters.

LOCAL AUTHORITY NOTICE 54 OF 2017**MBIZANA LOCAL MUNICIPALITY**

The Municipal Manager hereby publishes, in terms of Section 13 of the Local Government Municipal Systems Act, 2000 [Act 32 of 2000] read with Section 162 of the Constitution of the Republic of South Africa Act 1996 [Act 108 of 1996] the By-Law relating to Childcare Services, which by-law shall come into operation on the date of publication thereof.

BY-LAWS RELATING TO CHILDCARE SERVICES**1. DEFINITIONS**

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

"authorised official" means an official of the Council or the official of another municipality or another organ of state with which the Council has concluded an agreement for the rendering of services in terms of these by-laws and to whom the Council has delegated a duty, function or power under these by-laws,

"child" means any person under the age of 18 [eighteen] years who is in the care of a childcare facility;

"childcare service" means any undertaking involving the custody and care of more than six children during the whole or part of the day on all or any days of the week;

"childminder service" means any undertaking involving the custody and care of a maximum of six children during the whole or part of the day on all or any days of the week;

"certificate" means a certificate issued in terms of Section 3 of these by-laws;

"certificate holder" means a person to whom a certificate has been issued in terms of Section 3 of these by-laws;

"communicable disease" means a communicable disease as defined by Section 1 of the Health Act, 1977 [Act No 63 of 1977];

"Council" means the Council of the Municipality or any Committee, Political Office Bearer or official thereof acting by virtue of any power entrusted or delegated to it or him in terms of legislation with regard to the application and implementation of these by-laws;

"facility" means a place where either a childcare or a childminder service is conducted, whichever is applicable, and "service" has a corresponding meaning;

"**Health Act**" means the Health Act, 1977 [No. 63 of 1977];

"**Municipality**" means the Municipality of Mbizana and includes the Council thereof;

"**National Building Regulations**" means the regulations published under the National Building Regulations and Building Standards Act, 1977 [Act No. 103 of 1977];

"**occupier**" includes any person in actual occupation of land or premises without regard to the title under which he or she occupies, and, in the case of premises subdivided and let to lodgers or various tenants, includes the person receiving the rent payable to the lodgers or tenants whether for his or her own account or as agent for any person entitled thereto or interested therein;

"**owner**" includes any person that has title to any premises or land or any person receiving the rent or profits of any land or premises from any tenant or occupier thereof, or who would receive such rents or profits if such land or premises were let, whether for his or her own account or as agent for any person entitled thereto or interested therein: Provided that the "owner" in respect of premises on the Sectional Title Register opened in terms of Section 12 of the Sectional Titles Act, 1986, [Act 95 of 1986] means the body corporate, as defined in that Act, in relation to such premises;

"**premises**" means the stand, including any buildings or part thereof and outdoor play areas in or upon which a childcare service or a childminder service is conducted.

2. APPLICATION OF BY-LAWS

[2.1] These by-laws shall apply to all childcare services and childminder services within the jurisdiction of the municipality.

[2.2] Subject to the provisions of these by-laws, no person shall conduct a childcare service or a childminder service unless it has been registered as contemplated in section [3] of these by-laws and such service is in possession of a valid certificate issued in terms of that section.

[2.3] A person who is, at the date of commencement of these by-laws, conducting a childcare service or a childminder service shall, within one month of that date, or within such extended period as Council may allow, on written application made prior to the expiry of the said period, apply for registration of such service in terms of section [3] of these by-laws. If any person conducting such a service fails to apply as aforesaid or his application is refused, he shall, if he continues to conduct such service after such period or after refusal of his application, be deemed to have contravened section 2[2] of these by-laws.

[2.4] A person whose service has been registered in terms of Section 3 of these bylaws shall ensure that the service and the premises comply with the conditions and restrictions imposed upon the operation of the service.

3. REGISTRATION OF CHILDCARE FACILITIES AND CHILDMINDER FACILITIES

[3.1] Any person wishing to undertake the operation of a childcare or childminder service, must apply in writing, in a manner and form as near as possible to Form 1 of the Schedule, to the Council

for such service to be registered for the intended purpose. If the applicant is not the owner of the premises, the written consent of the owner shall accompany the application.

[3.2] The Council may, before or during the consideration of the application, request such further information relating to the application as it deems necessary.

[3.3] The Council may approve an application and register the service if it is satisfied that the applicant is a fit and proper person to conduct the relevant facility, and that no circumstances exist which are likely to be prejudicial to the health, safety and welfare of the children who are to be cared for at the facility.

[3.4] The Council may, at any time before or after approval of an application in terms of this section, require the applicant to submit to the Council a report at his own cost from a registered psychologist pertaining to the applicant's state of mental health as well as a social report on the qualifications and criminal background of such applicant.

[3.5] The Council may approve an application and register the facility if it is satisfied that the premises comply with:-

- [a]** the National Building Regulations;
- [b]** the Health Act;
- [c]** the Council's Town Planning Scheme or Town Planning Scheme in the course of preparation; and
- [d]** requirements relating to the premises on which the childcare or childminder service is to be conducted as contemplated in these bylaws;
- [e]** as far as childcare facilities are concerned, registration with the Department of Social Development in accordance with the Childcare Act, 1983 [Act No 74 of 1983] as amended.

[3.6] When approving an application for registration, the Council may impose such further conditions and restrictions as it deems fit.

[3.7] Once an application for registration has been approved, the Council will issue a certificate which:-

- [a]** states the name of the person to whom it is issued;
- [b]** describes the premises in respect of which the application was approved;
- [c]** specifies any conditions or restrictions imposed in terms of sub-section
- [d]** states the period for which the premises will be so registered.

[3.8] Neither registration nor the certificate is transferable to any other person, heir or successor-in-title to the certificate holder.

[3.9] If the Council does not approve an application for the registration of a childcare or childminder facility, the Council must within 14 [fourteen] days of the decision:-

- [a] inform the applicant of such a decision;
- [b] provide written reasons for such refusal if so requested by the applicant; and
- [c] may give the applicant an opportunity to comply, within a period determined by the Council, with the stated requirements of or any other conditions and/or requirements that the Council may stipulate.

[3.10] A certificate holder shall, at least 30 days before expiry of the period referred to in sub-section [7][d], re-submit an application for registration in terms of this section.

4. CANCELLATION OF REGISTRATION

[4.1] The authorised official shall, by written notice to the certificate holder where possible, cancel registration of a childcare service if-

- [a] the certificate holder is convicted of an offence under these by-laws or pays an admission of guilt in respect of any such contravention;
- [b] the certificate holder fails to comply with any condition or restriction imposed in terms of section [3.6] of these by-laws ; or
- [c] the authorised official is of the opinion that the certificate holder is an unsuitable person to conduct a childcare service, or that circumstances exist that are likely to be prejudicial to the health, safety and welfare of children being cared for by the service;
- [d] if the applicant sells or vacates the premises;
- [e] upon the applicant or owner's death; and
- [f] if the certificate holder notifies Council of the permanent termination of the service as contemplated in section 5 of these by-laws.

[4.2] Upon cancellation of registration in terms of sub-section [1], the registration certificate shall lapse and the facility shall be closed immediately, provided that, before cancellation of the registration, the authorised official may in his sole discretion, suspend cancellation to afford the certificate holder an opportunity to remedy a defect in the premises or rectify an omission. If the certificate holder complies to his satisfaction, the authorised official may elect not to cancel the registration. During the period of such suspension, the certificate holder shall cease operation of the facility.

5. TERMINATION OF SERVICE

[5.1] The certificate holder shall immediately notify Council of the temporary or permanent termination or closure of the childcare facility to which the certificate relates.

6. RIGHT OF ENTRY AND INSPECTION OF PREMISES AND RECORDS

[6.1] An authorised official may, in the enforcement of these by-laws, at any reasonable time and without prior notice, enter any premises upon which a childcare or childminder service is being

conducted, or upon which such official has reasonable grounds for suspecting the existence of such service and conduct such examination, enquiry and inspection thereon as he may deem necessary.

7. REQUIREMENTS FOR CHILDCARE FACILITY

[7.1] Every childcare facility shall comply with the under-mentioned requirements provided that the authorised official may determine such additional requirements as he may consider fit to meet any prescribed and/or desirable health and safety considerations:

[7.2] Office, staff room and sick-bay:

[a] If more than 30 children are cared for on the premises, provision should be made for a separate office large enough to be divided into a sick bay to accommodate at least two children, as well as a staff room where staff can rest and safely keep their personal possessions.

[b] The office, staff room and sickbay referred to in paragraph [a] may be combined.

[7.3] Indoor Play Area:

[a] Provision should be made for an indoor play area covering a minimum floor space of 1,8m² per child to be used for play, meals and rest.

[b] Not more than one third of the compulsory floor space per child may consist of covered veranda.

[c] Cots and mattresses utilised for sleeping purposes by children must be arranged so that there shall be a minimum of 50cm space between the cots and or mattresses.

[7.4] Kitchen:

The kitchen must comply with the following requirements:

[a] adequate and suitable cooking and washing facilities must be provided;

[b] a smoothly finished floor of concrete or any other impervious material;

[c] adequate natural lighting and ventilation;

[d] wall surfaces should have a smooth finish and should be painted with a washable paint;

[e] ceilings must be dust-proof;

[f] all working surfaces must be of stainless steel or other impervious material;

[g] cooling facilities for the storage of perishable food must be provided;

[h] adequate storage space must be provided;

[i] adequate number of waste bins with tightly fitting lids;

- [j] adequate supply of potable as well as hot water and cleaning agents for the cleansing of equipment and eating utensils must be provided;
- [k] the kitchen must be separate from the play area;
- [l] the kitchen must not be accessible to the children;
- [m] all foodstuffs must be protected from contamination by dust, dirt, pests and any contaminating agent;
- [n] kitchen staff must wear personal protective clothing which must be maintained in a clean and tidy condition at all times.

[7.5] Sanitary facilities:

- [a] Subject to sub-section
- [b] provision must be made for -
 - (i) one toilet and one hand washing facility for every 20 or less children under 5 years of age irrespective of sex; and
 - (ii) one toilet and hand washing facility for every 20 or less children above the age of 5 years, separate for each sex.
- [c] One urinal is to be regarded as equal to two toilets, provided that urinals should not replace more than 25% of the total toilet facilities.
- [d] Separate toilet facilities must be provided for the staff as contemplated in the National Building Regulations.
- [e] Walls and floors of the sanitary facilities must be of an impervious material rendered to a smooth surface.
- [f] The following additional toilet and wash facilities for children under the age of 2 years must be provided -
 - (i) facilities for the hygienic handling of nappies and potties;
 - (ii) adequate containers for the storage of clean and soiled napkins;
 - (iii) ready access to a suitable washing facility;
 - (iv) suitable and adequate toilet and wash facilities for children who are not toilet trained;
 - (v) a supply of hot and cold running potable water at the wash-hand basins, or if no running water is available, a minimum of 25 litres of potable water, stored in a hygienically clean container.

[g] Chamber pots [potties] are to be emptied, cleaned and disinfected with a disinfectant immediately after being used and stored in a suitable place when not in use;

[h] All basins must be closely fitted to the walls at the rear of such basins which walls shall be smooth and washable.

[7.6] Outdoor play Area:

[a] An outdoor play area of at least 2 m² per child must be provided.

[b] The outdoor play area must -

(i) comprise lawns, shady areas or other safe surfaces;

(ii) be fenced/walled to a height of 1.8 m;

(iii) have approved lockable or child-proof gates; and

(iv) shall be free of excavations and dangerous steps and levels.

8. REQUIREMENTS FOR CHILD MINDER FACILITY

[8.1] The certificate holder shall ensure that a child minder facility complies with the National Building Regulations and that the following minimum accommodation and facility requirements are provided:

[a] adequate, suitable and unobstructed indoor floor area reserved for the use of the children;

[b] suitable floor covering for the area referred to in paragraph [a] if required by, and to the satisfaction of the authorised official;

[c] a kitchen on the premises for the preparation of meals;

[d] storage facilities for the personal belongings of each child;

[e] a towel and face cloth for each child, which shall be kept or hung separately;

[f] a plastic bucket with a close-fitting lid for each child for the storage of soiled napkins, which buckets must be marked to ensure individual use and must be stored in a bathroom or other suitable area, inaccessible to any child;

[g] separate storage for clean napkins; and

[h] adequate outdoor play area, comprising lawns or other safe surfaces which are fenced and has approved lockable or child-proof gates, provided that if such an area cannot be provided, the authorised official may, at his sole discretion, approve of the substitution of an indoor area additional to that provided in terms of paragraph [a] above.

9. EQUIPMENT FOR CHILDREN

- [9.1]** The certificate holder shall, to the satisfaction of the authorised official, provide sufficient and suitable equipment in every childcare facility and, except where otherwise provided, such equipment shall comprise as least the under-mentioned items which items shall comply with the minimum requirements listed:
- [a]** chairs must be lightweight, washable and of a suitable height, without splinters or rough surfaces;
 - [b]** tables should be sturdy, washable and without splinters;
 - [c]** beds and mats for sleeping and resting purposes must in no way be dangerous to the child. Mattresses must be covered with suitable waterproof material;
 - [d]** sheets, waterproof sheets and blankets must be provided;
 - [e]** sufficient, safe and adequate indoor as well as outdoor play apparatus and toys must be provided;
 - [f]** personal toiletries such as face cloth, toothbrush, a comb or brush and items such as soap, paper towels and toilet paper must be supplied. It should be ensured that enough soap, towels or paper towels are available at the washbasins at all times;
 - [g]** sufficient eating utensils must be provided;
 - [h]** sand pits should be covered overnight, sprinkled with coarse salt every six weeks and the sand replaced at least once a year.

10. GENERAL REQUIREMENTS

- [10.1]** Notwithstanding anything to the contrary contained in these by-laws, every childcare and childminder facility shall comply with the following general requirements:
- [a]** All interior walls must have a durable finish that can be cleaned with relative ease.
 - [b]** All floors must be constructed of a smooth and impervious material that is durable and can be easily cleaned.
 - [c]** If carpeting is used on the floors, it must be kept clean at all times.
 - [d]** Any slats or rails forming part of an enclosure, security gate, play pen, bed, cot or any other object or structure whatsoever, must be a minimum of 75 mm apart, must be installed and maintained in a good state of repair, and if painted, only non-toxic paint must be used.
 - [e]** All windows and doors accessible to children must be constructed of safety glass.
 - [f]** A separate storage area must be provided for the storage of indoor and outdoor play materials, equipment, stretchers, sleeping mats, bedding and linen.
 - [g]** Waste bins with tightly fitted lids must be provided.

- [h]** Apparatus and equipment used and any structures that may be on the premises must in no way present any danger to the children.
- [i]** Provision should be made for the storage of medicines, cleaning materials and other harmful agents in such a way that it is out of the reach of children and kept separate from food.
- [j]** Pets may not be kept on the premises without the prior permission of Council.
- [k]** All food, eating utensils and equipment used for the preparation, handling or serving of food must be properly protected against dust, dirt, insects or any contaminating agent.
- [l]** No children may have free access to living quarters of staff at any time. Adequate measures must be taken to keep such living quarters separate from the facility.
- [m]** Insects and vermin must be efficiently combated.
- [n]** Where a child stays with the childcare or childminder facility for longer than 4 [four] hours at a time, the person in charge of such facility must provide at least 2 [two] meals per day, which meals must be balanced and meet the child's daily nutritional requirements.
- [o]** Children must at all times be under the direct supervision of an adult staff member.
- [p]** Staff should be trained and skilled in First Aid and Basic Fire Fighting.

11. RATIO OF STAFF TO NUMBER OF CHILDREN

[11.1] The certificate holder shall ensure that the following staff-to-children ratio is adhered to at all times:

Children from birth - 18 months old

1 childcare worker for every 6 or less babies

Children from 18 months to 3 years old

1 childcare worker for every 12 or less babies

Children from 3 to 4 years old

1 childcare worker for every 20 or less children

Children from 4 to 5 years old

1 childcare worker for every 30 or less children

School going children

1 staff member for every 35 or less children

[11.2] Administrative and domestic staff are not included in the ratio referred to in sub-section **[1]**.

12. HEALTH REGISTER

[12.1] The certificate holder shall maintain a health register reflecting the following details of all children attending the facility:

- [a]** The child's name and date of birth.
- [b]** The name of the parents or guardian and their address and telephone number, both at home and at place of employment.
- [c]** The name and address and telephone number of each child's medical practitioner and dentist, with written authority from the parents or guardian to consult them in emergencies.
- [d]** Information concerning the child's general state of health and physical condition.
- [e]** Details of operations which each child has undergone, and any illnesses or communicable diseases from which the child has suffered and the relevant dates.
- [f]** Details of immunisations against polio, diphtheria, tetanus, whooping cough, measles, mumps, German measles and tuberculosis; and
- [g]** Details of allergies and any medical treatment the child may be undergoing.

[12.2] The names of children who are allergic to certain substances or products should be posted prominently in the facility.

A proper record of any medicine that is given to a child should be kept.

13. MEDICAL CARE OF CHILDREN

The certificate holder shall -

- [a]** observe all children for any signs of illness, indisposition, injury or other abnormal condition, including possible child abuse.
- [b]** keep an Incident Register of all injuries and illnesses which occurred or manifested themselves whilst the child was on the premises and keep records of injuries observed on the child which have occurred other than at the premises;
- [c]** immediately notify the parent or guardian of such illness, indisposition, injury or other abnormal condition;
- [d]** if necessary and Subject to the prior consent of the parent or guardian, summon the private medical practitioner if any child is suffering or suspected to be suffering from illness or injury or in the event of the unavailability of such medical practitioner, summon a medical practitioner of the certificate holder's choice;
- [e]** immediately isolate the child suffering as contemplated in sub-section [d] and devote all care necessary to the comfort and treatment of the child whilst on the premises;

- [f] only administer medicine to a child with the written consent of that child's parents or guardian;
- [g] in the event of a communicable disease or detection of signs of possible child-abuse, notify the authorised official and/or the local social worker immediately;
- [h] ensure that all children admitted to the facility have completed basic immunisation schedules, provided that if a child is too young, the certificate holder shall ensure that such immunisation be performed as soon as the child is old enough;
- [i] inform the parents or guardian immediately if head or body lice are noticed and the child or children concerned may not be allowed back into the facility before the condition has cleared up.

14. HEALTH AND SAFETY MEASURES

[14.1] The certificate holder shall, in the interest of the health and safety of the children -

- [a] take effective precautions for the protection of the children against fires, hot water installations, electrical fittings and appliances and any other object, condition or thing which may be dangerous or is likely to cause injury to any child;
- [b] fence and completely cover any swimming or paddling pool on the premises at all times when not in use. Any children utilising the pools must do so with the parents' consent and must be under adult supervision at all times;
- [c] ensure that all gates or doors of outdoor play areas are securely locked or otherwise closed at all times so as to prevent children from entering or leaving the confines of such areas or the premises of their own accord, and to prevent the entrance or presence of unauthorised people and domestic animals in the facility;
- [d] equip and maintain first-aid equipment, to the satisfaction of the authorised official, and keep it readily available for use and out of reach of children;
- [e] install fire fighting equipment on the premises in accordance with National Building Regulations SABS 0400 and submit an Emergency Procedure to the Fire Brigade Disaster Management Officer or other designated official of the municipality for approval.
- [f] store medicines, corrosive and other harmful substances, including cleaning materials and alcoholic beverages, in a safe manner and in a place not accessible to the children;
- [g] ensure that no noxious or poisonous plant or shrub grows on the premises;
- [h] arrange for the medical examination of employees and other persons involved in the conduct of the childcare service or present on the premises when called upon by the authorised official to do so, and shall not allow any person who is found to be suffering from, or a carrier of, a communicable disease, to remain on the premises.

[14.2] The provisions of the Regulations relating to Communicable Diseases and the Notification of Notifiable Medical Conditions published under Government Notice R. 2438 dated 30 October 1987, as amended, and or any other similar and applicable law shall, mutatis mutandis, apply to the services as if it falls within the scope of the expression "teaching institution" in Regulation 1 of those Regulations and-

[a] a breach by a certificate holder of a duty placed upon a principal in terms of the Regulations shall be deemed to be a breach of these bylaws;

[b] the duties placed upon and the powers vested in a medical official of health under the Regulations shall be placed upon or vested in the authorised official for the purposes of these by-laws.

15. MANAGEMENT RESPONSIBILITIES

[15.1] The certificate holder shall ensure that -

[a] no refuse receptacle or any other potentially harmful or hazardous object or material is stored in the outdoor play area used by the children;

[b] children are under adult supervision at all times;

[c] each child uses his own sleeping equipment, towel and face cloth, clearly marked and kept separately;

[d] prepared infant feeds are provided by the parents or guardians of babies, in bottles with covered teats;

[e] the facility has access to a telephone at all times;

[f] the premises is maintained in a clean, hygienic, safe, sound and pest-and-rodent-free condition at all times;

[g] staff are clean, healthy and appropriately dressed at all times;

[h] no person smoke or use any tobacco product in the presence of children.

16. TRANSPORT

[16.1] The certificate holder shall ensure that -

[a] if transport is provided for the children to and from the facility, the staff of the facility are held responsible for the child for the period that he is so transported until he is handed back to his parent or guardian or an authorized person;

[b] in addition to the driver, at least one other adult should be in the vehicle with the children;

[c] all doors are fitted with child locks and said locks are used at all times when transporting children;

- [d] the driver remains in the driving cabin of the vehicle at all times and may not assist in the handing-over of the children;
- [e] no children are transported in the driving cabin;
- [f] the driver of the vehicle is in possession of a special license to transport passengers;
- [g] babies in carrycots are not pushed in underneath the seats;
- [h] the sitting space for each child and the room for carrycots must comply with the prescribed requirements; and
- [i] any other prescribed legislation regulating the transportation of children is adhered to.

17. OFFENCES AND PENALTIES

[17.1] Any person who -

- [a] contravenes or fails to comply with any provision of these by-laws;
- [b] contravenes or fails to comply with any notice given or condition imposed in terms of these by-laws;
- [c] for the purpose of these by-laws, makes a false statement knowing it to be false or deliberately furnishes false or misleading information to an authorized official or official; or
- [d] threatens, resists, interferes with or obstructs an authorized official or

employee of Council in the performance of his/her powers, duties or functions as contemplated in these by-laws, shall be guilty of an offence and upon conviction be liable to a fine or imprisonment for a period not exceeding six months or to both the fine and the imprisonment.

18. REPEAL OF BY-LAWS

[18.1] Any by-laws adopted by the Council or the Council of a Municipality now forming an administrative unit of the Council and relating Creches and Creches cum Nursery Schools or any facilities in respect to or with regard to any matter regulated in these by-laws are hereby repealed.

[18.2] Anything done under the provisions of the by-laws repealed by sub-section [1], shall be deemed to have been done under the corresponding provision of these by-laws and such repeal shall not affect the validity of any approval, authority, waiver or other act which at the commencement of these by-laws is valid under the by-laws so repealed.

19. DATE OF COMMENCEMENT

[19.1] These by-laws commence on the date of publication thereof in the Provincial Gazette.

LOCAL AUTHORITY NOTICE 55 OF 2017**MBIZANA LOCAL MUNICIPALITY**

The Municipal Manager of Mbizana Local Municipality hereby, in terms of section 13(a) in conjunction with section 75 (1) of the Municipal Systems Act, 2000 (Act No. 32 of 2000), publishes the Funeral Undertaker's Premises By-Law for the Mbizana Local Municipality, approved by the Council, that come into operation on the date of publication thereof.

FUNERAL UNDERTAKER'S PREMISES BY-LAWS

Preamble

WHEREAS the Council of the Municipality is vested with legislative authority in terms of the Constitution of the Republic of South Africa, 1996;

AND WHEREAS the Council of the Municipality in the exercise of its functions has the right to regulate the establishment, conduct and control of funeral undertaker's premises in areas under its jurisdiction;

NOW THEREFORE be it enacted by the Council as follows:

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Definitions

1. In these by-laws, any words used in the masculine gender include the feminine, the singular includes the plural and vice versa and unless the context otherwise indicates –
"the Act" means the Health Act, 1977 [Act No. 63 of 1977];

"adequately ventilated and illuminated" means adequately ventilated and illuminated as laid down in the National Building Regulations and Standards Act, 1977 [Act No. 103 of 1977];

"approved" means approved by the Municipality;

"certificate of competence" means a certificate contemplated in section 6 of these by-laws;

"environmental health practitioner" means an official or person contracted by the Municipality to provide environmental health inspectorate and control services to it and who is registered as such in terms of the Health Professions Council of South Africa and who has been designated in terms of section 31 of the Act to perform such duties as may be required to be performed by such official in terms of these by-laws;

"existing funeral undertaker's premises" means existing funeral undertaker's premises that are legally used as such on the date of commencement of these by-laws;

"funeral undertaker's premises" means premises that are used or will be used for the preparation of corpses;

"holder" means the person in whose name a certificate of competence has been issued;

"Municipality" means the Municipality of the established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, Provincial Notice 487 dated 22 September 2000, and includes any duly authorised political structure, political office bearer or official thereof and, where the text so requires also includes an environmental health practitioner.

"new funeral undertaker's premises" means funeral undertaker's premises that are put into use as such after the date of commencement of these by-laws;

"nuisance" means any condition, thing, act or omission which is offensive or injurious to health or which tends to prejudice the safety, good order, comfort or health of the local community or any member thereof;

"preparation" means any action aimed at the preparation of a corpse for a funeral or for cremation, export or other disposal and includes the embalming of such corpse for the said purposes and "prepare" and any word derived from these words has a corresponding meaning;

"pure water" means clean and clear water that contains no e.coli organisms per 100 ml and is free from any substance in concentrations that are detrimental to human health;

"rodent-proof" means rodent-proof as laid down in the regulations regarding the Prevention of Rodent Infestation and the Storage of Grain, Forage etc in Urban and Rural areas of the Republic of South Africa promulgated by Government Notice R. 1411 of 23 September 1966;

"thermometer" means an apparatus which can give the temperature readings referred to in these by-laws, the combined accuracy of such a thermometer and its temperature-sensitive sensor being approximately 0,5°C.

Corpses to be prepared only at Funeral Undertaker's Premises in respect of which a certificate of competence has been issued

2. (1) Subject to the provisions of these by-laws, no person may prepare any corpse except on funeral undertaker's premises in respect of which a

certificate of competence has been issued in terms of these by-laws and is in effect.

(2) Subject to the provisions of subsection [b], existing funeral undertaker's premises may, for a period of six months after the date of commencement of these by-laws, be used for the preparation of corpses without a certificate of competence being issued or being in effect in respect of such premises.

(3) The Municipality may, if it is satisfied that there is a nuisance present on funeral undertaker's premises, issue a written order to the owner or operator of such premises requiring him to cease all activities connected with the preparation of corpses therein until such time as the nuisance referred to in such order has been eliminated or abated.

Exemptions

3. (1) The Municipality may in writing and by way of the issue of an appropriate certificate, exempt any person from compliance with all or any of the provisions of these by-laws where, in its opinion, non-compliance does not or will not create a nuisance.
- (2) An exemption is subject to such conditions and valid for such period as the Municipality may prescribe and stipulate in the certificate of exemption issued in terms of subsection [1].

Savings

4. These by-laws are not applicable to –
- (a) mortuaries and hospitals under the control of the State or a provincial administration;
 - (b) any natural person who is not in the service of a funeral undertaker and who does not, either directly or indirectly, undertake or arrange funerals but only prepares corpses; provided that such preparation does not take place on fixed premises that are used by such person specifically for such purpose and provided further that, for the purpose of these by-laws, preparation does not include the embalming of or incisions into a corpse.

Application for the issue of transfer of a certificate of competence

5. (1) An applicant for a certificate of competence in respect of new funeral undertaker's premises must, not less than 30 days before submitting his application to the Municipality –

- (a) cause a notice in the official language or languages prescribed or required by the Municipality to be published in a newspaper or newspapers generally circulating in the municipal area –
 - (i) stating that he intends making application to the Municipality in terms of these by-laws for the issue of a certificate of competence to enable him to establish a funeral undertaker's premises on property;
 - (ii) fully describing the premises; and
 - (iii) calling upon any person who will be or likely to be affected by such funeral undertaker's premises to lodge his objection, if any, together with substantiated reasons, against such contemplated application with the Municipality in writing within 21 days of the date of publication of such notice; and
 - (b) serve by registered post or by personal delivery a copy of such notice on the owner and occupier of every property adjacent to or likely to be affected by the proposal.
- (2) An application for the issue of or transfer of a certificate of competence must be made in writing by the applicant or his authorised representative to the Municipality on such form as the Municipality may require and must be accompanied by a copy of the notice referred to in subsection [1] and such fee as may be prescribed by the Municipality.
- (3) An application for the issue of a certificate of competence referred to in subsection [a] [i] must be accompanied by –
- (a) a description of the premises and the location thereof, including equipment, storage facilities, preparation areas and toilet facilities;
 - (b) a complete ground plan of the proposed construction or of existing buildings on a scale of 1: 100;
 - (c) a plan of the premises on which north is shown indicating which adjacent premises are already occupied by the applicant or other persons and for what purpose such premises are being utilised or are to be utilised;
 - (d) particulars of any person other than the holder or any of his employees who prepares or will prepare corpses on the premises;
 - (e) a contingency plan for the storage of corpses in the event of refrigeration or cold room breakdown;
 - (f) a cleansing and disinfection programme.
- (4) The Municipality, when considering the issuing of or transferring of a certificate of competence, may request from the applicant or any other person any such further information as it may deem necessary to enable it to consider the application concerned.
- (5) The Municipality may not consider any application for the issue of or the transfer of a certificate of competence unless a complete inspection of the premises concerned has been carried out by an environmental health practitioner and his report on such inspection, including his recommendation on such issue or transfer, as the case may be, is in the possession of the Municipality.

Issue or transfer of certificate of competence

6. (1) An environmental health practitioner must consider an application for the issue of or transfer of a certificate of competence contemplated in section 5[a] [i] and issue a report and recommendations in that regard.
- (2) The Municipality must consider the report contemplated in subsection [1], including the recommendations and any objections to the use of premises as funeral undertaker's premises.
- (3) The Municipality must issue a certificate of competence in the name of the holder if it is satisfied that the premises concerned –
- (a) complies with all requirements laid down in these by-laws;
 - (b) is suitable in all respects for the preparation of corpses; and
 - (c) will not be offensive to any occupants of premises in the immediate vicinity of such premises.
- (4) A certificate of competence must be in such form as the Municipality may determine.
- (5) Subject to section 7, an existing certificate of competence may be transferred by endorsement to a new holder.

Validity and transfer of certificate of competence

7. (1) On endorsement by the Municipality, a certificate of competence must be transferred from an exiting holder to a new holder and such certificate is valid from the date on which it was issued until it is revoked or suspended in terms of these by-laws.
- [2] The provisions of subsection [1] do not apply in respect of a provisional certificate of competence.

Issue of provisional certificate of competence

8. (1) A provisional certificate of competence must be issued by the Municipality to an existing funeral undertaker's premises in respect of which an application for a certificate of competence has been applied for where the premises in respect of which such application relates do not comply with these by-laws.
- (2) A certificate of competence in respect of funeral undertaker's premises must be issued for a maximum period of 36 months to enable the applicant to alter such premises to comply with the provisions of these by-laws.
- (3) In all other cases, the Municipality may issue a certificate of competence subject to such conditions as it may determine in general or in each specific case; provided that the Municipality must satisfy itself that the use of such funeral undertaker's premises does not and will not create a nuisance.

Duties of holder

9. (1) The holder must immediately inform the Municipality in writing if there are any changes in the particulars supplied to it in the application for the certificate of competence concerned.
- (2) The holder of a certificate of competence may not dispose of the funeral undertaker's premises concerned without such transfer first having been authorised by the Municipality in terms of these by-laws.

Suspension or Revocation of a certificate of competence or provisional certificate of competence

10. (1) The Municipality may, after an enquiry contemplated in section [11] and on the strength of an adverse inspection report and recommendation by an environmental health practitioner contemplated in subsection [2], suspend or revoke a certificate of competence or provisional certificate of competence.
- (2) A report contemplated in subsection [1] must allege that there are reasonable grounds to suspect that –
 - (a) a funeral undertaker's premises are being used in a manner that is hazardous to health or that conditions entailing a hazard to health have been or are being created on such premises; or
 - (b) such premises are being used in contravention of the provisions of the Act or the conditions to which such provisional certificate of competence is subject.
- (3) On receipt of the report contemplated in subsection [1] and subsection [4], the Municipality may serve a written notice on the holder or the person in charge of such premises in which such holder or person is instructed to furnish reasons, at a place and a time specified in such notice, why such certificate should not be dealt with in terms of section 11[12].
- (4) Notwithstanding the provisions of subsection [1], the Municipality may, pending an inquiry contemplated in subsection [1], suspend a certificate of competence or provisional certificate of competence immediately on the strength of a report, whether by a medical officer or an environmental health practitioner in the service of the State or of the Municipality, stating that the hazard referred to in subsection [2] is a nuisance and recommending such suspension.
- (5) A notice referred to in subsection [3] must set out such particulars as are reasonably adequate to inform the holder concerned why the withdrawal of the certificate is contemplated and must be served on him by the Municipality not less than 21 days prior to the date specified in such note for the holding of an inquiry.

Procedure at enquiries

11. (1) The holder may appear personally at an enquiry convened under these by-laws or be represented thereat by any of his employees specially authorised by him for such purpose in writing, or by his legal representative, or may submit written statements or arguments in the form of an affidavit to the Municipality for consideration.

- (2) If the holder appears at the inquiry, or if the holder does not appear at the inquiry but the Municipality is satisfied that the notice referred to in section 10[3] has been properly served on him, the Municipality must inquire into the matter mentioned in such notice.
- (3) The Municipality may call and interrogate or re-interrogate any person present at such inquiry and hear such evidence as may be adduced by or on behalf of the holder and may cross examine any person giving evidence for or on behalf of the holder.
- (4) The holder, his authorised employee or his legal representative may interrogate any witness called for or on behalf of the holder at such inquiry and may cross-examine any other witness testifying thereat.
- (5) The Municipality may –
 - (a) instruct any witness at such inquiry to testify on oath or on affirmation; and
 - (b) administer an oath to or accept an affirmation from any person appearing before it to testify or to submit a book, document or object.
- (6) In regard to the giving of evidence or the submission of a book, document or object at such inquiry, the right of privilege which is applicable to a witness testifying in a criminal case in a magistrate's court or summonsed to submit a book, document or object is applicable.
- (7) The Municipality may, in its discretion, postpone or adjourn such inquiry for such period or periods as it may deem fit; provided that, where a suspension has been instituted in terms of subsection [4], such postponement or adjournment must be for not more than 14 days.
- (8) The Municipality must cause a record of the proceedings at the inquiry to be kept in such manner as it may determine.
- (9) A record of the proceedings contemplated in subsection [8] must be accessible to the holder and copies thereof may be made by him or his representative on such conditions regarding time and place as the municipality may determine.
- (10) The record of the inquiry must be kept for a period of 2 years in a place where it is protected against fire and theft.
- (11) Upon conclusion of the inquiry, the Municipality must deliberate in committee.
- (12) If it appears to the Municipality that –
 - (a) the funeral undertaker's premises concerned are being used in such a way as to create a nuisance or that conditions constituting a nuisance have been or are being created on the funeral undertaker's premises concerned;
 - (b) the premises concerned are being used in contravention of the provisions of the Act or any conditions to which the certificate of competence or provisional certificate of competence concerned is subject, it may, in order to put an end to the matter about which a complaint has been received, make such order as contemplated in subsection [13].
- (13) In relation to conditions referred to in section 10[2], the Municipality may –
 - (a) where in its opinion the health hazard in question is a real hazard, make an order withdrawing the certificate of competence or provisional certificate of competence concerned; and

- (b) in other cases, make an order requiring the future use of such premises to be so regulated so as to correct without delay the matter complained about.
- (14) In relation to an irregularity referred to in section 10[4], the Municipality may make an order –
- (a) suspending the certificate of competence or provisional certificate of competence concerned for such period as it may determine, and inform the holder that, if the conditions complained about as mentioned in such order are not corrected to its satisfaction within such period of suspension, the certificate concerned will be revoked without further notice; or
 - (b) requiring the future use of such premises to be so regulated so as to correct without delay the matter complained about.
- (15) An order made in terms of subsection [13] and subsection [14] must be –
- (a) issued in writing;
 - (b) signed by the Municipal Manager of the Municipality; and
 - (c) served on the holder.

The effect of the suspension or withdrawal of certification

12. (1) The person on whom an order contemplated in section 11[13] and section 11[14] has been served must deal with them and with the certificate of competence or provisional certificate of competence concerned, in cases where such certificate has been revoked, in the manner laid down in such order.
- (2) The suspension or revocation of a certificate of competence or provisional certificate of competence in terms of these by-laws has the effect that, from the date of coming into operation of the order of suspension or revocation –
- (a) no preparation of any corpse may be performed on the premises concerned;
 - (b) no corpse may be received for preparation on the premises concerned; and
 - (c) no corpse may be preserved on the premises concerned; and
- (3) From the date of coming into operation of the order of suspension or revocation, every corpse must, after consultation with the holder, forthwith be removed to a mortuary under the control of the State, a provincial administration, the Municipality or any other funeral undertaker's premises designated by the Municipality; provided that, where refrigeration facilities for corpses on the premises concerned are, in the opinion of the Municipality, suitable for such preservation, this subsection is not applicable and the said order must not be so construed as to restrict any act relating to the funeral undertaker's profession, excluding the preparation and receiving of a corpse.
- (4) Where the Municipality is of the opinion that a condition that gave rise to the revocation of a certificate as contemplated in these by-laws was corrected after such revocation, it must, on written application made by or on behalf of the holder, repeal such revocation by endorsement on the certificate concerned.

Appeal

13. (1) A person whose rights are affected by a decision of an official may appeal against that decision by giving written notice of the appeal and reasons to the Municipal Manager within 21 days of the date of the notification of the decision.
- (2) The Municipal Manager must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.
- (3) When the appeal is against a decision taken by –
- (a) a staff member other than the Municipal Manager, the Municipal Manager is the appeal authority;
 - (b) the Municipal Manager, the Executive Committee is the appeal authority; or
 - (c) a political structure or political officer bearer, or a Councillor Council is the appeal authority.
- (4) The appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable time.

Requirements relating to Funeral Undertaker's Premises

14. (1) Provision for at least the following must be made on funeral undertaker's premises:
- (a) A preparation room for the preparation of corpses.
 - (b) Change-rooms, separate for each sex, for the use of the employees employed at such premises.
 - (c) Refrigeration facilities for the refrigeration of corpses.
 - (d) Facilities for the washing and cleansing of utensils and equipment inside the building.
 - (e) Facilities for the cleansing of vehicles on such premises.
 - (f) Facilities for the loading and unloading of corpses as contemplated in subsection [6].
- (2) No room on funeral undertaker's premises may be used for any purpose other than the purpose for which it is intended and no act other than an act related to the said purpose may occur in such room.
- (3) The preparation room –
- (a) must be so designed as to –
 - (i) be separated from all other rooms on the premises and as not to communicate directly with any office or salesroom; provided that where a preparation room on existing funeral undertaker's premises so communicates, the entrance thereto must be so concealed that the interior thereof is completely out of the sight of any person in such office or salesroom.
 - (ii) enable obnoxious odours and vapours to be adequately treated; and
 - (iii) be sufficiently ventilated and lighted;

- (b) must have a floor –
 - (i) covering an area of not less than 16 m² for the first table of the kind referred to in subsection [e] and 8 m² for each additional such table;
 - (ii) constructed of concrete or similar waterproof material with a smooth non slippery surface that is easy to clean, and sloped at an angle to ensure that any run-off will drain into an approved disposal system; and
 - (iii) which, if it is replaced or laid after the date of commencement of these by-laws, must be provided with half-round filling where it meets the walls;
 - (c) must have walls the inner surfaces of which have a smooth finish and are covered with a light-coloured washable paint or other approved, suitable, smooth, waterproof, light-coloured and washable material;
 - (d) must be provided with a ceiling not less than 2,4 m above the floor level, which ceiling must be dust-proof and painted with a light-coloured washable paint;
 - (e) must contain not less than one table of stainless steel or glazed earthenware or other approved material, equipped with a raised rim on the outside, a tap with cold running water to which a flexible pipe can be connected and a drainage opening connected to an approved disposal system;
 - (f) must contain not less than one wash-basin for each such table, made of stainless steel or other approved material, with a working surface of the same material, taps with hot and cold running water and a drainage opening permanently connected to an approved disposal system, and provided with disposable towels, a nailbrush and soap;
 - (g) must have not less than one tap with running water to which a flexible pipe, long enough to reach all corners of such room, can be connected for cleaning the interior surfaces;
 - (h) must have door openings that are not less than 0,82 m in width and 2,00 m in height so that corpses can be taken into and out of such room without any difficulty.
- (4) Each such change-room must contain at least the following:
- (a) one hand-basin with hot and cold running water for every six employees or part of this number;
 - (b) disposable towels, soap, nailbrushes and disinfectant; and
 - (c) not less than one latrine for every 15 male employees or part of this number and not less than one latrine for every 15 female employees or part of this number employed at the funeral undertaker's premises concerned; provided that, where a separate urinal for men forms part of such facilities, one latrine plus one separate urinal must be permissible for every 30 men or part of this number.
- (5) Refrigeration facilities such as refrigerators or cold chambers must be installed in or within easy reach of such preparation room for the keeping of corpses.

- (6) Where refrigerators are provided, they must be –
 - (i) made of a material that does not absorb moisture;
 - (ii) provided with removable trays; and
 - (iii) so designed as to drain properly and be easy to clean.
- (7) The surface temperature of any corpse may be no higher than 5°C within three hours of it being received on the premises and no higher than 15°C during preparation.
- (8) An accurate thermometer must be provided at the refrigerator or cold chamber and must be operational at all times;
- (9) Where cold chambers are provided, they must –
 - (i) comply with subsection [3] [a] [ii], [b] [ii], [c], [d] and [h];
 - (ii) be provided with shelves manufactured from a material that does not absorb moisture and that is easy to clean; and
 - (iii) corpses may not be stored on top of each other and must be stored individually on the trays or shelves.
- (10) The cleansing and loading and unloading facilities must consist of a paved area, screened from public view, with a drainage system into a gully connected to an approved disposal system.
- (11) The loading and unloading of corpses and the cleansing of vehicles may not take place anywhere except in the area contemplated in subsection [10].
- (12) The funeral undertaker's premises must be rodent-proof.

Hygiene

15. (1) All solid refuse on the premises of a funeral undertaking must be kept in corrosion-resistant containers with tight-fitting lids and must be dealt with in accordance with the applicable by-laws and requirements of the Municipality.
- (2) Every holder of a certificate of competence relating to funeral undertaker's premises must –
 - (a) provide or cause to be provided clean protective over-clothes consisting of surgical gloves, gumboots, plastic aprons so designed that the front hangs over the top of the gumboots, face masks and linen overcoats to all employees and all other persons involved in post mortems;
 - (b) keep such premises free of insects or cause them to be so kept;
 - (c) cause all working areas or surfaces at such premises where corpses are prepared to be cleaned immediately after the preparation of any corpse;
 - (d) cause all equipment used for the preparation of corpses to be washed and disinfected immediately after use;
 - (e) daily cause all protective over-clothes that have been used to be washed, cleansed and disinfected on the premises; and
 - (f) if a corpse has been transported without a moisture-proof covering, cause the loading space of the vehicle concerned to be washed and disinfected after such corpse has been removed.
- (3) All employees and all other persons involved in post mortems must, at all times when so involved, wear such clothing;

Penalties

16. Any person who contravenes or fails to comply with a provision of these by-laws, a notice issued in terms thereof or a condition imposed under these by-laws, irrespective of whether such contravention or failure has been declared as an offence elsewhere in these by-laws, is guilty of an offence and liable upon conviction to –
- (a) a fine not exceeding R10 000 or imprisonment for a period not exceeding 6 [six] months or either such fine or such imprisonment or both such fine and such imprisonment;
 - (b) in the case of a continuing offence, an additional fine of R250 or an additional period of imprisonment of 1 [one] day or either such additional fine or such additional imprisonment or both such additional fine and imprisonment for each day on which such offence is continued; and
 - (c) a further amount equal to any costs and expenses found by the court to have been incurred by the Municipality as a result of such contravention or failure.

Repeal of By-Law

17. (1) Any by-law adopted by the Municipality or a municipality now forming an administrative unit of the Municipality and relating to any matter regulated by these by-laws are, from date of promulgation of these by-laws, hereby repealed.
- (2) Any permission obtained, right granted, condition imposed, activity permitted or anything done under a repealed law, is deemed to have been obtained, granted, imposed, permitted or done under the corresponding provision [if any] of these by-laws, as the case may be.

LOCAL AUTHORITY NOTICE 56 OF 2017**MBIZANA LOCAL MUNICIPALITY**

The Municipal Manager of Mbizana Local Municipality hereby publishes in terms of Section 13 of the Local Government Municipal Systems Act, 2000 (Act 32 of 2000) read with Section 162 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996) the Indigent Support By-Law which shall come into operation on the date of publication hereof.

INDIGENT SUPPORT BY-LAW**Preamble**

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

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

AND WHEREAS Section 74 of the Local Government: Municipal Systems Act 2000 requires a Municipal Council to adopt and implement a Tariff Policy which must, inter alia, take into consideration the extent of subsidisation of tariffs for poor households.

The Council hereby publishes the following by-laws:

Definitions

1. For the purposes of these by-laws:

“Council” means the Council of the Municipality of Mbizana and includes any duly authorised political structure or office bearer as defined in the Local Government: Municipal Finance Management Act 56 of 2003 and/or any duly authorised official of the Council;

“Gender” any reference to the one gender shall include reference to the other

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

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

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

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

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

“Indigent Support Policy” means the policy for the provision of indigent subsidies to qualifying indigent debtors in terms of the Council’s policy relating to the following:

- (a) Free basic electrify
- (b) Free basic water
- (c) Subsidised sewerage rates and refuse
- (d) Assisted arrear debt recovery programme

as determined by Council annually during the budget process, in line with National norm and guidelines;

“Municipality” means the Municipality of Mbizana, a local municipality established in terms of Section 12 of the Local Government: Municipal Structures Act 1998;

“Municipal Manager” means the Municipal Manager of the Mbizana Local Municipality or his/her nominee acting in terms of power delegated to him/her by the said Municipal Manager with the concurrence of the Council;

Indigent Support Policy

2. The Council shall adopt an Indigent Support By-Law which shall embody an indigent support programme providing procedures and guidelines for the subsidisation of basic services and tariff charges to indigent households in its municipal area.

3. The object of the Indigent Support Policy will be to ensure:
- (a) The provision of basic services to the community in a sustainable manner within the financial and administrative capacity of the Council; and
 - (b) The provision of procedures and guidelines for the subsidisation of basic service charges to indigent households.

Guiding Principles

4. The following guiding principles shall be contained in the Indigent Support By-Law referred to in Section [1]:
- (a) Relief will be provided by the Council to registered residential consumers of services who are declared indigent by the Council but subject to the condition that such consumers make a financial contribution towards the cost of the services provided by the Council to them on the basis determined by the Council.
 - (b) The Council shall, wherever possible, ensure that any relief provided to indigent consumers is constitutional, practical, fair, equitable and justifiable in order to avoid the alienation of any group of households.
 - (c) Differentiation between residential consumers shall, in accordance with the Tariff Policy of the Council, be permitted.
 - (d) Differentiation shall also be permitted in respect of the level of service provided to or to be provided to indigent households.
 - (e) The application of the indigent support subsidy for minimum service levels should not result in the creation of a massive bureaucratic administration that would not be cost effective to implement.
 - (f) A differentiation shall be made between those households who cannot afford to pay for basic services and those households who refuse to pay for such services.
 - (g) The payment for services rendered should be affordable for the indigent.
 - (h) The indigent support subsidy programme will apply during a predetermined period or financial year.
 - (i) Financial support to the indigent will be dependant upon the availability of funds to enable the Council to provide such support.
 - (j) The Council may, from time to time, review and amend the qualification criteria for indigent support provided by it.

- (k) The collective or joint gross income of members of indigent households will always be taken into account to determine the level of financial support to be granted to indigent households gross income.
- (l) Indigent households must formally apply on the prescribed application form for indigent support and will qualify for such support according to prescribed criteria/principles to be laid down by the Council.
- (m) The household income must be correctly reflected on the application form requesting indigent support.
- (n) The debtor who signs the prescribed application form shall be regarded, for accounting purposes, as the indigent debtor and the representative of the indigent household.
- (o) After the application form for indigent support has been completed by an indigent debtor, an effective and efficient evaluation system should be used in order to obtain the result of such application within a reasonable time as determined by the Council.
- (p) All approved indigent debtors should be registered on a database linked to the main debtors system of the Municipality.
- (q) The onus will be on the approved indigent debtor to inform the Council of any change in his/her status or personal household circumstances.
- (r) All indigent households should be re-evaluated after a period of six months or such period as the Council may determine to assess the provision of continued basic services and indigent support to them.
- (s) Disciplinary measures decided by the Council, should be imposed on indigent debtors who misuse the indigent support programme of the Council and/or provide incorrect information to the Municipality.
- (t) An approved community communications programme, embodying the principles of transparency and fairness, must be implemented in respect of the indigent support programme.
- (u) Skills Training and other education related programmes must be introduced to develop the indigent to become self - sufficient and thereby reduce the rate of indigence.

Qualification, Acceptance and Registration Criteria

5. The qualification, acceptance and registration criteria for indigent support and the services qualifying for such support shall be determined by resolution of the Council from time to time provided that, until the Council determines otherwise, registered residential

consumers of services delivered by the Council shall qualify for indigent support, subject to the following conditions:

- (a) the combined or joint gross income of all occupants/residents/dependants over the age of 18 years in a single household receiving services from the Council not exceeding R2 200 per month;
- (b) the Council being satisfied that the single household referred to in sub-section [a] cannot, due to its indigent status, afford to pay for the services provided to it by the Council;
- (c) the single household referred to in sub-section [a] being registered in the municipal data base of households receiving indigent support from the Council;
- (d) any occupant/resident/dependant of the household referred to in sub-section [a] not owning any property in addition to the property in respect of which indigent support is provided in terms of Council's indigent support programme;
- (e) any occupant, resident or dependent in the household referred to in sub-section [a] not receiving any significant monetary benefit or regular monetary payment from any source whatsoever.
- (f) The extent of the monthly indigent support granted to the Council to indigent households in its municipal area will be determined by resolution of the Council regard being had to its budgetary provisions and/or the amount received by it from Central Government divided by the number of recipients and a maximum of an average monthly service account in respect of the following services, fees or charges:
 - (i) Water;
 - (ii) Refuse collection;
 - (iii) Electricity;
 - (iv) Sewerage; and
 - (v) Housing Rentals
 - (vi) Assessment Rates on a residential property.
- (g) The Council will, on a six-monthly basis, assess the level of support to indigent households in its municipal area depending on the number of applicants qualifying for indigent support and its general financial position.
- (h) The level of indigent support granted by the Council shall not exceed the monthly billings to the accounts of indigent debtors.

Distribution of Indigent Support Subsidies

6. Indigent Support Subsidies will be distributed by the Council on the following basis:
- (a) Relief will only be distributed to those indigent households who apply and qualify therefor.
 - (b) The relief must be significant so as to relieve the recipient of an indigent subsidy from the financial hardship of paying fully for services received from the Municipality for a specific period.
 - (c) All registered indigent households will be charged the determined economical tariff or charge for a service.
 - (d) The recipient's monthly account will be credited with the amount of the indigent subsidy as determined by the Council on a monthly basis.
 - (e) Indigent relief will initially be applied for a period of 6 months as determined by the Council.
 - (f) Indigent households may apply for continuation of the indigent relief granted by the Council depending on their circumstances.

Applications for Indigent Support

7. Applications for indigent support in terms of these by-laws must be made on the prescribed form which will, inter alia, contain the under-mentioned information which must be certified as being correct by the indigent debtor:
- (a) Details of the indigent debtor's service account or accounts;
 - (b) Proof of income;
 - (c) Proof of residence;
 - (d) Identity number of indigent debtor; and
 - (e) Number, names and identity numbers, where applicable, of dependants in an indigent household.

The onus at all times to re-apply for continued relief or submit proof of change in circumstances rests on the indigent debtor.

Indigent Support Committee

8. The Council shall appoint a Committee to be known as the Indigent Support Committee for the purpose of administering its indigent support programme and such Committee shall:

- (a) scrutinise with the aid of Ward Councillors, all applications received for indigent support in terms of the Council's indigent support programme;
- (b) recommend to the Council that applications received in terms of sub-section [a] either be approved or disapproved;
- (c) monitor, in conjunction with Ward Councillors, Ward Committees and other persons or organisations it may appoint, the implementation of indigent support programme, subject to the policy directions of the Council and in consultation with the Municipal Manager;
- (d) take suitable action against debtors in terms of Section 15 of these by-laws;
- (e) recommend to the Council amendments, additions or altered procedures in respect of the application of the Council's indigent support programme;
- (f) undertake such inspections and issue such instructions as it may deem necessary in order to verify the information provided by any indigent debtor;
- (g) perform such other duties as the Council may direct-

provided that the Council may delegate any of its responsibilities in terms of these by-laws and its indigent support programme to the Committee either wholly or in part and subject to such conditions as it may determine.

Balance on service charges, tariffs and fees

9. Any balance owing by an indigent debtor, after deduction of the indigent support subsidy, shall be recovered from him/her in accordance with the Credit Control Policy of the Council.

Advertising of Indigent Subsidies

10. For the purposes of transparency, the following key information on the Council's indigent support programme should, where possible, and on a monthly basis, be displayed on the notice board at the cashier's offices of the Council:
 - (a) Names of indigent debtors receiving indigent relief for a prescribed period;
 - (b) Stand numbers where services are rendered to recipient indigent debtors;
 - (c) Total household income of recipient indigent debtors; and
 - (d) Number of dependants residing on the property of the recipient indigent debtor.

Queries with regard to Indigent Subsidies

11. Any resident of the municipality may, in writing, addressed to the Municipal Manager, query the qualification of a recipient indigent debtor within 14 days from the date of publication of the notice referred to in Section 13 of these by-laws.
12. The Municipal Manager may refer queries referred to in Section 14 to the Committee for Indigent Support which may take the following action:
 - (a) Request the indigent debtor against whom a query has been raised to provide full proof of his/her banking account and income details as well as pension registration;
 - (b) Undertake an inspection at the indigent debtor's place of residence to determine his/her social conditions;
 - (c) Request a social welfare worker's report on the indigent debtor's household; and
 - (d) Recommend to the Council that the indigent status of the debtor be withdrawn.
 - (e) Such action as it may deem appropriate in the circumstances including a recommendation to the Council -
 - (i) that the indigent status of the debtor be suspended for a defined period and subject to such conditions as it may determine;
 - (ii) that irregular or excess payments of indigent subsidies be recovered from the indigent debtor by way of debiting such indigent debtor's services account or accounts with such payments;
 - (iii) that normal credit control measures be applied to the indigent debtor in accordance with the Council's Credit Control Policy; and
 - (iv) that criminal charges of theft or fraud be instituted against the indigent debtor.
- (13) The Municipal Manager must, in writing, advise a complainant who lodges a query against an indigent debtor in terms of Section 14 of these by-laws of the result of such query.

Withdrawal of Indigent Status

- (14) The indigent status of a debtor shall not be withdrawn, suspended or altered in terms of these by-laws until and unless such debtor has been given an opportunity to be heard and make representations on the contemplated against him or her.

Special Tariff for services, amenities and properties

15. The Council may determine special tariffs for the use by indigent residents, communities and organisations of the following services, amenities and properties, subject to the availability of funds and compliance with prescribed criteria which shall be determined by resolution of the Council:
- (a) Sports Grounds, Pools;
 - (b) Fire Protection;
 - (c) Transport;
 - (d) Museums;
 - (e) Markets;
 - (f) Agricultural Properties;
 - (g) Hiring of Halls;
 - (h) Cemeteries and Crematoria.

Mayor's Relief Fund

16. The Council shall annually make provision on its budget for an allocation of funds to be administered by the Mayor for the grant of special ad-hoc amounts to indigent households or residents of the municipality for the purchase of essential foodstuffs and household items subject to such conditions as the Council may determine.

Responsibilities of Municipal Manager

17. It shall be the responsibility of the Municipal Manager
- (a) to create, maintain and update a register of all debtors receiving indigent support subsidies from the Council in terms of these by-laws;
 - (b) to reflect the indigent status of debtors in the accounting records of the Municipality;
 - (c) to advise and keep indigent debtors informed of the approval, amendment, suspension or withdrawal of an application for indigent support in terms of these by-laws and the conditions under which such support will be granted, including the renewal of indigent support applications;

- (d) to report any instances of misuse of the Council's Indigent Support Programme to the Indigent Support Committee for attention in terms of these by-laws;
- (e) To report at regular intervals as may be required by the Indigent Support Committee on the progress or otherwise of the implementation of the Council's Indigent Support Programme.

Budgeting for Indigent Support

18. The Council shall annually budget for the total indigent subsidy to be granted to indigent debtors in terms of these by-laws and such amount shall, upon approval of the budget of the Council, be deposited in a special banking account in the name of the Council and from which total monthly indigent subsidies will be withdrawn for crediting to the monthly services account or accounts of approved indigent debtors.

Amendment of Indigent Support Policy

19. The Council has the discretionary power to amend any clause, stipulation or tariff embodied in its Indigent Support Policy in the interest of all the parties concerned.

LOCAL AUTHORITY NOTICE 57 OF 2017**MBIZANA LOCAL MUNICIPALITY NOISE ABATEMENT AND PREVENTION OF NUISANCE BY-LAWS****MBIZANA LOCAL MUNICIPALITY**

The Municipal Manager of Mbizana Local Municipality hereby, in terms of section 13(a) in conjunction with section 75 (1) of the Municipal Systems Act, 2000 (Act No. 32 of 2000), publishes the Noise Abatement and Prevention of Nuisance By-Law for the Mbizana Local Municipality, approved by the Council, as set out hereunder.

NOISE ABATEMENT AND PREVENTION OF NUISANCE BY-LAW

Purpose of By-Law

- To promote the achievement of a safe, peaceful and healthy environment for the benefit of residents within the area of jurisdiction of the municipality;
- To provide for procedures, methods and practices to regulate nuisances.

Definitions

1. In this by-law, words used in the masculine gender include the feminine, the singular includes the plural and vice versa, unless the context otherwise indicates: -

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

"Erf" means any land, whether vacant, occupied or with buildings thereon;

"Municipal Area" means the municipal area of the Municipality;

"Municipality" means the Municipality of the established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, Provincial Notice 487 dated 22 September 2000;

"Objectionable Material" means garden litter, rubbish, waste material, rubble, scrap metal, article or thing, disused motor cars, machinery or other vehicles, as well as the disused parts thereof, refuse from any building operations, or any refuse capable of being dumped on any land or premises, including new or used building materials not necessarily required in connection with bona fide building operations actually in progress on any land, and includes any solid, liquid or gas which is or may become offensive or dangerous or injurious to health or which materially interferes with the ordinary comfort or convenience of the public;

MBIZANA LOCAL MUNICIPALITY NOISE ABATEMENT AND PREVENTION OF NUISANCE BY-LAWS

“Public Nuisance” means any act, omission or condition which is offensive, which is injurious or dangerous to health, which materially interferes with the ordinary comfort, convenience, peace or quiet of the public or which adversely effects the safety of the public;

“Public Place” means any square, building, park, recreation ground or open space which:—

- (a) is vested in the Municipality;
- (b) the public has the right to use, or
- (c) is shown on a general plan of a township filed in a deeds registry or a Surveyor-General’s office and has been provided for or reserved for the use of the public or the owners of erven in such township;

“Public Road” means any road, street or thoroughfare or any other place (whether a thoroughfare or not) which is commonly used by the public or any section thereof or to which the public or any section thereof has a right of access, and includes:—

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

Enforcement

2. The council may, whenever it regards it necessary to do so, enter any premises at any reasonable time to ensure compliance with this by-law.

Behaviour and conduct

3. Notwithstanding the provisions of any other by-law no person shall:
 - (a) dump, accumulate or place or cause or permit to be dumped, accumulated or placed objectionable material in or on any erf, street, drain, water furrow, sewer, thoroughfare, public square or commonage except at such place or places as the council may from time to time set aside or approve for such purposes, provided however that the council may permit public garages, workshops and other trades, subject to such conditions as may be imposed in each case, to keep, store, repair, dismantle or re-assemble any motor vehicle or other vehicle or apparatus on premises approved by the council;

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(b) do work on any erf or use any building or land for purposes calculated to depreciate or to disfigure such erf or to interfere with the convenience or comfort of the neighbours or to become a source of danger to any person should the council be of the opinion that this provision is being ignored, the council may instruct that such work or use be discontinued forthwith and that the previous condition be reinstated;

(c) carry on any trade, business or profession on any erf in the municipal area which may in the opinion of the council be a source or become a source of discomfort or annoyance to the neighbourhood;

(d) deposit, leave, spill, drop or place any fruit or vegetable peels, broken bottles, glass, refuse or any objectionable material or thing which is offensive or likely to cause annoyance, danger or injury to persons in or upon any erf, street or public place;

(e) allow any erf to be overgrown with bush, weeds or grass or other vegetation except cultivated trees, shrubs and grass to such extent that, in the opinion of the council or any duly authorised employee of the council it may be used as a shelter by vagrants, wild animals or vermin or may threaten the public health or the safety of any member of the community or may promote the spread of fires;

(f) allow any erf to be dirty, neglected or infested with rodents, snakes, mosquitoes, flies, ticks, bugs or other insects harmful to health, or allow any offensive odours or gasses to emanate from such erf;

(g) allow the fencing of any erf to fall into a state of disrepair or to become unsightly or dilapidated;

(h) allow any building or structure or any portion thereof on any erf to fall into a dilapidated, neglected or unsightly state, or fail to maintain the roof-water disposal system, pipes, sewers, drains, water fittings, waste water fittings, water closet fittings and all other appurtenances forming part of or attached to any building or structure in good and sound repair, or fail to maintain the walls of any building or structure free from dampness;

(i) use or cause or permit to be used any stoep and/or verandah of any shop or business premises or vacant land adjoining such shop or business premises for the purpose of storing, stacking, dumping, disposing, displaying, keeping, selling or offering for sale any goods, articles or merchandise;

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(j) use or cause or permit any shop or business premises or vacant land adjoining such shop or business premises or any portion thereof which is open or visible to the public for the purpose of storing, stacking,

dumping, disposing, or keeping any waste material, refuse, cartons, crates, containers or other articles of a like nature;

(k) enclose or cause or permit the enclosing of any stoep or verandah of any shop or business premises by means of movable or immovable structures, objections, articles or devices otherwise than by such means as the council may approve;

(l) keep on his premises any animal or bird which creates a disturbance or a nuisance to the neighbours by making frequent and excessive noise;

(m) deposit or keep or cause or suffer to be deposited or kept any night soil on any premises, except in a proper sanitary convenience approved by the council and in accordance with any by-law of the council;

(n) keep or cause or suffer to be kept upon his premises any sanitary convenience of such nature that it is a nuisance or is offensive or injurious or dangerous to health;

(o) defoul, misuse or damage any public convenience or any convenience provided in any public building or place of public entertainment;

(p) carry or convey, or cause or permit to be carried or conveyed through or in any street or public place, any objectionable material or thing, liquid or solid, which is or may become offensive or dangerous or injurious to health, unless such objectionable material or thing is covered with a suitable material to prevent the creation of any nuisance;

(q) bury or dispose of any dead body in any unauthorised place;

(r) permit the carcass of any animal, being his property or of which he is in charge, and which has died on his premises or elsewhere in the municipal area, to remain unburied;

(s) cause or permit any stream, pool, ditch, drain, gutter, watercourse, sink, bath, cistern, water closet, privy or urinal on any land or premises owned or occupied by him or of which he is in charge to be or become so foul or in such a state or to be so situated or constructed as to be offensive or dangerous or injurious to health;

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(t) cause or permit any foul or polluted water or any foul liquid or objectionable material to run or flow from any premises owned or occupied by him, whether occupied for trade, business, manufacturing, dwelling or any other purpose, into any street or on any land;

(u) commit or cause or permit to be committed, any act which may pollute any water which inhabitants of the municipality have the right to use or which is provided or deserved for the use of such inhabitants;

(v) bathe or wash himself or any animal or article or clothing or any other article or thing in any public stream, pool or water trough or at any public hydrant or fountain or at any place which has not been set aside by the council for any purpose;

(w) disturb the public peace in any street or public place by making unseemly noises or by shouting, insistent hooting, wrangling or quarrelling, or by collecting a crowd or by organising any demonstration or by fighting or challenging to fight, or by striking with or brandishing or using in a threatening manner any stick or other weapon or by any other riotous, violent or unseemly behaviour at any time of the day or night, or by loitering in any street or public place or by gathering in crowds on pavements;

(x) advertise wares or services in any street or public place by means of any megaphone, loudspeaker, or similar device or by insistent shouting, striking of gongs, blowing of horns or ringing of bells in such manner as to constitute a public nuisance in the neighbourhood;

(y) in or upon any property or premises disturb the public peace in the neighbourhood of such premises by making therein or thereon any unseemly noises, or by shouting, wrangling, quarrelling and singing or by playing therein or thereon a musical instrument or use or permit to be used any musical instruments, radios, television sets or the like or any loudspeaker or other device for the reproduction or amplification of sound, in such manner or at such a time or in such circumstances that the sound thereof is audible beyond the boundaries of such property or premises and materially interferes with the ordinary comfort, convenience, peace or quiet of the occupiers of surrounding properties;

MBIZANA LOCAL MUNICIPALITY NOISE ABATEMENT AND PREVENTION OF NUISANCE BY-LAWS

(z) in any street or public place use any abusive or threatening language or commit any act which may or is calculated to cause a breach of the peace;

(za) solicit alms in any street or public place or endeavour by the exposure of wounds, sores, injuries or deformities or the production of begging letters to obtain alms, or

(zb) cleanse or wash any vehicle or part in any street or public place.

Failure to comply with provisions

4. (1) Where any material, article or thing of whatsoever nature has been accumulated, dumped, stored or deposited on any erf, or where there is an overgrowth of bush, weeds, grass or vegetation on any erf in contravention of section 2(a), (d) and (e) the council may serve a notice on -
 - (a) the person directly or indirectly responsible for such accumulation, dumping, storing or depositing;
 - (b) the owner of such material, article or thing, whether or not he is responsible for such accumulation, dumping, storage or depositing;
 - (c) the owner of the erf on which such accumulation, dumping, storage or depositing takes place, whether or not he is responsible therefore, or
 - (d) the owner of the erf on which there is an overgrowth of bush, weeds, grass or vegetation, requiring such persons or owners to dispose of, destroy or remove such material, article or thing or to clear such overgrowth to the satisfaction of the council.
- (2) Should any person or owner fail to comply with the requirements of a notice in terms of subsection (1) within the period stipulated by the council, the council may itself dispose of or destroy or remove such material, article or thing, or clear the overgrowth from any erf at the cost of any one or more of the persons or owners mentioned in subsection (1)(a), (b), (c) and (d).
- (3) Where on any erf there is a contravention of section 2(f), (g), (h) and (t) the council may at its discretion serve a notice on either the owner or the occupier to abate the nuisance.

MBIZANA LOCAL MUNICIPALITY NOISE ABATEMENT AND PREVENTION OF NUISANCE BY-LAWS

Sanitary facilities at construction sites

5. Every person engaged in building operations, road construction or construction work of any nature shall, when required to do so, provide adequate sanitary accommodation for himself and his employees to the satisfaction of and in accordance with any requirements specified by the council.

Unlawful occupation

6. (1) No person shall, without the permission of the council, occupy or permit to be occupied for human habitation a caravan, tent or other similar shelter of any description except on an authorised camping or caravan site controlled by the council or any other camping or caravan site which conforms with the provisions of the By-Law relating to such caravan parks or camping sites.

(2) The council may serve notice on any person who is occupying a caravan, tent or shelter in contravention of subsection (1) to vacate such caravan, tent or shelter within 3 days after the service of such notice, failing which, such person shall be guilty of an offence.

Penalties

7. Any person who contravenes or fails to comply with any provision of this by-law shall be guilty of an offence and liable upon conviction to -
 - (1) a fine or imprisonment for a period not exceeding six months or to such imprisonment without the option of a fine or to both such fine and such imprisonment and,
 - (2) in the case of a continuing offence, to an additional fine or an additional period of imprisonment of 10 days or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued and,
 - (3) a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as a result of such contravention or failure.

LOCAL AUTHORITY NOTICE 58 OF 2017**MBIZANA LOCAL MUNICIPALITY**

The Municipal Manager hereby publishes, in terms of Section 13 of the Local Government Municipal Systems Act, 2000 [Act 32 of 2000] read with Section 162 of the Constitution of the Republic of South Africa Act 1996 [Act 108 of 1996] the By-Laws in respect of the Control of Temporary Advertisements which by-laws shall come into operation on the date of publication thereof.

BY-LAWS IN RESPECT OF THE CONTROL OF TEMPORARY ADVERTISEMENTS**[1] Purpose**

The purpose of these by-laws is to regulate, limit, prohibit, inspect, supervise and levy moneys with regard to the erection, display and use of temporary advertisements of whatever nature, on or visible from any street or public space.

[2] Definitions

For the purposes of these by-laws, unless the context otherwise indicates-

"advertisement trailer" means any trailer on which an advertisement sign is mounted with the sole purpose of displaying the advertisement to the public;

"advertising" means the act or process of notifying, warning, informing, making known or any other act of transferring information in a visible manner;

"aerial sign" means an aerial sign and includes any sign in the form of an air balloon or a sign which is displayed in the sky by means of balloons, searchlights, aeroplanes or similar aids;

"banner" means any flag-type temporary advertisement which is tied to poles with ropes or similar material;

"commercial poster" means any temporary advertisement of a commercial nature advertising any event, meeting, gathering, activity, product, service or the sale of any goods;

"control areas" means those areas as determined by the municipality from time to time in which degrees of advertising control are applied in accordance with the visual sensitivity of such areas and traffic safety conditions;

"directional sign" means any sign with the purpose to make known or which indicates the route to and location of any meeting, gathering, event, exhibition, show house or any property which is for sale or to let, excluding any such sign erected by the municipality;

"election material" means any advertisement or advertising device which is displayed or is in any way whatsoever visible from a street or any public place and which is used in connection with a parliamentary or municipal election, referendum or plebiscite;

"municipality" means the Municipality of Mbizana established in terms of Section 12 of the Municipal Structures Act, 117 of 1998 and includes any political structure, political office bearer, councillor, duly authorised agent or any employee thereof acting in connection with these by-laws by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee.

"non-commercial poster" means any temporary advertisement which is not of a commercial nature announcing or attracting public attention to any meeting, event, function, activity, show, market or undertaking of a sports, welfare, educational, political or religious nature or to the candidature of any person nominated for election to parliament, local government or any similar body or to a referendum;

"public place" includes any road, street, thoroughfare, bridge, overhead bridge, subway, foot pavement, foot-path, sidewalk, lane, square, open space, garden, park or enclosed space vested in or under the control of the municipality.

"street" includes any street, road or thoroughfare shown on the general plan of a township, agricultural holdings or other division of land or in respect of which the public have acquired a prescriptive or other right of way and includes a sidewalk adjacent to such a street, a traffic island, bridge or subway forming part of such a street.

"tariff" means any charge or deposit determined from time to time by Municipality in terms of section 10G [7] of the Local Government Transition Act, Second Amendment Act, 1996 [Act No. 97 of 1996] or any other applicable law in respect of the display or any temporary advertisement in terms of these by-laws;

"temporary advertisement" means any visible representation of a word, name, letter, figure object, mark or symbol or of an abbreviation of a word or name, or of any combination of such elements with the object of transferring information including any non-commercial poster, commercial poster, banner, aerial sign, directional sign, election material, advertisement trailer, "For sale" or "Sold" sign which is not permanently fixed and where it is not intended to be permanently fixed.

[3] Permission to display

- [1]** The Municipality shall from time to time define control areas and allocate the types of temporary advertisements which shall be allowed and/or prohibited in each of the aforesaid control areas.
- [2]** Unless the prior written approval of Municipality has been obtained, no person shall affix, attach, secure, place, display, distribute or have displayed or distributed or allow or permit the display or distribution of any temporary advertisement in or in view of any street or public place within the relevant control area where that type of temporary advertisement is allowed.
- [3]** Where temporary advertisements are prohibited within the control areas as defined by Municipality, no person shall in or in view of any street or public place affix, attach, secure, place, display, distribute or have displayed or distributed or allow or permit the display or distribution of any temporary advertisement.

[4] Manner of application to obtain permission

An application for permission to display or distribute a temporary advertisement shall be made on the prescribed application form and be accompanied by the applicable tariff and deposit as determined by the Municipality plus a sketch plan or sample of the temporary advertisement if feasible as the case may be. Such sketch plan or sample shall contain sufficient detail describing the nature, dimensions, wording and method of affixation of the temporary advertisement to which it relates, provided that the Municipality shall, at all times, reserve the right to obtain such additional information as it may deem necessary from the applicant.

[5] Approval in respect of the display of temporary advertisements

- [1]** If the Municipality, having considered an application referred to in Section 4, is satisfied that the application in question complies with the requirements of these by-laws and any other applicable law, it shall grant its approval in respect thereof.
- [2]**
 - [a]** If the Municipality, having considered an application referred to in Section 4, is not so satisfied, it shall refuse to grant its approval in respect thereof and give the applicant written reasons for such refusal.
 - [b]** If the Municipality, having considered an application referred to in Section 4, is satisfied that the temporary advertisement to which the application in question relates-

- [i] is to be erected in such manner or will be of such nature or appearance that-
 - [aa] the area in which it is to be erected will probably or in fact be disfigured thereby;
 - [bb] it will probably or in fact be unsightly or objectionable;
 - [cc] it will probably or in fact derogate from the value of adjoining or neighbouring properties;
- [ii] will probably or in fact be dangerous to life or property,

the Municipality must refuse to grant its approval in respect thereof and give the applicant written reasons for such refusal.

[6] Deposits and charges

Whether or not permission therefore has been granted in terms of these by-laws, no temporary advertisement shall be erected or displayed, unless the prescribed tariff or tariffs have been paid to Municipality by the applicant.

[7] Refund of deposit

A deposit paid in terms of Section 6 shall be refunded to the applicant, subject to the provisions of Section 18, only when-

- [1] all the temporary advertisements to which the deposit relates, have been removed to the satisfaction of Municipality; or
- [2] an application for approval has been refused by Municipality.

[8] Exempted advertisements

- [1] The following temporary advertisements are exempted from the provisions of these by-laws:
 - [a] Applications in terms of Municipality's town-planning scheme or other legally prescribed advertisements regarding building or similar activities where such advertisements are erected within the boundaries of the site where the activities are taking place; and
 - [b] temporary advertisements which are erected in or on business premises with the previously obtained permission of the owner or tenant of the building.

- [2] A temporary advertisement of a newspaper or magazine which is offered for sale to the public at a specific time, is exempted from the other provisions of these by-laws, only if such display is undertaken-
- [a] on a stand or container, or place previously approved by Municipality; and
 - [b] the sign only shows headlines of the newspaper or magazine concerned.
- [3] The Municipality may, in its sole discretion, in writing deviate from or grant an exemption in respect of one or more of the provisions of these by-laws after an application in writing has been received for such exemption and it shall be lawful for the Municipality to impose such conditions as it may deem fit in granting such exemption.

[9] Prohibited advertisements

- [1] No temporary advertisement which, in the opinion of Municipality-
- [a] is suggestive of anything indecent or which may prejudice the public morals;
 - [b] is blasphemous or offensive to the religious convictions or feelings of any inhabitant of the municipal area;
 - [c] brings any section of the inhabitants of the municipal area into ridicule or contempt;
 - [d] is harmful to the relations between persons or groups of persons;
 - [e] is prejudicial to the safety, general public welfare or the peace or the good order; or
 - [f] is repugnant with any other law,
- shall be displayed or distributed in any form whatsoever.

[10] General requirements regarding temporary advertisements

- [1] No temporary advertisement shall be placed in such a position or be attached in such a manner that it may, in the discretion of the Municipality, be dangerous to vehicular traffic or pedestrians in a street or in any other public place.

- [2] Every temporary advertisement shall be maintained by the owner or applicant in a good and safe condition at all times and to the satisfaction of Municipality.
- [3] No temporary advertisement shall be positioned in such a way that any road traffic sign or robot shall be obscured thereby.

[11] General requirements regarding posters

- [1] Unless otherwise specifically specified in these by-laws, every commercial and non-commercial poster and election material shall comply with the following requirements:
 - [a] The poster shall be affixed to a suitable and solid material, in such a way that it will not become totally or partially detached owing to wind or rain.
 - [b] Neither the material nor the poster itself may in extent exceed 600mm by 900mm.
 - [c] The poster shall be placed only on or against or be affixed to or against an electrical pole in a street.
 - [d] The poster shall be attached to electric poles with wire or string or any other material approved by the Municipality.
 - [e] The top end of all posters which are fixed to an electrical pole in a street, shall not be closer than 1,5m of the conductors.
 - [f] No poster shall be erected lower than 2m from ground level on street corners.
 - [g] No poster shall be erected on or against or affixed to or against any tree, road traffic sign or robot pole.
 - [h] No poster shall be displayed for a longer period than between fourteen days prior to the day on which the activity to which the poster relates begins to three days after the day of such activity.
 - [i] A sticker for control purposes shall be issued by the Municipality for each poster, excluding election material, and the applicant himself shall affix such sticker to each of the approved posters.
 - [j] With the exception of election material, not more than one hundred posters in respect of any meeting, event, function, activity, show, market or undertaking shall be displayed at any one particular time.

[12] Election material

[1] In respect of any election material, the following further conditions and/or requirements shall be compiled with:

[a] No election material shall be displayed for longer than a period stretching from the announcement of the election, referendum or plebiscite to the end of the fourth day after midnight of the election day or the polling day; provided that nothing contained in this section shall have any bearing on specific election material regarding such election which is-

[i] displayed in or on a private motor vehicle which is parked or driven in a street or in another public place;

[ii] erected on the premises of the polling station as determined by the Returning Officer on the day before an election, by-election, referendum or plebiscite and which is to be removed not later than the day following the election.

[2] No. election material by political parties shall be erected or affixed on the premises of a polling station at a position determined by the Returning Officer earlier than a day prior to the election day concerned and such material shall be removed on the day following the election day by political parties responsible for same.

[3] Not more than the number of posters as indicated hereunder shall be displayed at any one particular time with regard to a parliamentary or municipal election, referendum or plebiscite:

Parliamentary election: 1 500 per party.

Municipal election: 300 per candidate per ward and 1 500 per party.

Referendum: 1 500 per party.

Plebiscite:

[i] Municipal: 1500 per party.

[ii] Parliamentary: 1 500 per party.

[13] Banners

[1] With regard to banners, the following further conditions and/or requirements shall be complied with:

- [a]** The Municipality shall from time to time determine such sites where banners may be displayed.
- [b]** Only one banner may be displayed per determined site.
- [c]** The municipality shall allocate a specific site to successful applicants for a period of seven days, provided that the period of allocations shall not overlap.
- [d]** The municipality shall have the right to remove any banner which becomes unsightly, untidy or which is torn or damaged on account of wind or for any other reason, and, as a result becomes dangerous to the public and the municipality shall not be obliged to refund to the applicant any tariffs paid in respect of a banner so removed.
- [e]** The banner shall, in extent not exceed 1m x 8m and shall be made of a material acceptable to the municipality.
- [f]** Only one banner may be erected per candidate or per party during a parliamentary election, referendum or plebiscite irrespective of the number of determined sites.

[14] Aerial signs

- [1]** With regard to aerial signs, the following further conditions and/or requirements shall be complied with:
- [a]** The mooring-ropes must be tied in such a way that no road traffic sign, surrounding construction or overhead electricity lines will be damaged or affected.
 - [b]** The erection of the aerial sign shall be in the discretion of the Municipality and the Municipality shall retain the right to withdraw its permission, should the aerial sign become unsightly or untidy or dangerous to the public and request the owner or applicant to remove same, at his or her own cost, if the sign has already been erected.
 - [c]** Should the owner or applicant fail or refuse to remove the aerial sign referred to in subsection [b] the Municipality shall be entitled to remove same and recover the cost of removal from the owner or applicant as the case may be.
 - [d]** The Municipality shall not be obliged to refund to the applicant any tariffs paid in respect of an aerial sign removed in terms of this section..
 - [e]** The aerial sign may be displayed for a maximum period of twenty one days before the date of the activity to which it relates and shall be removed within 48 hours after such activity has ended.

CONTINUES ON PAGE 130 - PART 2



PROVINCE OF THE EASTERN CAPE
IPHONDO LEMPUMA KOLONI
PROVINSIE OOS-KAAP

**Provincial Gazette
Igazethi Yephondo
Provinsiale Koerant**

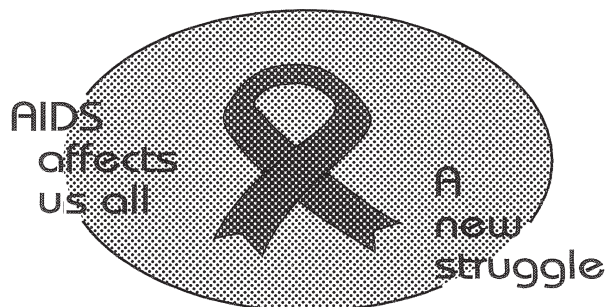
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24 APRIL 2017
24 APRIL 2017

No. 3830

PART 2 OF 2

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[15] "For Sale" and "Sold" signs

- [1] With regard to "For Sale" and "Sold" signs of fixed property the following further conditions and/or requirements shall be complied with:
- [a] The sign shall, in extent, not exceed 600 mm x 450mm.
 - [b] The sign shall be erected or attached within or on the boundaries of any site or erf.
- [2] The person who erects a "For Sale" and "Sold" sign on a site or erf is, notwithstanding the provisions of Section 6, exempted from the requirement relating to the obtaining of the prior written approval from Municipality in terms of these by-laws as well as from the obligation to pay any tariff to the Municipality in terms of these by-laws .

[16] Directional signs

- [1] With regard to directional signs, the following further conditions and/or requirements shall be complied with:
- [a] A maximum of twenty [20] directional signs in respect of any specific meeting, gathering, event, exhibition, show house or any property which is for sale or to let may be exhibited at any one time.
 - [b] No directional sign may be exhibited for more than seven days before and two days after the occurrence of the event to which it relates.
 - [c] No directional sign shall be erected in such a way that the free movement of pedestrians on a pavement may be obstructed thereby.
- [2] The person who erects a directional sign is, notwithstanding the provisions of Section 6 exempted from the requirement to obtain the prior written approval of Municipality and also from the obligation to pay any tariff to the Municipality in terms of these by-laws.

[17] Advertisement trailers

- [1] With regard to advertisement trailers, the following further conditions and/or requirements shall be complied with:
- [a] The Municipality shall from time to time determine specific parking bays for the parking of advertisement trailers on municipal and/or private property.

- [b]** The advertisement trailer may only be parked on the designated parking bay determined by Municipality, and only one advertisement trailer may be parked on one parking bay.
- [c]** The advertisement trailer may be parked on one specific parking bay for a maximum period of seven days.
- [d]** The advertisement trailer shall be properly secured in order to withstand strong winds and weather conditions.
- [e]** The advertisement trailer shall not be towed for the sole purpose of displaying the advertisement sign, which is mounted on the trailer, to the public during the movement and may only be towed to and from the designated parking bay.
- [f]** The advertisement trailer shall not be towed in any public street if, in the opinion of Municipality, it will probably or in fact cause a hindrance to or an obstruction to any traffic in such street.
- [g]** The advertisement sign on an advertisement trailer shall not be self illuminated.
- [h]** The design and construction of any advertisement trailer shall conform to the requirements of the Road Traffic Act, 1989 [Act No. 29 of 1989], and SABS Standards for trailers.

[18] Failure to remove signs

Any person who, after he has displayed or caused to be displayed any temporary advertisement, fails to remove it or have it removed after the permission therefor has lapsed or is withdrawn in terms of these by-laws, commits an offence and, apart from any fine which he has to pay in terms of Section 21 of these by-laws, shall also forfeit the deposit paid by him to the municipality in terms of these by-laws.

[19] Damage to municipal property

No damage shall be caused to any tree, electrical pole or any municipal property or services as a result of the erection and or display of any temporary advertising sign in terms of these by-laws and any person who causes such damage or negligently fails to prevent such damage from occurring shall be guilty of an offence and, apart from the fine imposed upon him in terms of these by-laws, shall be responsible for the repair, at his own expense and to the satisfaction of the Municipality of such damage; provided that Municipality may repair such damage and recover the cost thereof from such person.

[20] Exemption from liability

The municipality shall not be responsible for any loss, damage, injury or death to anything or any person in respect of any action taken by such person or the Municipality in terms of these by-laws.

[21] Offences and penalties

[1] Any person who:-

- [a] contravenes any of the provisions of these By-laws or fails to comply therewith, or
- [b] contravenes or fails to comply with any order made hereunder or any notice served in connection herewith,

shall be guilty of an offence and upon conviction be liable to -

- [i] a fine or imprisonment for a period not exceeding six months or to such imprisonment without the option of a fine or to both such fine and such imprisonment and,
- [ii] in the case of a continuing offence, to an additional fine or an additional period of imprisonment of 10 days or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued and,
- [iii] a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as a result of such contravention or failure.

[22] Repeal of By-Laws

Any other by-laws adopted by the municipality or a municipality now comprising an administrative unit of the municipality and relating to the control of temporary advertisements are, from the date of promulgation of these by-laws, repealed.

LOCAL AUTHORITY NOTICE 59 OF 2017**LOCAL GOVERNMENT NOTICE****MBIZANA LOCAL MUNICIPALITY**

The Municipal Manager of Mbizana Local Municipality hereby publishes, in terms of Section 13 of the Local Government Municipal Systems Act, 2000 [Act 32 of 2000] read with Section 162 of the Constitution of the Republic of South Africa Act 1996 [Act 108 of 1996] the By-Laws Relating to Unsightly and Neglected Buildings and Premises which shall come into operation on the date of publication thereof.

BY-LAWS RELATING TO UNSIGHTLY AND NEGLECTED BUILDINGS AND PREMISES

1. Purpose

To provide for the prevention of neglected and unsightly buildings and premises within the municipal area of the Municipality and to provide for matters incidental thereto.

BE IT ENACTED by the Council of Mbizana Local Municipality, as follows:

2. Definitions

In these by-laws:-

“building” has the meaning assigned thereto in section 1 of the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977), as amended;

“Council” means the Municipal Council of Mbizana Local Municipality and includes any employee to whom the Council has delegated powers to enforce and/or perform duties in terms of these by-laws;

“Municipality” means Mbizana Local Municipality and its legal successors, and when referred to as-

(a) “a legal entity”, means Mbizana Local Municipality as described in section 2 of the Local Government: Municipal Systems Act, (Act No. 32 of 2000); and

(b) “a geographic area”, means the municipal area of the Mbizana Local Municipality as determined from time to time in terms of the Local Government : Municipal Demarcation Act, 1998 (Act No 27 of 1998);

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

"Nuisance" means any conduct or condition which brings about or may bring about a state of affairs or condition which is obnoxious and, or constitutes a health risk or a source of danger to human lives or property or which interferes or may interfere with the ordinary comfort, convenience, peace or quiet of persons;

“Owner” means:-

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

“premises” means any land, whether vacant, occupied or with buildings thereon, situated within the municipal area.

3. Control of neglected and unsightly buildings and premises

- (1) Where upon any premises there is, in the opinion of the Council-
- (a) a building which is unsightly, neglected or offensive and which causes the value of surrounding properties to be detrimentally affected;
 - (b) a growth of neglected lawns, trees shrubs or other cultivated vegetation.
 - (c) An unsightly accumulation of papers, cartons, garden refuse, rubble and/or other waste material;
 - (d) An accumulation of motor wrecks or used motor parts, which -
 - (i) detracts from the appearance of surrounding properties, or
 - (ii) is offensive to the owners or occupiers of adjacent premises-

the Council shall serve a notice in writing on the owner or occupier of such premises requiring him or her or it to improve such building or the condition of such premises to a standard acceptable to the Council which standard shall be stated in the notice within a specified period which shall not exceed ninety (90) days from the date of the notice.

- (2) If the owner fails to comply with the requirements of the notice served on him or her or it in terms of Section 2 of these by-laws within the period specified in such notice, such owner shall be guilty of an offence and liable on conviction to a fine or in default of payment to imprisonment for a period not exceeding 6 months.
- (3) Alternatively and instead of instituting legal action against the owner in terms of Section 3 of these by-laws and provided no written objections from such owner have been received before the expiry date of the period specified in the notice served on him, her or it, the Council shall assume that such owner has no objection and tacitly agrees that the Council may, without any further notice to him or her or it, enter upon such premises and, at his or her or its cost and through its officials or a contractor appointed by the Council on a tender or quotation basis, execute the work necessary to comply with the requirements of the said notice.
- (4) The Council shall be entitled to recover the cost of the work undertaken in terms of Section 4 in any court of law from the owner so in default.
- (5) A certificate under the hand of the Municipal Manager of the Municipality stating the cost of the work referred to in Section 5 shall be conclusive proof thereof.

4. Offences and penalties

4. (1) If the owner fails to comply with the requirements of the notice served in terms of section 2 within the period specified in such notice, such owner is guilty of an offence and, on conviction, be liable to a fine as determined by a competent court.

(2) The Municipality may, instead of instituting a prosecution and unless written objection from such owner has been received before the expiry date of the period specified on the notice served on him or her, assume that such owner has no objection and tacitly agrees that the Municipality may, without further notice, enter upon such premises and through its officials or a contractor whose tender the Municipality has accepted, and at the cost of such owner execute the work necessary to comply with the requirements of the said notice.

5. Repeal of By-Laws

All Municipal By-Laws, and amendments thereto, relating to Unsightly and Neglected Buildings and Premises are repealed.

6. Short Title and Commencement

By-laws Relating to Unsightly and Neglected Buildings and Premises will come into operation on the date of publication in the *Provincial Gazette*.

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