



JOHANNESBURG BAR LIBRARY
 1st FLOOR, THE CHAMBERS
 3 PROTEA PLACE
 SANDOWN 2196

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

Provincial Gazette
Igazethi Yephondo
Provinsiale Koerant

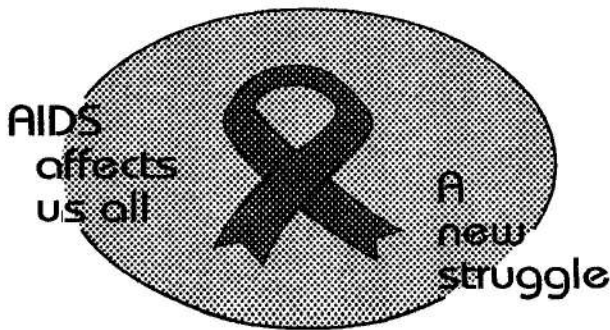
Selling price: **R1,50**
 Other countries: **R1,95**

Vol. 13

BISHO/
 KING WILLIAM'S TOWN, 20 FEBRUARY 2006

No. 1477
 (Extraordinary)

We all have the power to prevent AIDS



**AIDS
 HELPLINE**

0800 012 322

DEPARTMENT OF HEALTH

Prevention is the cure

PART 1 OF 2



CONTENTS • INHOUD

<i>No.</i>		<i>Page No.</i>	<i>Gazette No.</i>
LOCAL AUTHORITY NOTICES			
21	Local Government: Municipal Systems Act, 2000: Nkonkobe Local Municipality: Street Trading By-law.....	3	1477
22	do.: do.: By-law relating to the Keeping of Dogs and other Animals 2004.....	15	1477
23	do.: do.: By-law relating to Neglected Buildings and Premises, 2004.....	33	1477
24	do.: do.: By-law relating to the Prevention of Nuisances, 2004.....	41	1477
25	do.: do.: Credit Control By-law, 2004.....	64	1477
26	do.: do.: By-law relating to Advertising Signs, 2004.....	107	1477
27	do.: do.: By-law relating to Outdoor Facilities and Municipal Buildings, 2004.....	127	1477
28	do.: do.: By-law relating to Public Open Spaces, 2004.....	146	1477
29	do.: do.: By-law relating to Solid Waste Disposal, 2004.....	167	1477
30	do.: do.: By-law relating to Cemeteries and Crematoria, 2004.....	181	1477
31	do.: do.: By-law relating to Standing Orders for Council, 2004.....	199	1477
32	do.: do.: By-law relating to Ward Committees, 2004.....	282	1477
33	do.: do.: By-law relating to the Delegation of Powers, 2004.....	294	1477
34	do.: do.: By-law relating to Community Fire Safety, 2004.....	302	1477

LOCAL AUTHORITY NOTICES

No. 21**NKONKOBÉ LOCAL MUNICIPALITY : STREET TRADING BY-LAW, 2004 -
PUBLICATION FOR INFORMATION PURPOSES**

The Nkonkobe Local Municipality, in compliance with the provisions of the Local Government : Municipal Systems Act, 2000, hereby publishes for information purposes the Street Trading By-law, 2004, as passed by the municipal council and as set out in the accompanying schedule.

LOCAL AUTHORITY NOTICE**MUNICIPALITY OF NKONKOBE****STREET TRADING BY-LAW**

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 Street Trading By-law.

Purpose of By-law

The purpose of this by-law is to regulate street trading for the benefit of the public residing and carrying on business within the municipal boundaries of the municipality.

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

"approval" means approval by the municipality and **"approved"** has a corresponding meaning;

"authorised official" means –

- (a) an official of the municipality who has been authorised by it to administer, implement and enforce the provisions of this by-law;
- (b) a traffic officer appointed in terms of Section 3A of the National Road Traffic Act, 1996 [Act No. 93 of 1996];
- (c) a member of the police service, as defined in terms of section 1 of the South African Police Service Act, 1995 [Act No. 68 of 1995]; or
- (d) a peace officer, contemplated in terms of Section 334 of the Criminal Procedure Act, 1977 [Act No. 51 of 1977];

"foodstuff" means any article or substance, except a drug as defined in the Drugs and Drug Trafficking Act, 1992 [Act No. 140 of 1992], ordinarily eaten or drunk by persons or purporting to be suitable or manufactured or sold for human consumption and includes any part or ingredient of any such article or substance or any substance used or intended or destined to be used as a part or ingredient of any such article or substance;

"garden or park" means a garden or park to which the public has a right of access;

"goods" means any movable property and includes a living thing;

"intersection" means an intersection as defined in the regulations promulgated in terms of the National Road Traffic Act, 1996 [Act No. 93 of 1996];

"kerb line" means a kerb line as defined in Section 1 of the National Road Traffic Act, 1996;

"litter" includes any receptacle, container or other matter, which has been discarded, abandoned or left behind by a street trader or by his or her customers;

"motor vehicle" means a motor vehicle as defined in Section 1 of the National Road Traffic Act, 1996;

"municipal services" means any system conducted by or on behalf of a local authority for the collection, conveyance, treatment or disposal of refuse, sewage or storm water, or for the generation, impounding, storage, purification or supply of water, gas, electricity or other services;

"municipal service works" means all property or works of whatever nature necessary for or incidental to any municipal services;

"municipality" means the Municipality of Nkonkobe, established in terms of Section 12 of the Local Government : Municipal Structures Act, 1998 [Act 117 of 1998] and includes any political structure, political office bearer, councillor, duly authorized agent thereof or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated to such political structure, political office bearer, councillor, agent or employee;

"prescribed" means determined by resolution of the municipality from time to time;

"property", in relation to a street trader, means any article, container, vehicle or structure used or intended to be used in connection with such business, and includes goods in which he or she trades;

"public building" means a building belonging to or occupied solely by any sphere of the government, including the municipality;

"public monument" means any one of the **"public monuments and memorials"** as defined in terms of Section 2 of the National Heritage Resources Act, 1999 [Act No. 25 of 1999];

"public place" means any square, park, recreation ground or open space which is vested in the municipality or to which the public has the right to use or is shown on a general plan of a township filed in the deeds registry or a Surveyor-General's office and has been provided for the use of the public or the owners of erven in such township;

"public road" means a public road as defined in Section 1 of the National Road Traffic Act, 1996;

"roadway" means a roadway as defined in Section 1 of the National Road Traffic Act, 1996;

"sell" includes -

- [a] barter, exchange or hire out;
- [b] display, expose, offer or prepare for sale;
- [c] store on a public road or public place with a view to sell; or
- [d] provide a service for reward;

and **"sale"** or **"selling"** has a corresponding meaning;

"sidewalk" means a sidewalk as defined in Section 1 of the National Road Traffic Act, 1996;

"street furniture" means any furniture installed by the municipality on the street for public use;

"street trader" means a person who carries on the business of street trading and includes any employee of such person;

"street trading" means the selling of any goods or the supplying or offering to supply any service for reward, in a public road, or public place, by a street trader;

"the Act" means the Businesses Act, 1991 [Act No. 71 of 1991] and includes the regulations promulgated thereunder; and

"verge" means a verge as defined in Section 1 of the National Road Traffic Act, 1996;

2. **Meaning of words and expressions in Businesses Act incorporated in this by-law** - Unless the context otherwise indicates, any words or expressions to which a meaning has been assigned in the Businesses Act, 1991 [Act No. 71 of 1991], shall have a corresponding meaning in this by-law.
3. **Single act constitutes street trading** - For the purpose of this by-law a single act of selling or offering or rendering of services in a public road or public place shall constitute street trading.
4. **Reference to legislation includes regulations made thereunder** - For the purpose of this by-law a reference to any legislation shall be a reference to that legislation and the regulations promulgated thereunder.

5. **Assigning responsibilities of a municipal employee to an employee of a service provider, where a service provider has been appointed** – If any provision in this by-law imposes any responsibility of the municipality in or on an employee of the municipality and such responsibility has, in terms of Section 76(b) of the Local Government : Municipal Systems Act, 2000 [Act No. 32 of 2000] or any other law, been assigned to a service provider, then the reference in such a provision to such employee must be read as a reference to the service provider or a duly authorized employee of the service provider.

6. **Prohibited conduct**

[1] No person shall carry on the business of a street trader-

[a] at a place or in an area declared by the municipality in terms of section 6A(2)(a) of the Act as a place or area in which street trading is prohibited;

[b] in a garden or a park to which the public has a right of access;

[c] on a verge contiguous to -

[i] a building belonging to, or occupied solely by, any sphere of the government or the municipality;

[ii] a church, mosque, synagogue or other place of worship;

[iii] a building declared to be a public monument;

[iv] an autoteller bank machine;

[d] at a place where it causes an obstruction in respect of -

[i] a fire hydrant; or

[ii] any entrance to or exit from a building;

[e] at a place where it is likely to obstruct vehicular traffic;

[f] at a place where it could substantially obstruct a pedestrian in his or her use of the sidewalk;

[g] on that half of a public road, contiguous to a building used for residential purposes, if the owner or person in control or any occupier of that building objects thereto and such objection is made known to the street trader by an authorised official;

[h] on a stand or in any area demarcated by the municipality in terms of Section 6A(3)(b) of the Act, if he or she is not in possession of written proof that he or she has hired such stand

or area from the municipality or that such stand has otherwise been allocated to him or her by the municipality;

- [i] within 5 [five] metres of any intersection; and
- [j] on a sidewalk contiguous to a building in which business is being carried on by any person who sells goods of the same or of a similar nature to the goods being sold on such sidewalk by the street trader, if the goods are sold by the street trader without the *prior consent of such person and an authorised official* has informed the street trader that such consent does not exist.

- [2] A person who has hired a stand from or who has been allocated a stand by the municipality in terms of subsection (1)(h) may not trade in contravention of the terms and conditions of such lease or allocation.

7. Restricted conduct - A person carrying on the business of a street trader -

- [a] may not sleep overnight at the place of such business;
- [b] may not erect any structure for the purpose of providing shelter, other than a device approved by the Council;
- [c] may not place his or her property on a public road or public place, with the exception of his or her motor vehicle or trailer from which trade is conducted, provided that such vehicle or trailer does not obstruct pedestrian or vehicular traffic movement and complies with the provisions of the National Road Traffic Act, 1996;
- [d] must ensure that his or her property or area of activity -
 - [i] does not cover an area of a public road or a public place which is greater than 6 (six) square metres (with a maximum length of 3 (three) metres) in extent, unless otherwise approved by the municipality; and,
 - [ii] In respect of any sidewalk, leaves an unobstructed space for pedestrian traffic, being not less than 1.5 (one and a half) metres wide when measured from any contiguous building to the property or area of activity and not less than 0.5 (one half) metres wide when measured from the kerb line to the property or area of activity;
- [e] may not trade on a sidewalk where the width of such sidewalk is less than 3 (three) metres;
- [f] may not place or stack his or her property in such a manner that it constitutes a danger to any person or property, or is likely to injure any person or cause damage to any property;

- [g] may not display his or her goods or other property on or in a building, without the consent of the owner, lawful occupier, or person in control of such building or property;
- [h] must, on request by an authorised official or supplier of telecommunication or electricity or other municipal services, move his or her property so as to permit the carrying out of any work in relation to a public road, public place or any such service;
- [i] may not attach any of his or her property by any means to any building, structure, pavement, tree, parking meter, lamp, pole, electricity pole, telephone booth, post box, traffic sign, bench or any other street furniture in or on a public road or public place;
- [j] may not carry on such business in such a manner as to -
 - [i] create a nuisance;
 - [ii] damage or deface the surface of any public road or public place, or any public or private property; or
 - [iii] create a traffic or health hazard, or health risk, or both;
- [k] may not make an open fire on a public road or public place;
- [l] may not interfere with the ability of a person using a sidewalk to view the goods displayed behind a shop display window or obscure such goods from view;
- [m] may not obstruct access to a pedestrian crossing, a parking or loading bay or other facility for vehicular or pedestrian traffic;
- [n] may not obstruct access to, or the use of, street furniture and any other facility designed for the use of the general public;
- [o] may not obscure any road traffic sign displayed in terms of the National Road Traffic Act, 1996, or any marking, notice or sign displayed or made in terms of this by-law;
- [p] may not carry on business, or take up a position, or place his or her property on a portion of a sidewalk or public place, in contravention of a notice or sign erected or displayed by the municipality for the purposes of this by-law;
- [q] may not, other than in a refuse receptacle approved or supplied by the municipality, accumulate, dump, store, or deposit, or cause or permit to be accumulated, dumped, stored or deposited, any litter on any land or premises or any public road or public place or on any public property;

- [r] may not place, on a public road or public place, such of his or her property that is not capable of being easily removed to a storage place away from such public road or public place, at the end of the day's business;
- [s] must, on concluding business for the day, remove his or her property, except any structure permitted by the municipality, to a place which is not part of a public road or public place;
- [t] may not store his or her property in a manhole, storm water drain, public toilet, bus shelter or in a tree; and,
- [u] may not carry on such business in a place or area in contravention of any prohibition or restriction approved by the Council in terms of section 6A(2)(a) of the Act.

8. Cleanliness - A street trader must -

- [a] Keep the area or site occupied by him or her for the purposes of such business in a clean and sanitary condition;
- [b] Keep his or her property in a clean, sanitary and well maintained condition;
- [c] Dispose of litter generated by his or her business in whatever refuse receptacle is provided by the municipality for the public or at a dumping site of the municipality;
- [d] Not dispose of litter in a manhole, storm water drain or other place not intended for the disposal of litter;
- [e] Ensure that on completion of business for the day, the area or site occupied by him or her for the purposes of trade is free of litter;
- [f] Take such precautions in the course of conducting his or her business as may be necessary to prevent the spilling onto a public road, or public place, or into a storm water drain, of any fat, oil or grease;
- [g] Ensure that no smoke, fumes or other substance, odours, or noise, emanating from his or her activities, causes pollution of any kind;
- [h] On request by an authorised official, move his or her property so as to permit the cleansing of the space or the area or site where he or she is trading, or the effecting of municipal services.

9. Signs indicating restricted and prohibited areas

- [1] The municipality may, by resolution and in terms of Section 6A(2) of the Act, declare any place in its area of jurisdiction to be an area in which

street trading is restricted or prohibited, and must, to enable compliance therewith, prescribe or make signs, markings or other devices indicating-

- [a] specified hours, places, goods or services in respect of which street trading is restricted or prohibited;
 - [b] the location of boundaries in respect of restricted or prohibited areas;
 - [c] the boundaries of a stand or area set apart for the purposes of the carrying on of the business of street trading;
 - [d] the fact that any such stand or area has been let or otherwise allocated; and,
 - [e] any restriction or prohibition against street trading in terms of this by-law.
- [2] The municipality may display any such sign, marking or device in such a position and manner as will indicate any restriction or prohibition and the location or boundaries of the area or stand concerned.
- [3] Any sign erected in terms of this by-law or any other law, shall serve as sufficient notice to a street trader of the prohibition or restriction in respect of the area concerned.
- [4] Any sign may be amended from time to time and displayed by the municipality for the purpose of this by-law and shall have the same effect as a road sign in terms of the National Road Traffic Act, 1996 .

10. Designated areas

- [1] The municipality may, by resolution and in terms of Section 6A(3)(b) of the Act, set apart and demarcate stands or areas for the purposes of street trading on any public road, the ownership or management of which is vested in the municipality, or on any other property in the occupation and under the control of the municipality.
- [2] Any such stands or areas may be extended, reduced or disestablished by resolution of the municipality.

11. Removal and impoundment

- [1] An authorised official may remove and impound any property of a street trader which -
- [a] he or she reasonably suspects is being used or which is intended to be used or has been used for or in connection with street trading; and

- [b] is found at a place where street trading is restricted or prohibited.
- [2] The removal and impoundment of property in terms of subsection [1] may be effected irrespective of whether or not such property is in the possession or under the control of any third party at the time.
- [3] Any authorized official acting in terms of subsection [1] must, except where goods have been left or abandoned, issue, to the person carrying on the business of a street trader, a receipt for any property so removed and impounded, which receipt must -
 - [a] itemise the property to be removed and impounded;
 - [b] provide the address where the impounded property will be kept and the period of such impoundment;
 - [c] state the terms and conditions for the release of the impounded property;
 - [d] state the terms and conditions relating to the sale of unclaimed property by public auction; and
 - [e] provide the name and address of a municipal official to whom any representations regarding the impoundment may be made and the date and time by which this must be done.
- [3] If any property about to be impounded is attached to any immovable property or a structure and such property or structure is under the apparent control of a person present thereat, then any authorised official may order such person to remove the property and if such person refuses or fails to comply then he or she shall be guilty of an offence.
- [4] When any person fails to comply with an order to remove the property referred to in subsection [3], any authorised official may take such steps as may be necessary to remove such property.

12. Vicarious responsibility of persons carrying on business

- [1] When an employee or agent of a street trader contravenes a provision of this by-law the street trader shall be deemed to have committed such contravention him- or herself unless such street trader satisfies the court that he or she took reasonable steps to prevent such contravention.
- [2] The fact that the street trader issued instructions to the employee or agent, prohibiting such contravention, shall not in itself constitute sufficient proof of such reasonable steps.

13. Offences and Penalties - Any person who –

- [a] contravenes or fails to comply with any provision of this by-law;
- [b] fails to comply with any notice issued in terms of this by-law;
- [c] fails to comply with any lawful instruction given in terms of this by-law;
or
- [d] who obstructs or hinders any authorised representative in the execution of his or her duties under this by-law -

is guilty of an offence and liable on conviction to a fine not exceeding R1 000 or, in default of payment, to imprisonment for a period not exceeding 3 (three) months and in the case of a continuing offence, to a further fine not exceeding R10 or, in default of payment, to imprisonment not exceeding one day, for every day during the continuation of such offence, after written notice has been issued by the municipality and served on the person concerned, requesting the discontinuation of such offence.

14. Regulations**[1] The municipality may make regulations regarding –**

- [a] the declaration of any place to be an area in which street trading is restricted or prohibited and the prescription or making of signs, markings or other devices, as contemplated in terms of section 9;
- [b] the setting apart and demarcation of stands or areas for the purposes of street trading and the extension, reduction or disestablishment thereof, as contemplated in terms of section 10;
- [c] [i] the disposal of any property which has been removed and impounded, as contemplated in terms of section 11; and
[ii] the liability of any person for any reasonable expenses incurred in connection with such removal, impoundment and disposal;
- [d] [i] the prescription of penalties for the offences contemplated in terms of section 13; and
[ii] the amendment of such penalties from time to time;
- [e] any matter which may be prescribed in terms of this by-law and any matter which may facilitate the application of this by-law.

- [2] [a] The municipality shall, not less than 1 (one) month before promulgating a regulation in terms of subsection [1], cause a draft of the regulation to be communicated to the local community and to be made public in terms of sections 21 and 21A of the Local Government :

Municipal Systems Act, 2000 [Act No. 32 of 2000], together with a notice declaring the intention of the municipality to issue such a regulation and inviting comments or representations.

[b] If the municipality decides to alter the draft regulation as a result of comments or representations received pursuant to such invitation, then it shall not be necessary to communicate and make public the alteration before the amended draft is promulgated as a regulation.

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

16. Short title

This by-law is called the Street Trading By-law, 2004 and takes effect on a date determined by the municipality by proclamation in the Provincial Gazette.

No. 22**NKONKOBÉ LOCAL MUNICIPALITY : BY-LAW RELATING TO THE
KEEPING OF DOGS AND OTHER ANIMALS, 2004 - PUBLICATION FOR
INFORMATION PURPOSES**

The Nkonkobe Local Municipality, in compliance with the provisions of the Local Government : Municipal Systems Act, 2000, hereby publishes for information purposes the By-law relating to the Keeping of Dogs and Other Animals, 2004, as passed by the municipal council and as set out in the accompanying schedule.

LOCAL GOVERNMENT NOTICE**MUNICIPALITY OF NKONKOBE****BY-LAW RELATING TO THE KEEPING OF DOGS AND OTHER ANIMALS**

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-law Relating to the Keeping of Dogs and Other Animals.

Purpose of By-Law

The purpose of this by-law is to promote the interests of animals and residents by exercising control over the numbers and kinds of animals that may be kept as well as the conditions under which such animals may be kept, sheltered and cared for and to provide for the prevention of nuisances through the keeping of such animals.

CHAPTER I**DEFINITIONS AND APPLICATION****Definitions**

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

"animal" means any member of the equine or bovine family, a sheep, a goat, a pig, a fowl, a dog, a cat, or other domestic animal or bird, or any wild animal, wild bird or reptile which is in captivity or under the control of any person;

"authorised official" means –

- [a] an official of the municipality who has been authorised by it to administer, implement and enforce the provisions of this by-law;
- [b] a traffic officer appointed in terms of section 3A of the National Road Traffic Act, 1996 [Act No. 93 of 1996];
- [c] a member of the police service, as defined in terms of section 1 of the South African Police Service Act, 1995 [Act No. 68 of 1995]; or
- [d] a peace officer, contemplated in terms of section 334 of the Criminal Procedure Act, 1977 [Act No. 51 of 1977];

"cattery" means a boarding or breeding establishment for cats;

"keep", in relation to an animal, means to have such animal in possession, under control or in custody or to harbour such animal;

"kennel" means a boarding or breeding establishment for dogs;

"municipality" means the Municipality of Nkonkobe, established in terms of section 12 of the Local Government : Municipal Structures Act, 1998 [Act No. 117 of 1998] and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated to such political structure, political office bearer, councillor, agent or employee;

"nuisance" means, any act, omission or condition which is, in the reasonable opinion of the municipality, detrimental to health or offensive or injurious or which materially interferes with the ordinary comfort or convenience of the public or adversely affects the safety of the public or which disturbs the quiet of the neighbourhood;

"owner", in relation to an animal, means any person who keeps an animal and includes any person to whom an animal has been entrusted or who has control over an animal on any premises within the area of jurisdiction of the municipality;

"pet" means any dog, cat, guinea pig, hamster, rabbit, chinchilla or bird not kept for breeding or business purposes;

"pet salon" means an establishment where pets are brushed, cleaned or groomed;

"pet shop" means an establishment that sells products for the keeping of pets and other animals;

"pound" means a facility where stray animals may be taken and detained and which has been established in terms of the Municipal Ordinance, 1974 [Cape Municipal Ordinance No. 20 of 1974] or similar legislation;

"premises" means any piece of land registered in a deeds registry as an erf, lot, plot or stand which forms part of a township and includes a stand or lot forming part of a piece of land laid out as a township, but not yet registered, or a portion of such erf, stand or lot and includes any residential site outside townships provided by government departments, parastatal institutions or industries and, where the text so requires, buildings on such erf, stand or lot ;

"public place" means any square, park, recreation ground, sports ground, lane, open space or enclosed place vested in the municipality or other sphere of government or indicated as such on the Surveyor General's records or utilised by the public or zoned as such in terms of the applicable zoning scheme or at any time declared or rendered such by the municipality or any other competent authority;

"public road" means any road, street or thoroughfare or any other place 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 footpath, pavement or similar pedestrian portion of a road reserve;
- [c] any bridge, ferry or drift traversed by any such road, street or thoroughfare;
- [d] any other work or object belonging to such road, street or thoroughfare, footpath or pavement, and
- [e] any premises with or without structures thereon, used or set aside as a public parking area or public parking place for the parking of motor vehicles, whether or not access to such a parking area or place is free of charge.

Application of by-law

- 2. [a] The provisions of this by-law shall apply to the keeping of all dogs and other animals within the municipal boundaries of the municipality.
- [b] The provisions of section 11 shall not apply to a guide dog which is bona fide utilised to accompany a blind person.

CHAPTER II

KEEPING OF DOGS AND OTHER ANIMALS

Written permission

- 3. [1] No person may keep or permit to be kept on any premises or public space any animal without the written permission of the municipality.

- [2] Such permission may be withdrawn by the municipality at any time if -
- [a] the keeping of an animal causes or poses a nuisance to any person;
 - [b] the care or humane treatment of the animal is denied or neglected by the owner or any other person keeping such an animal; or
 - [c] the provisions of this by-law are contravened.
- [3] The provisions of subsection [1] shall not apply to -
- [a] premises or land which is zoned for agricultural purposes; and
 - [b] pets, provided that the written permission of the municipality shall be obtained before keeping a pet on any public space.

Responsible keeping of animals

4. Any person who keeps an animal on any premises, or public place where the written permission of the municipality has been obtained, shall do so responsibly and in such a manner so as to ensure that -
- [a] no nuisance is caused or posed to any person; and
 - [b] the animal is provided with food and water, given adequate shelter, permitted sufficient exercise where reasonably possible and properly looked after in general.

Municipality may determine conditions for keeping of animals

5. [1] For the purposes of controlling the keeping of animals, the municipality may determine conditions regarding -
- [a] the number of animals that may be kept;
 - [b] the kind of animals that may be kept;
 - [c] the facilities required to keep animals; and
 - [d] the areas within which the keeping of animals may be -
 - [i] restricted;
 - [ii] prohibited; or

- [iii]** exempted from any specific provision of this by-law.
- [2]** The municipality shall make any such determination with proper regard for -
- [a]** the actual or possible nuisance caused or posed to any person by the keeping of any animal; and
 - [b]** the care and humane treatment of an animal.
- [3]** Where it is necessary, in the reasonable opinion of the municipality, to investigate the circumstances pertaining to the keeping of any animal for the purposes of making a determination in terms of this section, the municipality may appoint or request an authorised official to conduct such an investigation.
- [4]** Any authorised official appointed or requested to conduct an investigation in terms of subsection [3] shall compile and submit a report within 30 (thirty) days of the appointment or request, setting out his or her findings.
- [5]** The report compiled and submitted by the authorised official shall be taken into consideration by the municipality for the purposes of its determination.

Number of dogs

- 6.** **[1]** Subject to the provisions of section 5, no person shall keep more than two dogs on any premises without applying for and obtaining the prior written consent of the municipality.
- [2]** A licensed breeder of dogs who wishes to keep more than two dogs on-
- [a]** premises zoned for agricultural purposes, shall be entitled to do so without any restrictions; and,
 - [b]** premises zoned for any purpose other than agricultural purposes, must obtain the prior written consent of the municipality thereto.
- [3]** An application for the municipality's consent in terms of subsection [1] shall not be considered by the municipality unless it is satisfied that the size of the premises on which the dogs are to be kept is not less than 5 000 m².

- [4] The municipality's consent in terms of subsection [2][b] to keep more than two dogs on a premises shall be granted subject to such conditions and restrictions as the municipality may deem fit to impose.
- [5] The municipality may at any time revoke a consent granted in terms of either subsection [1] or [2][b], provided that reasonable grounds exist.

Control of animals

7. No person shall –

- [1] urge or incite any animal to attack, worry or frighten any person or other animal, except where reasonably necessary for the lawful defence of such first-mentioned person or his or her property or the property of any other person;
- [2] keep any animal which by –
- [a] barking, yelping, howling or whining;
 - [b] having acquired the habit of charging any vehicles, other animals or persons outside any premises where it is kept; or,
 - [c] behaving in any other manner-
- interferes materially with the ordinary comfort, convenience, peace or quiet of neighbours;
- [3] permit any animal owned or kept by such person –
- [a] to be in any public road or public place while suffering from mange or any other infectious or contagious disease;
 - [b] which is ferocious, vicious or dangerous, to be in any public road or public place unless it is muzzled and held on a leash and under the control of such person or some other responsible person;
 - [c] to trespass on private property;
 - [d] to constitute a hazard to traffic using any public road;
 - [e] to constitute or to his or her knowledge be likely to constitute a source of danger or injury to any person outside the premises on which such animal is kept; or,

- [f] to be in any public road or public place except under the control of some responsible person.

Fencing of property

8. No person shall keep an animal if the premises where such animal is kept is not properly and adequately fenced to keep such animal inside the confines of such premises when it is not on a leash.

Animals shall not be a source of danger

9. Any person who keeps an animal on any premises shall keep such animal in such manner so as not to be a source of danger to employees of the municipality entering upon such premises for the purpose of carrying out their duties. A notice to the effect that an animal is being kept on such premises shall be displayed in a conspicuous place.

Removal of offensive matter

10. If any dog defecates in any public road or public place, then any person in charge of such dog shall forthwith remove the excrement by placing it in a plastic or paper bag or wrapper and disposing of it in a receptacle provided for the deposit of litter or refuse.

Animals on premises where food is sold

11. Any person, being the owner or person in control of any shop or other place where food is prepared, sold or exposed for sale, shall not permit any animal to be or remain in or at such shop or place.

Plans for structures and management

12. [a] An application for written permission to keep animals, as contemplated in terms of section 3[1], shall be accompanied by a detailed site plan indicating all structures and fences, existing and proposed, on the premises.
- [b] Detailed plans and specifications shall be submitted to and be approved by the municipality in respect of all structures where animals are to be accommodated.
- [c] A detailed explanation of the number, kinds, sizes and sex of animals to be accommodated on premises shall accompany the plan.

- [d] Notwithstanding anything to the contrary contained in this by-law the municipality may refuse to approve the application and plans if the premises, owing to its location, siting or geographical features, is unsuitable for the keeping of animals thereon.

Structures shall comply with requirements

13. [a] All structures housing animals shall be constructed in a workmanlike manner and of materials approved by the municipality.
- [b] No structure shall be sited within a distance of 15 (fifteen) metres from any dwelling or the boundary of a residential erf or within 8 (eight) metres from any road boundary. The municipality may, depending on circumstances and in its sole discretion, allow a relaxation of the said distances.
- [c] Every part of a structure in which animals will be housed shall be properly maintained and painted as often as the municipality may deem necessary.
- [d] No animals shall be kept in a structure or on land which is considered by the municipality to be undesirable or objectionable by reason of its locality, construction or manner of use.

Premises to be kept clean

14. [a] All manure from animals shall be stored in a manner approved by the municipality and disposed of on a regular basis at an approved place or disposal site so as to prevent any nuisance from being created.
- [b] All animal feed shall be stored in a rodent-proof receptacle approved by the municipality.
- [c] The premises in which animals are accommodated shall be kept in such condition so as not to attract or provide shelter for rodents.

Animals and pets kept in an unsatisfactory manner

15. [a] If, in the reasonable opinion of the municipality, any animals or pets kept on any premises, whether or not such premises have been approved by the municipality under this by-law, pose a nuisance then the municipality may by written notice require the owner or occupier of such premises, within a period to be stated in such notice but not being less than 24 (twenty four) hours and to carry out such work or do such things as the municipality may deem necessary for the said purpose.

- [b]** Upon the refusal or failure of an owner or occupier to comply with the requirements of such written notice, the municipality may withdraw any written permission granted in terms of section 3[1].

Stray animals

- 16. [1]** An authorised official may-
- [a]** seize any animal found on any premises, land, public place or public road and which is –
 - [i]** not under the supervision or control of any person; and
 - [ii]** causes or poses a nuisance;
 - [b]** impound or cause to be impounded any such animal at a pound or other facility designated by the municipality for such purposes.
- [2]** The municipality may destroy any animal impounded in terms of subsection [1][b], provided that :
- [a]** a period of no less than 48 (forty-eight) hours has lapsed from the time of impoundment;
 - [b]** the municipality has taken all reasonable steps to ascertain the owner of the animal and to notify such owner of the impoundment;
 - [c]** the destruction of the animal is carried out with such precautions and in such a manner so as to inflict as little suffering as possible; and
 - [d]** the destruction of the animal may be effected immediately where such animal is –
 - [i]** carrying an infectious or contagious disease; or
 - [ii]** ferocious, vicious or dangeroussuch that it poses an immediate and substantial danger to the health and safety of other animals or the general public.
- [3]** Any animal seized or impounded in terms of this section may be released to its owner upon payment of a fee determined by the municipality in addition to any costs, fines or taxes which may be

owed by the owner to the municipality in respect of such animal.

- [4] Insofar as the provisions of this section may conflict with the Pounds Act (Ciskei), 1984 [Act No. 43 of 1984] this section shall prevail.

CHAPTER III

DOG KENNELS AND CATTERIES

Requirements for premises

17. No person shall keep a kennel or cattery unless the requirements listed hereunder are complied with -
- [a] Every dog or cat shall be kept in an enclosure complying with the following requirements -
- [i] it shall be constructed of durable materials and the access thereto shall be adequate for cleaning purposes;
 - [ii] the floor shall be constructed of concrete or other durable and impervious material brought to a smooth finish and graded to a channel 100 mm wide, extending over the full width of the floor and situated within the enclosure, which channel shall be graded and shall drain into a gully connected to the municipality's sewer system by means of an earthenware pipe or a pipe of any other approved material with a minimum diameter of 100 mm, or to another approved disposal system; and
 - [iii] a kerb 150 mm high shall be provided along the entire length of the channel referred to in subsection [b] and on the side thereof adjacent to the surrounding outside area, to prevent storm water from such area from entering the channel.
- [b] Every enclosure referred to in subsection [1] shall contain a roofed shelter for the accommodation of dogs and cats and such shelter shall comply with the following requirements -
- [i] every wall shall be constructed of brick, stone, concrete or other durable material and shall have a smooth internal surface without cracks or open joints;
 - [ii] the floor shall be of concrete or other impervious and durable material brought to a smooth finish without cracks or open joints and the surface between the floor and the walls of a permanent structure shall be covered; and

- [iii] every shelter shall have adequate access thereto for the cleaning thereof and for the extermination of vermin.
- [c] In the case of dogs, a dog kennel of moulded asbestos or other similar material, which is movable and placed on a base constructed of concrete or other durable material with an easily cleaned finish, without cracks or open joints, may be provided instead of a shelter contemplated in subsection [2] and if the base of such kennel is not rendered waterproof then a sleeping board, which will enable the dog to keep dry, shall be provided in every such kennel.
- [d] A concrete apron at least 1 (one) metre wide shall be provided at the entrance of the enclosure over its full width and the apron shall be graded for the drainage of water away from the enclosure.
- [e] A supply of potable water, adequate for drinking and cleaning purposes, shall be provided in or adjacent to the enclosure.
- [f] All food shall be stored in a rodent-proof store-room, and all loose food shall be stored in rodent-proof receptacles with close-fitting lids in such store-room.
- [g] At least 5 (five) metres of clear, unobstructed space shall be provided between any shelter or enclosure and the nearest point of any dwelling, other building or structure used for human habitation or any place where food is stored or prepared for human consumption.
- [h] Isolation facilities for sick dogs and cats shall be provided to the reasonable satisfaction of the municipality.
- [i] If cages are provided for the keeping of cats, such cages shall be of durable, impervious material and constructed so as to be easily cleaned.

CHAPTER IV

PET SHOPS

Requirements for premises

18. No person shall conduct the business of a pet shop upon any premises unless the premises is constructed and equipped in accordance with the following requirements -

- [a] Every wall, including any partition of any premises, shall be constructed of brick, concrete or other durable material, shall have a smooth internal surface and shall be painted with a light coloured washable paint or given some other approved finish.
- [b] The floor of any premises shall be constructed of concrete or other durable and impervious material brought to a smooth finish.
- [c] The ceiling of any premises shall be constructed of durable material, have a smooth finish, be dustproof and be painted with a light coloured washable paint.
- [d] Sanitation facilities shall be provided at the premises as required by the National Building Regulations.
- [e] A rodent-proof store-room shall be provided on the premises to the reasonable satisfaction of the municipality.
- [f] Facilities for the washing of cages, trays and other equipment shall be provided on the premises to the reasonable satisfaction of the municipality.
- [g] If required, change room or locker facilities shall be provided on the premises to the reasonable satisfaction of the municipality.
- [h] No door, window or other opening in any wall of premises shall be within 2 (two) metres of any other door, window or other opening to any other building in which food is prepared, stored or sold for human consumption or is consumed by humans.
- [i] There shall be no direct access from the premises upon which the business of a pet shop is conducted to any habitable room or any room in which clothing or food for human consumption is stored.

Business requirements

19. Every person who conducts the business of a pet shop shall -
- [a] for the separate housing of animals, provide movable cages complying with the following requirements -
 - [i] the cages shall be constructed entirely of metal or other durable, impervious material and shall be fitted with a removable metal tray upon the floor thereof to facilitate cleaning;
 - [ii] every cage shall be free from any recess or cavity not readily accessible for cleaning and every tubular or

hollow fitting used in connection therewith shall have its interior cavity sealed;

- [iii] if rabbits are kept in a cage, then the metal tray referred to in subsection [a] shall drain into a removable receptacle; and
- [iv] every cage shall be fitted with a drinking vessel kept filled with water and accessible to animals kept in the cage;
- [b] provide rodent-proof receptacles of impervious material with close-fitting lids in the store-room of the pet shop in which all pet food shall be stored;
- [c] maintain the premises and every cage, tray, container, receptacle, basket and all apparatus, equipment and appliances used in connection with the pet shop in a clean, sanitary condition, free from vermin and in good repair;
- [d] take effective measures to destroy or prevent the harbouring or breeding of flies, cockroaches, rodents and other vermin and to prevent offensive odours arising from the keeping of animals on the premises;
- [e] provide overalls or other protective clothing for use by persons employed in connection with the pet shop and ensure that such apparel is worn by every employee when on duty;
- [f] at all times keep every animal in or on the premises unless otherwise approved by the municipality;
- [g] provide isolation facilities in which every animal which is or appears to be sick shall be kept whilst on the premises;
- [h] ensure that there is a constant supply of potable water in the premises for drinking and cleaning purposes;
- [i] ensure that the premises are at all times so ventilated as to ensure sufficient movement of air for the comfort and survival of the animals; and
- [j] ensure that the number of animals per cage is not such that the free movement of such animals is impeded.

CHAPTER V**PET SALONS****Requirements for premises**

20. No person shall conduct the business of a pet salon in or upon any premises unless the premises is constructed and equipped in accordance with the following requirements -
- [a] A room shall be provided with a minimum floor area of 6.5 (six and one half) square metres for the washing, drying and clipping of animals.
 - [b] The floor of such room shall be constructed of concrete or other durable, impervious material brought to a smooth finish and graded to a channel drained in terms of the National Building Regulations.
 - [c] The surface between the floor and the wall of such room shall be covered and the covering shall have a minimum radius of 75 mm.
 - [d] Every internal wall surface shall be smooth-plastered and be painted with a light-coloured washable paint.
 - [e] The room shall be equipped with -
 - [i] a bath or similar facility with a constant supply of hot and cold water, drained in terms of the National Building Regulations;
 - [ii] an impervious-topped table; and
 - [iii] refuse receptacles of impervious, durable material with a close-fitting lid for the storage of cut hair or fur, pending removal.
 - [f] If cages or kennels are provided for the keeping of animals, then such cages or kennels shall be of durable material and be so constructed as to be easily cleaned.

Business requirements

21. Every person who conducts the business of a pet salon shall -
- [a] ensure that every cage, including its base, is of metal construction and movable;

- [b]** ensure that all pesticidal preparations and preparations used for the washing of animals and the cleaning of equipment and materials are stored in separate metal cupboards;
- [c]** ensure that all tables used for the drying and grooming of animals are of metal with durable and impervious tops;
- [d]** maintain the premises and every cage, tray, receptacle, basket and all apparatus, equipment and appliances used in connection with the pet shop in a clean and sanitary condition, in good repair and free of vermin;
- [e]** at all times keep every animal inside the building which is located on the premises, unless otherwise approved by the municipality;
- [f]** provide portable storage receptacles of impervious material with close-fitting lids for the storage of dog or cat litter; and
- [g]** remove all refuse, litter and other waste matter from the enclosure and shelter at least once every 24 hours and place it in the receptacles referred to in subsection [f].

CHAPTER VI

MISCELLANEOUS

Liability

22. The municipality shall not be liable for any injury suffered or disease contracted by or damage caused to any dog, pet or other animal during or as a result of its seizure, impoundment, detention or destruction in terms of this by-law.

Offences and penalties

23. 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 a penalty not exceeding –
- [a]** a fine of R10 000 or imprisonment for a period of 6 (six) months or to such imprisonment without the option of a fine or to both such fine and such imprisonment;
 - [b]** in the case of a continuing offence, to an additional fine of R250 or an additional period of imprisonment of 1 (one) day or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment, for each day on which such offence is continued; and
 - [c]** a further amount equal to any costs and expenses found by the court to have been reasonably incurred by the municipality as result of such contravention or failure.

Regulations

24. [1] The municipality may make regulations regarding –
- [a] the granting of written permission for the keeping of animals, the withdrawal of such permission and exemptions from the provisions of section 3[1];
 - [b] the exercise of its powers in terms of section 5, including-
 - [i] the stipulation of conditions in respect of the number and kind of animals that may be kept, the facilities required and the areas within which the keeping of animals may be restricted, prohibited or exempted from any specific provision of this by-law;
 - [ii] the specification of any provision of this by-law from which a stipulated area may be exempted from its application, as contemplated in terms of section 5[1][d][iii];
 - [iii] the determination of the manner in which an investigation may be conducted; and,
 - [iv] the amendment of the time limit pertaining to the compilation and submission of a report;
 - [c] the number of dogs that may be kept on any premises and the granting of written consent in respect of any application made in terms of sections 6[1] and 6[2][b];
 - [d] the approval of the application and plans contemplated in terms of section 12[b];
 - [e] details of the requirements and the enforcement or relaxation thereof, as contained in sections 13, 14, 17, 18, 19, 20 and 21;
 - [f] the issuing of a written notice in terms of section 15 and the consequences of failure to comply with such notice;
 - [g] the seizure, impounding, detention or destruction of stray animals, as contemplated in terms of section 16, including –
 - [i] additional powers that may be delegated to an authorised official to facilitate the seizure or impoundment of an animal;

- [ii] the designation of a pound or other facility at which an animal may be impounded;
 - [iii] the regulation of the destruction of an animal and the conditions attached thereto, as stipulated in terms of sections 16[2][a]-[d]; and
 - [iv] the fixing of a fee for the release of an animal to its owner;
 - [h]
 - (i) the prescription of penalties for the offences contemplated in terms of section 23; and
 - (ii) the amendment of such penalties from time to time;
 - [i] any matter which may be prescribed in terms of this by-law and any matter which may facilitate the application of this by-law.
- [2] [a] The municipality shall, not less than 1 (one) month before promulgating a regulation in terms of subsection [1], cause a draft of the regulation to be communicated to the local community and to be made public in terms of sections 21 and 21A of the Local Government : Municipal Systems Act, 2000 [Act No. 32 of 2000], together with a notice declaring the intention of the municipality to issue such a regulation and inviting comments or representations.
- [b] If the municipality decides to alter the draft regulation as a result of comments or representations received pursuant to such invitation, then it shall not be necessary to communicate and make public the alteration before the amended draft is promulgated as a regulation.

Repeal of by-laws

25. Any by-laws relating to the keeping of dogs and other animals adopted by the municipality or any erstwhile municipal council now comprising an administrative unit of the municipality shall be repealed from the date of promulgation of this by-law.

Short title

26. This by-law is called the By-law Relating to the Keeping of Dogs and Other Animals, 2004 and takes effect on a date determined by the municipality by proclamation in the Provincial Gazette.

No. 23**NKONKOBÉ LOCAL MUNICIPALITY : BY-LAW RELATING TO
NEGLECTED BUILDINGS AND PREMISES, 2004 – PUBLICATION FOR
INFORMATION PURPOSES**

The Nkonkobe Local Municipality, in compliance with the provisions of the Local Government : Municipal Systems Act, 2000, hereby publishes for information purposes the By-law relating to Neglected Buildings and Premises, 2004, as passed by the municipal council and as set out in the accompanying schedule.

LOCAL GOVERNMENT NOTICE**MUNICIPALITY OF NKONKOBÉ****BY-LAW RELATING TO
NEGLECTED BUILDINGS AND PREMISES**

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-Law Relating to Neglected Buildings and Premises.

Purpose of By-law

The purpose of this by-law is to promote the habitat and environment of the communities residing within the municipal boundaries of the municipality by regulating the appearance and condition of buildings and premises.

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

"administrative action" means any action taken by the municipality in the exercise of a power or performance of a function;

"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;

"calendar day" means a 24 hour period, reckoned from one midnight to the next and includes a Saturday, Sunday or public holiday;

"improvement" means any work carried out on a building or premises so as to result in a better appearance or condition;

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

"municipal area" means the area under the jurisdiction and control of the municipality;

"occupier" means a person who resides in a building or on a premises but who is not the owner thereof;

"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 municipality is unable to determine the identity of such person, a person who is entitled to the benefit of any building located on such premises;
- [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 No. 95 of 1986] 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; and
- [f] any legal person, including but not limited to:
 - [i] a company registered in terms of the Companies Act, 1973 [Act No. 61 of 1973], a trust, a closed corporation registered in terms of the Closed Corporations Act, 1984 [Act No. 69 of 1984] and a voluntary association;
 - [ii] any department of national, provincial or local government;
 - [iii] any council or board established in terms of any legislation applicable to the Republic of South Africa; and
 - [iv] any embassy or other foreign entity; and

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

2. **Responsible ownership of buildings and premises** – An owner of a building or premises situated within the municipal boundaries of the municipality shall

exercise responsible ownership and maintain such building or premises in such a manner so as to ensure that –

- [a] The appearance of the building or premises does not become unsightly, neglected or offensive; and
- [b] The building or premises does not detract from the appearance of surrounding buildings or premises.

3. Municipality may serve written notice-

[1] Where there is, upon any premises and in the reasonable opinion of the municipality -

- [a] a building which is unsightly, neglected or offensive and which causes the value of surrounding premises to be detrimentally affected;
- [b] neglected lawns, trees, shrubs or other cultivated vegetation;
- [c] an unsightly accumulation of papers, cartons, garden refuse, rubble 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 municipality may serve a notice in writing on the owner or occupier of such premises, requiring the owner or occupier to improve such building or the condition of such premises to a standard reasonably acceptable to the municipality, which standard shall be stated in the notice and attained by the owner or occupier within a specified period and by not later than 90 (ninety) calendar days from the service of the notice.

[2] Service of the written notice in terms of subsection [1] may be effected by-

- [a] delivering a copy thereof personally to the owner or occupier;
- [b] attaching a copy thereof to the outer or principal door or security gate of the building or premises; or
- [c] placing a copy thereof in the post box of the building or premises.

[3] For the purposes of this section, the owner or occupier shall be deemed to have received the written notice within 5 (five) calendar days of the date upon which service was effected in terms of section 3[2][b] or [c].

[4] Lodging of objection to written notice –

- [1]** Upon the receipt of a written notice contemplated in terms of section 3[1], the owner or occupier may lodge an objection with the municipality, setting out the reasons why the owner or occupier should not be required to comply with the written notice.
- [2]** The objection must be lodged with the municipal manager or duly delegated official no later than 14 (fourteen) calendar days after receipt of the written notice, as contemplated in terms of section 3[3].
- [3]** The municipality shall consider the objection, whereupon it shall, within 30 (thirty) calendar days of its receipt of the objection, either confirm or retract the written notice.
- [4]** In the event of –
 - [a]** the municipality's confirmation of the written notice, it may adjust the period within which the owner or occupier shall be required to effect the necessary improvements in accordance with the stated standard; or
 - [b]** the municipality's retraction of the written notice, it may issue a further written notice, stating such adjusted period or standard or both, as may be reasonably necessary to promote the purposes of this by-law.
- [5]** The municipality shall inform the owner or occupier of its decision in writing and within the time limit prescribed by subsection [3].
- [6]** Where the owner or occupier has failed to lodge an objection in terms of the provisions of subsection [2], the municipality may refuse to consider the objection, provided that such refusal shall not amount to unjust administrative action.

5. Failure to comply with written notice – If the owner or occupier fails to comply with the requirements of the written notice contemplated in terms of section 3[1] then –

- [1]** The owner or occupier, as the case may be, shall be guilty of an offence and liable on conviction to a fine not exceeding R10 000 or imprisonment for a period not exceeding 6 (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, the owner or occupier shall be liable on conviction to an additional fine of R100 or an additional period of imprisonment of 1 (one) day or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment, for each calendar day on which such offence is continued.

6. Improvements may be effected by municipality –

- [1] Notwithstanding the provisions of section 5, the municipality may undertake the improvement of buildings or premises in accordance with the standard stated in the written notice contemplated in terms of section 3[1], provided that –
- [a] such undertaking by the municipality shall not absolve the owner or occupier from any criminal liability;
 - [b] the period specified in the written notice, contemplated in terms of section 3[1], has lapsed without the owner's or occupier's having complied with the requirement set out therein; and
 - [c] no objection has been lodged by the owner or occupier within the period specified in the written notice for the improvements to be effected.
- [2] Where an owner or occupier has lodged an objection in accordance with sections 4[1] and [2], the municipality may not undertake the improvement of buildings or premises unless the municipality has –
- [a] complied with the provisions of sections 4[3] and [5]; and
 - [b] ensured that any adjusted period has lapsed consequent to the application of section 4[4].
- [3] In the event that an owner or occupier has failed to lodge an objection within the period specified in the written notice for the improvements to be effected then the municipality may assume that the owner or occupier has no objection and agrees to permit the municipality to undertake the improvements.
- [4] The municipality may appoint a service provider to undertake improvements, in which event –
- [a] the municipality shall be responsible for the actions and conduct of the service provider and its employees on the premises of the owner or occupier in question;
 - [b] the service provider shall be responsible and accountable to the municipality for the work undertaken;
 - [c] neither the municipality nor the service provider shall permit a sub-contractor to undertake any aspect of the work on the premises; and
 - [d] any improvements undertaken by a service provider shall be –

- [i] in accordance with the standard stated in the written notice contemplated in terms of section 3[1]; and
 - [ii] of a nature so as not to detract from the appearance of surrounding buildings or premises.
- [5] All reasonable costs incurred by the municipality in effecting improvements to the buildings or premises may be recovered from the owner or occupier in question, provided that –
 - [a] a certificate endorsed by the municipal manager and stating the total amount of reasonable costs incurred shall constitute *prima facie* proof thereof; and
 - [b] the owner or occupier shall be entitled to set off against any amount claimed by the municipality such damages as may actually have been caused by the municipality or duly appointed service provider in undertaking any improvements.

7. Regulations –

- [1] The municipality may make regulations regarding –
 - [a] The contents of a written notice contemplated in terms of section 3[1], including –
 - [i] the determination of standards with which a building or premises must comply, subject to the provisions of national legislation; and
 - [ii] the period within which improvements must be effected;
 - [b] the lodging of an objection to a written notice, including –
 - [i] the place at which such objection may be lodged and the municipal official authorised to deal with such objection; and
 - [ii] the prescription of time limits in terms of section 4[2] and [3] and any amendments thereto;
 - [c]
 - [i] the prescription of penalties in terms of section 5 for failure to comply with a written notice; and
 - [ii] the amendment of such penalties from time to time;
 - [d] improvements effected by the municipality, including –
 - [i] the fixing of a set fee or tariff for the determination of costs that may be recovered from the owner or occupier;

- [iii] the contents and format of a certificate contemplated in terms of section 6[5][a]; and
 - [iii] the manner in which a set-off shall be determined and effected in terms of section 6[5][b];
 - [e] any matter which may be prescribed in terms of this by-law and any matter which may facilitate the application of this by-law.
 - [2] [a] The municipality shall, not less than 1 (one) month before promulgating a regulation in terms of subsection [1], cause a draft of the regulation to be communicated to the local community and to be made public in terms of sections 21 and 21A of the Local Government : Municipal Systems Act, 2000 [Act No. 32 of 2000], together with a notice declaring the intention of the municipality to issue such a regulation and inviting comments or representations.
 - [b] If the municipality decides to alter the draft regulation as a result of comments or representations received pursuant to such invitation, then it shall not be necessary to communicate and make public the alteration before the amended draft is promulgated as a regulation.
8. **Repeal of by-laws** - Any by-laws promulgated by the municipality or any erstwhile municipal council now comprising an administrative unit of the municipality and pertaining to any matter regulated in this by-law shall be repealed from the date of promulgation of this by-law.
9. **Short title** – this by-law is called the By-law Relating to Neglected Buildings and Premises, 2004 and takes effect on a date determined by the municipality by proclamation in the Provincial Gazette.

No. 24**NKONKOBÉ LOCAL MUNICIPALITY : BY-LAW RELATING TO THE
PREVENTION OF NUISANCES, 2004 – PUBLICATION FOR
INFORMATION PURPOSES**

The Nkonkobe Local Municipality, in compliance with the provisions of the Local Government : Municipal Systems Act, 2000, hereby publishes for information purposes the By-law relating to the Prevention of Nuisances, 2004, as passed by the municipal council and as set out in the accompanying schedule.

LOCAL GOVERNMENT NOTICE**MUNICIPALITY OF NKONKOBÉ****BY-LAW RELATING TO THE PREVENTION OF NUISANCES**

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 [Act No. 108 of 1996], the By-law Relating to the Prevention of Nuisances.

Purpose of By-law

The purpose of this by-law is to promote a safe, healthy and peaceful environment for the benefit of the public residing within the municipal boundaries and to provide for practices and procedures to regulate the prevention of nuisances.

CHAPTER 1**DEFINITIONS**

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

'**area**' means the geographical area falling within the municipal boundaries of the Nkonkobe Local Municipality;

'**authorised official**' means -

- (a) an official of the Municipality who has been authorised by it to administer, implement and enforce the provisions of this by-law;
- (b) a traffic officer appointed in terms of section 3A of the National Road Traffic Act, 1996 [Act No. 93 of 1996];
- (c) a member of the police service, as defined in terms of section 1 of the South African Police Service Act, 1995 [Act No. 68 of 1995]; or
- (d) a peace officer, contemplated in terms of section 334 of the Criminal Procedure Act, 1977 [Act No. 51 of 1977];

'**municipality**' means the Municipality of Nkonkobe, established in terms of Section 12 of the Local Government : Municipal Structures Act, 1998 [Act No. 117 of 1998] and includes any political structure, political office bearer, Councillor, duly authorised agent thereof or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated to such political structure, political office bearer, councillor, agent or employee;

'nuisance' means, without limiting the generality of the term, an act, omission, condition or state of affairs that –

- (1) impedes, offends, endangers or inconveniences the public at large;
or
- (2) causes material inconvenience in the ordinary and comfortable use or enjoyment of private property;

'occupier' means and includes any person in actual occupation of any land or private property or having the charge or management thereof, without regard to the title under which he occupies it, and in the case of private property subdivided and let to various lodgers or tenants, the person receiving the rent payable by lodgers or tenants, whether on his own account or as agent for any person entitled thereto or interested therein;

'owner' in relation to any private property means -

- (1) the person in whose name the title to that private property is registered in terms of the Deeds Registries Act, 1937 [Act No. 47 of 1937], as amended, and includes the holder of the stand licence;
- (2) the person in whose name the certificate of sectional title to that private property is registered in terms of the Sectional Titles Act, 1986 [Act No. 95 of 1986] and in addition includes the owner (as defined in the said Act), the body corporate and the developer in relation to such private property;
- (3) if such person or holder is dead, insolvent, mentally disordered or defective, a minor, or under any legal disability, the person in whom the administration of that person's or holder's estate is vested, whether as executor, trustee, liquidator, guardian or in any other capacity whatsoever;
- (4) if the private property is under lease, the registration whereof being necessary for the validity of such lease, the lessee; or,
- (5) where an owner, as herein defined, is absent from the Republic or his whereabouts are unknown, an agent of such owner or any person receiving or entitled to receive rent in respect of the private property or any 'unit', as defined in the Sectional Titles Act, 1986, of such private property;

'private property' shall include any public place and any land privately owned, all buildings, rooms, tenements, sheds, huts or other structures or erections and also yards or lands in connection therewith and shall also include any "unit", as defined in the Sectional Titles Act, 1986, thereof;

'public facility' means an amenity provided by the municipality for the utilisation by and convenience of the public at large;

'public place' means any public street or place, including a beach and any navigable river, to which the public usually has access but excludes any outdoor facility or municipal building, as defined in the by-law relating to outdoor facilities and municipal buildings;

'public vehicle' shall include any motor car, cab, taxi, rickshaw, bus or other vehicle hired or let for the conveyance of passengers;

'refuse', without limiting the ordinary meaning of the word, means any unused vehicle or machinery or part thereof or any scrap metal, builder's rubble, garden refuse, debris, garbage, tyres or any other discarded or abandoned article or object;

'vehicle' means any conveyance which is capable of transporting one or more persons, except a wheelchair or similar device used for the conveyance of a physically impaired person.

CHAPTER 2

PUBLIC PLACES

2. Breaches of the peace

A person commits an offence if in a public place he-

- (1) accosts, insults, interferes with, jostles, threatens or harasses another person;
- (2) associates or acts in concert with other persons in a manner which causes or is likely to cause a breach of the peace; or
- (3) fights or incites or invites another person to fight.

3. Indecent behaviour

(1) A person commits an offence if in a public place he -

- (a) is not decently clothed so that at least such person's genitalia are covered from view; or
- (b) performs any indecent act, or incites any other person to commit any such offence.

(2) A person commits an offence if in a public place he-

- (a) defecates or urinates except within a public facility provided by or on behalf of the municipality for the purpose;

- (b) enters a toilet reserved or set aside for members of the opposite sex;
- (c) spits;
- (d) is under the influence of intoxicating liquor or imbibes or ingests such liquor in circumstances which, in the reasonable opinion of an authorised official, render it likely that such person will cause a nuisance to other persons;
- (e) is under the influence of or administers a dependence - producing substance, as defined in the Drugs and Drug Trafficking Act, 1992 [Act No. 140 of 1992], to himself or another person; or
- (f) commits or displays any indecent gesture or indecently exposes himself.

4. **Obscene or offensive language**

A person commits an offence if, in a public place within the hearing of a person in a public place, he uses any indecent or offensive language or sings an indecent or offensive song.

5. **Indecent or offensive literature and representations**

A person commits an offence if in a public place he-

- (1) displays, distributes, exposes to view or sells or offers for sale in a manner likely to cause offence any indecent or offensive picture or other representation or written or printed matter; or
- (2) draws, prints, writes or otherwise produces any indecent or offensive figure, letter, picture, word or other representation or matter so that the same is in the public view.

6. **Loitering**

A person commits an offence if in a public place he loiters for the purpose of prostitution or solicits or importunes any other person for such purpose.

7. **Dangerous acts**

- (1) A person commits an offence if in a public place he-

- (a) activates, handles or uses any material, object or thing which is likely to cause injury to a person or to intimidate him or to damage property or does so in a manner likely to result in such injury, intimidation or damage;
 - (b) introduces or handles any material, object or thing or any liquid or solid substance which by its nature or by reason of the manner of its introduction or handling creates a new source of danger to persons or property or is likely to do so;
 - (c) lights, uses or benefits from a fire other than in or on a public facility provided by the municipality for that purpose;
 - (d) attaches any object to or suspends any object from a canopy, bridge, verandah or other projection or a pillar, pole or post, subject to the provisions of section 10(5); or
 - (e) performs any other act which may cause injury to person or damage to property, unless he is authorised or permitted by law to do so or does so with the written permission of an authorised official and in accordance with any conditions imposed by him.
- (2) No person shall discharge fireworks from any private property or public place without the written consent of the municipal manager. Applications for the written consent of the municipal manager shall be submitted in writing 14 (fourteen) days prior to the event and shall be accompanied by the written consent of the immediate neighbours who occupy abutting properties and properties across the road from the private property or public place from which fireworks are to be discharged.

8. Littering

- (1) A person commits an offence if in a public place he-
- (a) abandons, discards, discharges or spills or causes or allows to be discharged or spilled any rubbish or other waste material or thing, whether liquid or solid, except in a receptacle provided for the purpose; or
 - (b) removes from a receptacle, provided for the disposal of refuse, any of its contents and causes same to be discharged from such a receptacle.
- (2) A person who causes or incites another person to perform any of the acts described in section 8(1) shall be guilty of an offence.

- (3) Any material or thing that a person drops or allows to fall without being immediately retrieved by him shall for the purposes of section 8 (1) be deemed to have been discarded by him.
- (4) Any material or thing found in a public place in circumstances giving rise to reasonable suspicion that an offence has been committed in terms of section 8(1) and which bears the name of a person or in respect of which there is a reasonable suspicion that it is or was the property or under the control of that person shall for the purposes of section 8(1) be deemed to have been abandoned or discarded by that person until the contrary is proved.
- (5) A person who sweeps or in any other way introduces any rubbish or waste material or thing into a public place shall be deemed to have discarded it there for the purposes of section 8(1).
- (6) A person who has been observed by an authorised official to have contravened the provisions of section 8(1) may be directed by him to remove the rubbish, material or thing or to place it in a receptacle provided by or on behalf of the municipality and failure to comply with such direction shall constitute an offence.

9. Cleaning of sidewalks and verges

- (1) An occupier of premises in or on which there is carried on any business, occupation, trade or manufacturing shall at all times, while any such activity is being carried on, keep any sidewalk and verge abutting on or adjoining the premises, including the gutter and kerb, free of litter and keep the sidewalk and verge in a clean and satisfactory state and to this end remove all litter therefrom.
- (2) The occupier referred to in section 9(1) shall cause all litter removed in terms thereof to be placed in refuse receptacles provided by or on behalf of the municipality or, with the written consent of an authorised official, to be disposed of in a manner approved by him.

10. Obstructions

A person commits an offence if in a public place he-

- (a) leaves anything unattended, having introduced or placed it there, so as to cause or be likely to cause an obstruction to persons or vehicles;

- (b) carries, deposits, handles or introduces anything so as to be likely to obstruct or interfere with the free movement of persons or vehicles or with the use of the public place by persons or vehicles or to cause injury to any person or damage to any property;
- (c) deposits on its surface anything for the purpose of or in the course of loading or unloading a vehicle or of delivering same to premises having access to such public place for a longer period than is reasonably necessary for that purpose;
- (d) obscures a road traffic sign as defined in the National Road Traffic Act, 1996 [Act No. 93 of 1996];
- (e) hangs or suspends anything from or above a public place or causes or allows anything to protrude above its surface or to encroach upon it, provided that prior written consent may be obtained from the municipal manager, which such consent may be given subject to conditions and restrictions deemed necessary;
- (f) gathers with or causes a gathering of other persons in a place or manner so as to or so as to be likely to obstruct or restrict or interfere with the movement of persons or vehicles or the use or enjoyment of the public place by persons or vehicles;
- (g) performs any other act which has or is likely to have a result described in section 10(2).

11. Disposal of property found in a public place

- (1) When anything has been left in a public place in contravention of section 10, an authorised official may remove it to a store established by the municipality for this purpose, provided that if such a thing, in the reasonable opinion of the authorised official, has no commercial value then he may dispose of same in such manner as he deems fit and the person who has committed the offence shall be liable to the municipality for the cost of such disposal as determined by such authorised official.
- (2) Items which have been removed to a store in terms of section 11(1) shall be released to any person who, within 7 (seven) days after such removal or within such longer period as may be allowed by the authorised official in charge of such store, has demonstrated that he is its owner or entitled to its possession, after payment of the cost of removal and storage as determined by such authorised official in accordance with a prescribed tariff of charges.
- (3) Items which have not been released in terms of section 11(2)

shall be sold or disposed of in such manner and after such notice as the authorised official in charge of the store deems fit, having regard for their nature.

- (4) The proceeds of any sale in terms of section 11(3) shall be utilised for the payment of-
 - (a) the cost of removal and storage as determined in terms of section 11(2);
 - (b) any costs which may have been incurred in attempting to trace the owner; and
 - (c) the costs of sale, the remaining balance being forfeited to the municipality if not claimed within one year of the date of sale by a person who demonstrates his legal right thereto.
- (5) If the proceeds of the sale are not sufficient to meet the costs referred to in section 11(4) then the owner of the items sold and the person who committed any offence in relation thereto shall be jointly and severally liable to the municipality for payment of the unsatisfied balance.
- (6) If the items cannot be sold in terms of section 11(3) then the authorised official in charge of the store may dispose thereof in such manner as he deems fit and the provisions of section 11(5) shall, *mutatis mutandis*, apply in respect of any costs incurred in effecting such disposal.
- (7) The exercise of any powers conferred by this by-law shall not render the municipality or any authorised official liable for any loss or theft of or any damage to anything removed in terms of section 11(1).

12. Obstructions caused by plants

- (1) If a tree, shrub or other plant growing on any private property which abuts on a public place or any portion of such plant-
 - (a) obstructs the view of the driver of any vehicle in such public place;
 - (b) obstructs or causes a nuisance to persons using such public place; or
 - (c) obscures a road traffic sign,or if any part of such plant causes or is likely to cause a nuisance to such persons, an authorised official may serve a

notice on the owner of the private property or, if the private property is occupied by a person other than the owner, on the occupier thereof, requiring him to cut down, remove or trim the plant from which the nuisance originates to an extent and within the period stated in the notice and any person who fails to comply with such notice within the period stated shall be guilty of an offence.

- (2) If a person on whom a notice has been served in terms of section 12(1) fails to comply with the terms thereof within the period stated therein, an authorised official may cause the work specified in the notice to be carried out and such person shall be liable to the municipality for the reasonable cost of the work, as assessed by such authorised official.

13. **Camping and sleeping**

A person commits an offence if, at an outdoor facility or in a municipal building, owned by or under the control of the municipality and not intended for such purpose, he-

- (1) camps, sleeps or uses any portion thereof for the purpose of habitation, except with the express consent of the municipality; or
- (2) lies or sleeps on any bench or seat provided for the use of the public.

14. **Gatherings, meetings and processions**

- (1) No person shall in a public place convene, hold, organise or take part in any gathering, meeting or procession without the prior written permission of the municipal manager, which shall not be withheld unreasonably.
- (2) Application for permission in terms of section 14(1) shall be made in writing to the municipal manager not less than 14 (fourteen) days prior to the date of commencement of the event to which the application relates, provided that the municipal manager may accept a late application upon good cause shown.
- (3) In addition to such other information as the municipal manager may require, applications shall -
 - (a) specify the nature and purpose of the event and its date, time and duration as well as the place at or the route over which it is intended to take place;

- (b) contain the full names, addresses, designations and telephone numbers of the convenors, holders, organisers and sponsors of the event;
 - (c) supply details of the participants and any speakers;
 - (d) furnish details of equipment, machinery or vehicles to be used, as well as any musical instruments, loudhailers, loudspeakers, radios or other devices which produce, reproduce or amplify sound.
- (4) The municipal manager may refuse an application made in terms of section 14(1) if he has reasonable grounds for believing that the event is likely to cause a nuisance, as defined.
- (5) In granting permission in terms of section 14(1) the municipal manager may impose such conditions and restrictions as he reasonably deems necessary to avoid the causing of a nuisance, including a prohibition on the use of any of the equipment, machinery or vehicles or any of the devices referred to in section 14(3)(d) and a requirement that there be furnished –
 - (a) a deposit or guarantee to cover damage to property of the municipality and the cost of the removal of litter caused by or deposited during the event; and
 - (b) a public liability policy to protect the municipality against third party claims.
- (6) Any person who convenes, holds or organises an event in respect of which permission has been granted in terms of this section and who contravenes or fails to comply with a condition or restriction imposed in terms of section 14(5) shall be guilty of an offence.
- (7) Any person who, while present at or during an event in respect of which permission has been granted in terms of this by-law, in any manner causes a disturbance or commits an offence and who fails or refuses to leave after having been required to do so by an authorised official shall be guilty of an offence.
- (8) Any person who is present at or during an event in respect of which permission is required in terms of this by-law and who is warned by an authorised official that such permission has not been obtained or that conditions or restrictions imposed in terms of section 14(5) have been contravened and who thereafter fails to leave the scene of the event or to cease participation therein when required to do so, shall be guilty of an offence.

15. Amplification devices and equipment

- (1) No person shall, without the prior consent of the municipality, use or permit to be used any megaphone, loudspeaker or other device for the reproduction or amplification of sound in or upon any public place for the purpose of making announcements, advertising or doing anything of a similar nature.
- (2) The municipality may refuse to grant such consent if it has reasonable grounds for believing that the use of any such megaphone, loudspeaker or other device will or is likely to cause a nuisance, as defined.
- (3) The municipality may withdraw its consent if it appears that a nuisance has been or is likely to be caused.

16. Games

A person commits an offence if in a public place he plays any games or indulges in any pastimes, such as but not limited to the use of roller skates, rollerblades or skateboards, in a manner that causes a nuisance.

17. General offences

- (1) A person commits an offence if in a public place, upon private property, at an outdoor facility or in a municipal building, the said facility or building being owned by or under the control of the municipality, he acts or omits to act such that a nuisance is caused in circumstances that are under his control.
- (2) The provisions of section 17(1) shall not apply to the extent that a person acts lawfully in the exercise of a right or in the performance of a duty.

CHAPTER 3**PRIVATE PROPERTY****18. Use of private property**

- (1) A person commits an offence if on any private property he -
 - (a) excavates or removes soil or other material from a position in relation to other premises or a public place so as to or to be likely to remove lateral support from such

- premises or public place or to create a source of danger to life or damage to property;
- (b) being the owner or occupier of such private property, allows any well, pond, reservoir, swimming pool, pit, hole, excavation, earthwork, tree or other vegetation on such private property to be in such a condition or to be so unprotected as to constitute a danger to the safety of persons or property;
 - (c) causes or allows anything to project from the private property over or into a public place, except in an area zoned for industrial purposes in terms of a zoning scheme and to an extent necessarily consistent with the lawful land use thereof;
 - (d) being the owner or occupier of such private property, deposits, stores or causes, allows or permits to be deposited or stored or to accumulate so as to be visible from a public place, abandoned, derelict or disused furniture, machinery, vehicles or other objects or parts thereof or scrap metal or other derelict or waste materials;
 - (e) without the consent of the owner or occupier thereof, attaches or places anything to or on any private property or in any way defaces such private property, whether by the use of chalk, ink, paint or by any other means whatsoever, unless he is authorised by any law to do so.
- (2) An authorised official may order a person who has contravened or is contravening section 18(1)(d) or (e) to remove the item to which the contravention relates from the private property concerned within a specified time, and, if he fails to do so, then the provisions of section 11 shall, *mutatis mutandis*, apply.

19. **Burglar alarms**

- (1) The occupier of private premises in which a burglar alarm device has been installed shall be guilty of an offence if it continues to sound either continuously or intermittently for more than ten minutes after it has been activated by any cause whatsoever.
- (2) Such a device shall be deemed to be sounding intermittently for the purposes of section 19(1) for so long as it continues to sound at any interval without the intervention of a new cause, provided that it shall be a defence to a charge of contravening section 19(1) if it can be proved that an automatic cut-off mechanism fitted to such device has failed to operate for

reasons beyond the control of the occupier and without negligence on his part.

- (3) When a burglar alarm device has been installed in any private property the occupier of the private property shall, unless a mechanism referred to in section 19(2) has been fitted, either erect and maintain at the main entrance to the private property a notice specifying the names and telephone numbers of persons who have access to the private property at all times for the purpose of deactivating the device or shall arrange for an automatic response to an alarm to operate at all times.

20. Air-conditioning appliances

The owner or occupier of private premises who has installed therein or who maintains and operates therein an air-conditioning appliance shall ensure that such appliance is so installed, maintained and operated so as to preclude -

- (1) the generation of noise, odours or vibrations which cause a nuisance, as defined; and
- (2) the discharge or generation of condensate onto a public place so as to cause a nuisance, as defined.

21. Nuisances arising from the use of private property

- (1) No occupier of private property shall -
 - (a) use it for a purpose;
 - (b) cause, allow or permit its use for a purpose;
 - (c) organise or allow or permit an activity, event or function thereupon save for birthday, engagement, wedding or similar celebrations,

which is contrary to the zoning scheme or similar restrictions imposed by town planning legislation and which by its nature or otherwise or by reason of its consequences causes a nuisance.

- (2) Notwithstanding section 21(1), nothing shall prevent the owner or legal occupier of any private property from engaging in the following activities -
 - (a) any authorised building or contract work undertaken by himself or on his behalf; and

- (b) participating in any hobby or activity involving any item owned or used by him which may require the use of an electrical appliance such as an angle grinder, sanding machine or similar item, provided that -
 - (i) the use of such appliance does not cause interference to television or radio reception in the neighbourhood, that every precaution possible is taken to minimise noise therefrom and the duration of use thereof and that such activity is not for or related to any business conducted from the private property or elsewhere; and
 - (ii) such building or contract work and the use of electrical appliances for such hobby or activity is confined to the hours of 07h00 to 19h00.
- (3) Whenever an authorised official is of the reasonable opinion that a person engaged in a hobby or activity is contravening section 21(1), he may instruct the occupier of the private property or any person responsible for or participating in the use, activity, event or function to take such steps as he specifies to abate the nuisance or to avoid the creation of a nuisance or, if this can only be achieved by the cessation of the use, activity, event or function, to bring it to an end forthwith or within a time prescribed by him.
- (4) If the owner, occupier or person responsible for or participating in the use, activity, event or function fails to abide by any notice or instruction given by an authorised official, then such official may issue a notification in terms of section 341 of the Criminal Procedure Act, 1977 [Act No. 51 of 1977] upon the owner, occupier or person responsible.

22. Lighting of fires

- (1) No person shall, on any private property, light a fire or burn or attempt to burn any rubbish or refuse or any grass or other vegetation without taking adequate precautions to prevent the uncontrolled spread of fire or the creation of a nuisance, whether as a result of the production of ash, flames, fumes, heat, smoke or otherwise.
- (2) Should any person persist with the burning of any matter without taking effective precautionary measures as described in section 22(1) where such burning is the subject of a reasonable complaint lodged with the municipality, the municipality, through its authorised official, shall be entitled to enter upon the private property on which the burning is taking place in order to

extinguish the fire and to charge the person concerned with an offence.

23. Disposal of carcasses

- (1) No person shall bury or place any carcass or part of a carcass, or permit any carcass, dead thing or any decomposable or offensive material or thing which is his property or which is under his care or control, to be placed on his private property or elsewhere or to remain thereon so as to cause a nuisance.
- (2) In the event of any person not being able to dispose of any offensive matter or thing, or bury any carcass, he shall arrange with the municipality to do so at the prescribed fee.

24. Removal of weeds, undergrowth and bush

- (1) No person shall permit any rank grass, undergrowth, declared weeds or invader plants, as listed in the Conservation of Agricultural Resources Act, 1983 [Act No. 43 of 1983], to grow upon any private property or vacant land occupied or owned by him.
- (2) A person shall comply with any notice signed by the municipal manager or other authorised official, requiring him to destroy or cut down and remove or cause to be removed any such rank grass, undergrowth, declared weeds or invader plants, within a time to be stated in such notice and in a method as stated in the Conservation of Agricultural Resources Act, 1983.
- (3) If such owner or occupier fails to comply with such written notice then he shall be guilty of a contravention of this by-law and the municipality may take such steps as it may deem necessary to carry out, on behalf of the said owner or occupier, the requirements of the said notice and may recover the cost thereof from the said owner or occupier in accordance with the municipality's tariff of charges.

25. Control of mosquitoes, flies, rodents and other vermin

- (1) It shall be the duty of every occupier or the owner, in the case of private property used in common by a number of occupiers, to prevent mosquitoes, flies, rodents or other vermin from developing or being harboured thereon and any such occupier or owner who fails to comply with the provisions hereof shall be deemed to have contravened this by-law.

- (2) The occupier or owner of private property shall, on being served with a notice signed by the municipal manager, carry out such measures as may be specified therein for the removal of conditions favourable for the development or harbouring of mosquitoes, flies, rodents or other vermin, within the time specified in the notice.
- (3) If the occupier or owner refuses to carry out the measures specified in a notice under this by-law or fails to do so within the time specified, then the municipal manager may arrange for such measures to be carried out and the reasonable costs incurred in so doing shall be recoverable by the municipality from the person upon whom the notice is served at a charge specified in the municipality's tariff of charges.

26. Keeping or management of a brothel

- (1) No person shall keep or manage or act or assist in the keeping or management of a brothel upon any private property.
- (2) No person, being the owner, lessee or occupier of any private property, shall knowingly permit such private property or any portion thereof or any room therein to be used as a brothel or for the purpose of prostitution or to be a party to continued use thereof for such purposes.
- (3) No person, being the owner of any private property or the agent of such owner, shall let such private property or any portion thereof or any room therein with the knowledge that such private property or any portion thereof or any room therein is to be used as a brothel or for the purposes of prostitution.

CHAPTER 4

MUNICIPAL PROPERTY AND PROPERTY UNDER THE CONTROL OF THE MUNICIPALITY

27. General offences

- (1) A person commits an offence if in relation to any property in the ownership or possession of or under the control of the municipality, whether movable or immovable and including any public place, he -
 - (a) permits, or causes to be done any act which may, in the reasonable opinion of the municipality, cause soil or sand erosion;

- (b) permits or causes to be done any act which may, in the reasonable opinion of the municipality, result in the spreading of driftsand on a beach;
- (c) permits or causes to be done any cutting, removing or interfering with natural vegetation, which may, in the reasonable opinion of the municipality, result in damage to or destruction of such natural vegetation;
- (d) he discards any bait or baited hooks, or refuse, or any unsightly material on such property;
- (e) wilfully or negligently damages or destroys such property or any part thereof;
- (f) removes any earth, sand, shale, stone, turf or any other material or part thereof;
- (g) breaks, cuts, destroys or removes any bush, shrub, tree or other plant or removes any branch, flower, leaf or other part thereof;
- (h) attaches to or places on or next to such property any thing, including any advertisement, flyer, pamphlet, placard or poster or other illustrative, written or printed matter, or hangs or suspends anything on or from it;
- (i) defaces any such property whether by the use of chalk, ink or paint or by any other means whatsoever;
- (j) extinguishes any lamp or light or displaces or removes any barricade, enclosure, fence, lamp, light, notice or sign;
- (k) makes any excavation in or disturbs the surface of such property;
- (l) climbs or sits upon, hangs onto or mounts any such property;
- (m) introduces any object or material or erects any structure on such property;
- (n) enters such property or remains there;
- (o) allows, causes or permits any other person to commit any of the aforesaid acts, unless he does so in the performance of a lawful right or duty or with the prior consent of an authorised official or in accordance with the provisions of any law.

- (2) Notwithstanding the foregoing, nothing shall prevent the owner or occupier of private property from planting and maintaining grass and plants on that portion of the verge of a street which abuts on such municipal property or property under the control of the municipality, provided that the lawful passage of vehicular and pedestrian traffic and the lawful parking of vehicles is not thereby obstructed and the grass and plants are properly maintained and do not cause a nuisance.
- (3) Any person who is convicted of an offence in terms of section 27(1) shall pay to the municipality the cost of remedying any loss or damage suffered by the municipality as a result of the commission of that offence and the cost of the removal and disposal of any material, object or structure involved in the commission of the offence and for this purpose the provisions of section 11 shall apply.

CHAPTER 5

PRESUMPTIONS, OFFENCES AND PENALTIES

28. Presumptions

When an employee in the course of his employment performs any act or is guilty of an omission which constitutes an offence in terms of this by-law, the employer shall also be deemed to have performed the act or to be guilty of the omission and he shall be liable on conviction for the penalties mentioned in terms of section 29, unless it can be proved that -

- (1) in performing the act or permitting the omission, the employee was acting without his employer's knowledge or consent;
- (2) all reasonable steps were taken by the employer to prevent the act or omission in question; and
- (3) it was not within the scope of the authority or the course of the employment of the employee to perform the act or permit the omission in question.

29. Offences and penalties

- (1) Any person who-
 - (a) contravenes any provision of this by-law, which contravention is not expressly stated to be an offence;

- (b) contravenes any condition or restriction imposed upon the granting of any application, approval, authority, consent or permission in terms of this by-law; or
- (c) fails to comply with the terms of any notice served upon him or instruction to him in terms of this by-law,

shall be guilty of an offence.

- (2) Any person who contravenes any of these provisions shall be guilty of an offence and liable, upon conviction, to a fine not exceeding R10 000.00 (ten thousand rand) or imprisonment for a period not exceeding 6 (six) months or to such fine and such imprisonment, provided that, in the case of a continuing offence, a fine not exceeding R 100.00 (one hundred rand) may be imposed for each day on which the contravention continues.

30. Regulations

- (1) The municipality may make regulations regarding –
 - (a) the granting of written permission and accompanying conditions for –
 - (i) the performance of a dangerous act, as contemplated in terms of section 7(1)(e); and
 - (ii) the discharge of fireworks in terms of section 7(2);
 - (b) the disposal of litter by an occupier of premises in or on which there is carried on any business, occupation, trade or manufacturing, as contemplated in terms of section 9(2);
 - (c) the granting of written consent and accompanying conditions and restrictions for the hanging or suspension of anything from or above a public place or so as to cause an obstruction, as contemplated in terms of section 10(5);
 - (d) the disposal of property found in a public place, including-
 - (i) the municipality's identification and designation of a store for property removed in terms of section 11 (1);
 - (ii) guidelines for the determination of the commercial value of property so removed;
 - (iii) a tariff of charges for the removal and storage of items, as contemplated in terms of section 11(2);

- (iv) procedures to be followed with regard to the sale or disposal of items in terms of sections 11(3) and (6);
- (e) the contents and service of a notice on the owner or occupier of private property, the carrying out of work necessary to give effect to the notice and guidelines for the determination of the reasonable costs thereof, as contemplated in terms of sections 12(1) and (2);
- (f) the granting of consent for camping and sleeping at any outdoor facility or municipal building, as contemplated in terms of section 13;
- (g) the granting of written permission for any gathering, meeting or procession, as contemplated in terms of section 14, including –
 - (i) requirements in respect of applications for permission; and
 - (ii) guidelines for conditions and restrictions that may accompany such permission;
- (h) the granting of consent for the use of amplification devices and equipment, as contemplated in terms of section 15;
- (i) the prevention of nuisances on private property, including –
 - (i) procedures for the removal of any item from private property, as contemplated in terms of section 18(2);
 - (ii) the giving of instructions and notification to an occupier of private property for the abatement or cessation of a nuisance, as contemplated in terms of sections 21(3) and (4);
 - (iii) procedures for the entering of private property for the extinction of fires thereon, as contemplated in terms of section 22(2);
 - (iv) a tariff of charges for the disposal and burying of any offensive matter or thing, including carcasses, as contemplated in terms of section 23(2);
 - (v) the contents and service of a notice for the removal of vegetation, procedures for effecting the

removal by the municipality itself and a tariff of charges therefor, as contemplated in terms of sections 24 (2) and (3); and

- (vi) the contents and service of a notice for the control of vermin, procedures for effecting control by the municipality itself and a tariff of charges therefor, as contemplated in terms of sections 25(2) and (3);
 - (j) a tariff of charges or schedule of costs for the remedying of any loss or damage suffered by the municipality as a result of the commission of an offence in terms of section 30(1);
 - (k)
 - (i) the prescription of penalties for the offences contemplated in terms of section 29; and
 - (ii) the amendment of such penalties from time to time;
 - (l) any matter which may be prescribed in terms of this by-law and any matter which may facilitate the application of this by-law.
- (2) [a] The municipality shall, not less than 1 (one) month before promulgating a regulation in terms of sub-section 1, cause a draft of the regulation to be communicated to the local community and to be made public in terms of sections 21 and 21A of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000], together with a notice declaring the intention of the municipality to issue such a regulation and inviting comments or representations.
- [b] If the municipality decides to alter the draft regulation as a result of comments or representations received pursuant to such invitation, then it shall not be necessary to communicate and make public the alteration before the amended draft is promulgated as a regulation.

31. Repeal of by-laws

Any by-laws relating to the prevention of nuisances adopted by the municipality or any erstwhile municipal council now comprising an administrative unit of the municipality shall be repealed from the date of promulgation of this by-law.

32. Short title

This by-law is called the By-law Relating to the Prevention of Nuisances, 2004 and takes effect on a date determined by the municipality by proclamation in the Provincial Gazette.

No. 25**NKONKOBÉ LOCAL MUNICIPALITY : CREDIT CONTROL BY-LAW, 2004
– PUBLICATION FOR INFORMATION PURPOSES**

The Nkonkobe Local Municipality, in compliance with the provisions of the Local Government : Municipal Systems Act, 2000, hereby publishes for information purposes the Credit Control By-law, 2004, as passed by the municipal council and as set out in the accompanying schedule.

LOCAL GOVERNMENT NOTICE
MUNICIPALITY OF NKONKOBE
CREDIT CONTROL BY-LAW

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 108 of 1996], the Credit Control By-law.

Purpose of By-law

The purpose of the by-law is to give effect to the municipality's credit control and debt collection policy and the implementation and enforcement thereof.

CHAPTER 1
DEFINITIONS AND ADOPTION OF POLICY

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

'arrangement' means an agreement entered into between the municipality and a debtor in terms of which payment terms for the settlement of an outstanding debt are agreed upon and expressly stipulated;

'billing date' means the date upon which a monthly statement is generated and debited to a customer's account;

'business premises' means premises utilised for purposes other than residential and excludes the following -

- (a) hospitals, clinics and institutions for mentally ill persons which are not operated for gain;

- (b) museums, art galleries, libraries and botanical gardens which are registered in the names of private persons and are open to the public, whether admission fees are charged or not ;
- (c) sports grounds used for the purpose of amateur sports and any social activities connected with such sports ;
- (d) any property registered in the name of an institution or organisation which, in the reasonable opinion of the municipality, performs charitable work ;
- (e) any property utilised for bona fide church or religious purposes;

'chief financial officer' means the official accountable and responsible to the municipal manager for the implementation, administration and enforcement of the municipality's credit control and debt collection policy;

'credit control' means all the functions relating to the collection of monies owed by ratepayers and the consumers of municipal services;

'customer' means the occupier of any premises to which the municipality has agreed to supply or is actually supplying services, or if there is no occupier, then the owner of the premises and includes any debtor of the municipality;

'day' means a calendar day, inclusive of Saturdays, Sundays and public holidays;

'defaulter' means any person who owes the municipality arrear monies in respect of rates or service charges;

'due date', with regard to -

- (a) rates due in respect of any immovable property, means the first day of July of the financial year for which such rate is applicable; and

- (b) service charges due in respect of any immovable property, means the seventh day of the month succeeding the month during which municipal services were supplied,

provided that a date falling on a Saturday, Sunday or public holiday shall result in the due date being determined as the next working day;

'immovable property' includes –

- (a) an undivided share in immovable property; and
- (b) any right in immovable property;

'indigent debtor' means the head of an indigent household -

- (a) who applies to the municipality for the provision of services;
- (b) who makes application for indigent support in terms of this by-law; and
- (c) who shall be regarded as the representative of all members of his or her household;

'indigent support policy' means the indigent support policy approved and adopted by the municipal council of the municipality;

'indigent support programme' means a structured programme for the provision of indigent support subsidies to qualifying indigent debtors in terms of the municipality's indigent support policy;

'month' means a calendar month;

'monthly average consumption' means the monthly consumption in respect of any property calculated on the basis of average consumption over the preceding six months;

'municipal account' means an account recording the transactions associated with the rates and service charges applicable to a registered user;

'municipal pay point' means any municipal office in the area of jurisdiction of the municipality or any such other place as the chief financial officer may from time to time designate for the payment of municipal accounts;

'municipal services' means services provided either by the municipality, or by an external agent in terms of a service delivery agreement, and shall include the provision of water, electricity, sewage, refuse and fire protection services;

'municipality' means the Municipality of Nkonkobe, established in terms of section 12 of the Local Government : Municipal Structures Act, 1998 [Act No. 117 of 1998] and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated to such political structure, political office bearer, councillor, agent or employee;

'occupier' means the person who controls and resides on or controls and otherwise uses immovable property, provided that -

- (a) the spouse of the owner of immovable property, which is used by such spouse or owner as a dwelling at any time, shall be deemed to be the occupier thereof ;
- (b) where both spouses reside on immovable property and one of them is an occupier thereof, the other shall also be deemed an occupier;

'owner', in relation to immovable property, means -

- (a) the person in whom is vested the legal title thereto provided that -

- (i) the lessee of immovable property which is leased for a period of not less than fifty years, whether the lease is registered or not, shall be deemed to be the owner thereof; and
 - (ii) the occupier of immovable property occupied in terms of a servitude or right analogous thereto shall be deemed the owner thereof;
- (b) if the owner is deceased, insolvent, has assigned his or her estate for the benefit of his or her creditors, has been placed under curatorship by order of court or is a company being wound up or under judicial management, then the person in whom the administration of such property is vested as executor, administrator, trustee, assignee, curator, liquidator or judicial manager, as the case may be;
 - (c) if the owner is absent from the Republic or if his or her address is unknown to the municipality, then any person who as agent or otherwise receives or is entitled to receive the rent in respect of such property; or
 - (d) if the municipality is unable to determine who such person is, then the person who is entitled to the beneficial use of such property;

'premises' includes any piece of land, the external surface boundaries of which are delineated on -

- (a) a general plan or diagram registered in terms of the Land Survey Act, 1997 [Act No. 8 of 1997] or in terms of the Deeds Registries Act, 1937 [Act No. 47 of 1937];
- (b) a sectional plan registered in terms of the Sectional Titles Act, 1986 [Act No. 95 of 1986], and

situated within the jurisdiction of the municipality;

'person' means a natural or juristic person, including any department of state, statutory bodies or foreign embassies;

'prescribed' means prescribed in terms of this by-law;

'rates' means any tax, duty or levy imposed on property by the municipality;

'ratepayer', in relation to the municipality, means a person who is liable to the municipality for the payment of –

- (a) rates on property in the municipality;
- (b) any other tax, duty or levy imposed by the municipality; or
- (c) fees for the services provided either by the municipality or in terms of a service delivery agreement;

'registered owner' means the person, natural or juristic, in whose name a property is registered in terms of the Deeds Registries Act, 1937;

'service charges' means the fees levied by the municipality in terms of its tariff policy for any municipal services rendered in respect of an immovable property and includes any penalties, interest or surcharges levied or imposed in terms of this by-law;

'service delivery agreement' means an agreement between the municipality and an institution or persons contemplated in terms of section 76(b) of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000];

'sundry debtor', in relation to the municipality, means a person who is liable to the municipality for payment of any other amount not included in the definition for 'ratepayer';

'**tariff**' means a schedule of taxes, duties, levies or fees which may be imposed by the municipality for municipal services provided either by itself or another institution or person in terms of a service delivery agreement;

'**tariff policy**' means the tariff policy approved and adopted by the municipal council of the municipality;

'**user**' means the owner or occupier of a property in respect of which municipal services are being supplied and 'consumer' shall have a corresponding meaning.

2 Credit control and debt collection policy

The municipality shall adopt, implement and enforce a policy on credit control and debt collection, to be termed the credit control and debt collection policy and which shall provide for -

- (a) credit control procedures and mechanisms;
- (b) debt collection procedures and mechanisms;
- (c) provision for indigent debtors that is consistent with its rates and tariff policies and any national policy on indigents;
- (d) interest on arrears;
- (e) extensions of time for payment of accounts, including arrangements for payment;
- (f) termination of services or the restriction of the provision of services when payments are in arrears;
- (g) provision of new services;

- (h) entering into an agreement between a debtor's employer and the municipality for the deduction of amounts from a debtor's salary or wage;
- (i) sales in execution of any property; and
- (j) any other matter that may be prescribed by regulation in terms of section 104 of the Local Government: Municipal Systems Act, 2000.

CHAPTER 2

PROVISION OF MUNICIPAL SERVICES

3 Application for provision of municipal services

- (1) All applications for the provision of municipal services in respect of any immovable property shall be made by the registered owner of the aforesaid property in writing and in the prescribed form.
- (2) The registered owner of a property in respect of which application for the provision of municipal services has been made shall enter into a written agreement with the municipality.
- (3) The municipality may, upon the written request of the registered owner of a property, enter into a written agreement with the occupier of the immovable property in respect of which application for the provision of municipal services has been made.
- (4) Meters for the recording of the quantity of water or electricity supplied may be installed by the municipality, at its own

expense, at such point of the plumbing or electricity system as it may determine and such meters together with all the fittings connected therewith shall remain the property of the municipality and shall at all times be under its sole control.

- (5) The registered owner of a property in respect of which application has been made for the provision of municipal services shall, at least 5 (five) days prior to taking occupation of the aforesaid property, notify the chief financial officer thereof in writing and in the prescribed form.
- (6) The chief financial officer shall cause a reading of the meters installed at such premises to be taken on the day preceding the date of occupation of such premises.
- (7) The chief financial officer may, from time to time, require all owners or occupiers of immovable properties in respect of which municipal services are being supplied, to enter into written agreements with the municipality.
- (8) An applicant for the provision of municipal services in respect of immovable property shall be required by the chief financial officer to pay a deposit equivalent to 1 ½ (one and a half) times the monthly average consumption of that property before the provision of any municipal services.
- (9) The chief financial officer may, in his or her sole discretion, upon written notice to the owner of an immovable property and after the conclusion of a written agreement, either increase or decrease the deposit payable.
- (10) If the chief financial officer intends increasing the minimum deposit payable by the owner, then he or she shall, in the aforesaid notice, state full reasons for the increase and allow

the owner an opportunity to make written representations in this regard.

- (11) An aggrieved owner may, within a period of 10 (ten) days of having been notified of an increase in the minimum deposit payable, lodge an appeal against the decision of the chief financial officer to the municipal manager.
- (12) The municipal manager shall, within a period of 5 (five) days after receipt of the appeal notice, pronounce upon the matter and no further appeal shall lie against the decision of the municipal manager.
- (13) The chief financial officer may, in his or her sole discretion and in respect of premises utilised for business purposes, accept a guarantee in lieu of a deposit.
- (14) Owners of business premises shall be required to pay an amount equivalent to 250% (two hundred and fifty percent) of the average monthly consumption, provided that the aforesaid amount shall be not less than R500.00.
- (15) An owner of business premises, in respect of which a deposit in excess of R100 000.00 is payable, has the option to -
 - (a) pay 250% (two hundred and fifty percent) of the monthly average consumption charges for municipal services; or
 - (b) the equivalent of 1 ½ (one and a half) months' estimated monthly average consumption charges in cash and the balance in the form of an irrevocable bank guarantee acceptable to the chief financial officer, provided that the owner shall agree in writing to pay the monthly account not later than 14 (fourteen) days after the billing date.

4 Power to restrict or disconnect supply of service

- (1) Subject to section 17, the municipality may restrict or disconnect the supply of electricity and water or discontinue any other service rendered to any premises whenever a user of any such service –
- (a) fails to make fully payment on the due date or fails to make an acceptable arrangement for the repayment of any amount for rates or service charges;
 - (b) fails to comply with a condition of supply imposed by the municipality;
 - (c) obstructs the efficient supply of water, electricity or any other municipal service to another customer;
 - (d) supplies such municipal service to a customer who is not entitled thereto or permits such a service to continue;
 - (e) tampers with any municipal supply meter or bypasses any metering equipment in order to obtain an un-metered service;
 - (f) causes a situation which, in the reasonable opinion of the municipality, is dangerous or a contravention of relevant legislation;
 - (g) is placed under provisional sequestration, liquidation or judicial management, or commits an act of insolvency in terms of the Insolvency Act, 1936 [Act No. 24 of 1936] or any other applicable law; or

- (h) if an administration order is granted in terms of section 74 of the Magistrates Court Act, 1944 [Act No. 32 of 1944] in respect of such a user.
- (2) The right of the municipality to restrict water to any premises or consumer shall be subject to the provisions of section 4 of the Water Services Act, 1997 [Act No. 108 of 1997].
- (3) The right to restrict, disconnect or terminate a service shall be in respect of any service rendered by the municipality and shall prevail notwithstanding the fact that payment has been made in respect of any specific service and notwithstanding the fact that the person who entered into an agreement for the supply of services with the municipality and the owner are different entities or persons, as the case may be.

CHAPTER 3 INDIGENT DEBTORS

5 Indigent support policy

- (1) The municipality shall adopt, implement and enforce an indigent support policy which shall embody an indigent support programme providing procedures and guidelines for the subsidisation of services charges to indigent households in its jurisdiction.
- (2) The object of the indigent support policy will be to ensure –
 - (a) the provision of municipal services to the community in a sustainable manner within the financial and administrative capacity of the municipality; and

- (b) the provision of procedures and guidelines for the subsidisation of service charges to indigent households.

6 Qualification criteria

- (3) Qualification criteria for indigent support and the municipal services qualifying for such support shall be determined by resolution of the municipality from time to time, provided that, until the municipality determines otherwise, registered residential consumers shall qualify for indigent support, subject to the following conditions -

- (a) the combined or joint gross income of all occupants or dependants over the age of 18 (eighteen) years in a single household which receives services from the municipality does not exceed R1100 per month;
- (b) the municipality must be 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 municipality;
- (c) the single household referred to in sub-section (a) must be registered on the municipal data base of households receiving indigent support from the municipality;
- (d) any occupant or resident of the single household referred to in sub-section (a) does not own any property in addition to the property in respect of which indigent support is provided in terms of the municipality's indigent support programme;
- (e) any occupant or dependent in the single household referred to in sub-section (a) does not receive any

significant monetary benefit or regular monetary payment from any source whatsoever.

- (2) The extent of the monthly indigent support granted by the municipality to indigent households in its jurisdiction will be determined by resolution of the municipality, regard being had to its budgetary provisions, any applicable amount received by it from national government, the number of recipients and monthly average consumption, service charges and rates, as the case may be, in respect of the following services –
 - (a) water;
 - (b) electricity;
 - (c) sewage;
 - (d) refuse collection
 - (e) housing rentals, if applicable; and
 - (f) assessment rates on residential property.
- (3) The municipality will, on a six-monthly basis, assess the level of support to indigent households in its jurisdiction, depending on the number of applicants qualifying for indigent support and its general financial position.
- (4) The level of indigent support granted by the municipality shall not exceed the monthly billings to the accounts of indigent debtors.

7 Distribution of indigent support subsidies

Indigent support subsidies will be distributed by the municipality 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 from the financial hardship of paying in full for services received from the municipality during a specific period;
- (c) all registered indigent households will be charged the service charge determined in accordance with any tariff approved and adopted by the municipality;
- (d) the recipient's monthly account will be credited with the amount of the indigent subsidy as determined by the municipality on a monthly basis; and
- (e) indigent relief will continue for a period determined by the municipality in terms of its indigent support policy

8 Application for indigent support

- (1) An application for indigent support in terms of this by-law must be made on the prescribed form which must contain at least the following information, to be certified as correct by the applicant -
 - (a) details of the applicant's municipal service account or accounts;
 - (b) proof of income;
 - (c) proof of residence;

- (d) identity number of applicant; and
 - (e) number, names and identity numbers, where applicable, of dependants in the applicant's household.
- (2) At all times, an indigent debtor shall be responsible for any re-application necessary and for the submission of proof regarding a change in circumstances that affects the information provided in terms of sub-section (1).

9 Indigent support committee

The municipality 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 municipality's indigent support programme;
- (b) recommend to the municipality that applications received in terms of sub-section (a) either be approved or rejected;
- (c) monitor, in conjunction with ward councillors, ward committees and other persons or organisations it may appoint, the implementation of the indigent support programme, subject to the policy directions of the municipality and in consultation with the municipal manager;
- (d) recommend to the municipality any amendments, additions or altered procedures in respect of the application of the municipality's indigent support programme;

- (e) undertake such inspections and issue such instructions as it may deem necessary in order to verify the information provided by any indigent debtor;
- (f) perform such other duties as the municipality may direct, provided that the municipality may delegate any of its responsibilities in terms of this by-law and its indigent support programme to the committee either wholly or in part and subject to such conditions as it may determine.

10 Balance owing by indigent debtor

Any balance owing by an indigent debtor, after deduction of the indigent support subsidy, shall be recovered from him or her in accordance with the credit control and debt collection policy of the municipality.

11 Withdrawal of indigent status

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

12 Mayor's relief fund

The municipality shall annually make provision in its budget for an allocation of funds to be administered by the mayor for the granting of 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 municipality may determine.

13 Responsibilities of municipal manager

It shall be the responsibility of the municipal manager to –

- (a) create, maintain and update a register of all debtors receiving indigent support subsidies from the municipality in terms of this by-law;
- (b) reflect the indigent status of debtors in the accounting records of the municipality;
- (c) advise and keep indigent debtors informed of the approval, amendment, suspension or withdrawal of an application for indigent support in terms of this by-law and the conditions under which such support will be granted, including the renewal of indigent support applications;
- (d) report any incidents of misuse of the municipality's indigent support programme to the indigent support committee for attention in terms of this by-law;
- (e) report at regular intervals or as may be required by the indigent support committee on the progress or otherwise of the implementation of the council's indigent support programme.

14 Budgeting for indigent support

- (1) The municipality shall budget annually for the total indigent subsidy to be granted to indigent debtors in terms of this by-law.
- (2) The amount contemplated in terms of sub-section (1) shall be credited to indigent debtors by application of generally accepted accounting principles.

CHAPTER 4 RATES AND SERVICE CHARGES

15 Billing

- (1) The municipality shall provide every person, liable in terms of a signed agreement or otherwise for rates and service charges, with a consolidated account in respect of all rates and service charges owed to the municipality.
- (2) Accounts will be rendered on a monthly basis in cycles of 30 (thirty) days.
- (3) Any account rendered by the municipality shall be payable within a period of 30 (thirty) days from the billing date appearing on the account.
- (4) Any amount which remains due and payable after the aforesaid period of 30 (thirty) days shall attract interest in accordance with the provisions of section 28.
- (5) A payment shall be deemed to be late unless received on or before the due date at a municipal pay point by 14h00.
- (6) Electronic payments or payments made via agents must be received in the municipal bank account by 16h00 on the due date.

16 Rates

- (1) The municipality shall adopt, implement and enforce a policy on the levying of rates on rateable property within the jurisdiction of the municipality.

- (2) For the purposes of this by-law the following provisions are applicable to ratepayers –
- (a) annual rates levied on any property as at the first day of July of any year become due and payable by no later than the last day of September in the succeeding year, provided that –
 - (i) a ratepayer may enter into an arrangement with the municipality to effect payment of rates by way of monthly instalments; and
 - (ii) any such arrangement shall provide that the final instalment must be paid by no later than the last day of June in the said succeeding year;
 - (b) rates which are paid on a monthly basis, by arrangement, shall be due by the seventh day of each and every month;
 - (c) the chief financial officer shall ensure that a written notice is issued to all ratepayers, detailing the available methods for the settlement of outstanding rates;
 - (d) in the event of a ratepayer's failing to pay outstanding rates by the due date, the chief financial officer or any person duly authorised thereto shall issue a letter of demand by registered mail, requiring that the outstanding amount together with any interest which may have accrued be settled within 14 (fourteen) days from the date of the letter;

- (e) If the amount remains outstanding, despite a demand issued in terms of subsection (d), then the chief financial officer or any person authorised thereto shall cause the institution of legal proceedings so as to recover the outstanding amount;
- (f) any disbursement incurred by the municipality in connection with the foregoing procedures shall be debited to the defaulter's account;
- (g) subject to sub-section (a) -
 - (i) the chief financial officer may allow ratepayers, who have been declared indigent in terms of the municipality's indigent support policy, to settle any arrear rates over a period not exceeding 12 (twelve) months, provided that the indigent debtor pays the current rates together with the arrears by the seventh day of each and every month; and
 - (ii) interest shall accrue on all monthly rates accounts in the event they are not paid by the seventh day of each and every month;
- (h) with regard to a ratepayer who has made an arrangement to settle his or her rates account on a monthly basis -
 - (i) the ratepayer shall maintain payments regularly and in accordance with the arrangement; and
 - (ii) the ratepayer's failure to adhere to the arrangement or omission to pay monthly

instalments for 2 (two) consecutive months shall have the result that -

- (aa) the arrangement shall be terminated with immediate effect; and
 - (bb) the outstanding balance shall immediately become due and payable;
- (i) a ratepayer who has defaulted on a monthly payment arrangement shall not be allowed to enter into a further arrangement for a period determined by the chief financial officer or any person duly authorised thereto and which period shall not exceed 3 (three) years;
 - (j) any arrangement relating to the payment of rates on a monthly basis shall endure for a period of 1 (one) year and shall terminate on the last day of June of each year;
 - (k) a ratepayer who wishes to apply for a certificate in terms of section 118 of the Local Government : Municipal Systems Act, 2000 shall first ensure that the outstanding rates, services charges and other amounts owed in respect of the property in question for the 2 (two) years preceding the date of application have been fully paid.
- (3) Where a company, closed corporation or a body corporate in terms of the Sectional Titles Act, 1986 is responsible for the payment of any arrear amount to the municipality, the liability of such entity shall be extended to the directors or members thereof jointly and severally as the case may be.
 - (4) To the extent that the provisions of this section conflict with any by-law adopted by the municipality in terms of section 6 of

the Local Government : Municipal Property Rates Act, 2004 [Act No. 6 of 2004], the provisions of the rates by-law shall prevail.

17 Water, electricity and other municipal services

- (1) Accounts rendered by the municipality in respect of water and electricity and other municipal services shall be paid by the seventh day of each month.
- (2) If an account has not been paid by the due date for the rates or service charges in respect of any property, then -
 - (a) the municipality may restrict or disconnect the electricity supply to the property, in which event -
 - (i) a disconnection shall be effected by disconnecting the pole fuse or removing the circuit breaker and the bridge piece; and
 - (ii) any disbursements and charges relating to the disconnection or reconnection of the electricity supply shall be debited to the defaulter's account;
 - (b) the municipality may restrict or disconnect the water supply to the property where the defaulter utilises a pre-payment electricity metering system, in which event -
 - (i) a disconnection shall be effected by closing the water supply and removing the tailpiece from the meter, plugging the pipe with a brass plug or by removing the stopcock top and fitting an anti-tamper device; and

- (ii) any disbursements and charges relating to the disconnection or reconnection of the water supply shall be debited to the defaulter's account.

- (3) Where an owner or occupier of a property unlawfully reconnects or attempts to reconnect a supply of electricity or water that has been disconnected -
 - (a) the municipality shall disconnect the supply entirely by removing the service connection from the property; and
 - (b) all disbursements, penalties and reconnection charges, together with any outstanding amounts in respect of rates or services charges, must be paid in full before a reconnection can be effected.

- (4) Before disconnecting the water supply to a property, the municipality must ensure that -
 - (a) a defaulter is provided with -
 - (i) 7 (seven) days' notice of the municipality's intention to disconnect the water supply;
 - (ii) reasonable opportunity to make representations to the municipality as to why the disconnection should not be effected;
 - (b) any intended disconnection will not conflict with the defaulter's right to free basic water services.

- (5) The provisions of sub-section (4)(a) shall not apply where -
 - (a) other users will be prejudiced;

- (b) an emergency situation exists; or
 - (c) the defaulter has interfered with a restricted or disconnected water supply.
- (6) At all times, the municipality shall not contravene the provisions of section 4 of the Water Services Act, 1997 in the implementation of this section.
- (7) Upon good cause shown, the chief financial officer or any person duly authorised thereto may enter into an arrangement with the defaulter for the payment of an outstanding account, in which event –
 - (a) payment may be made by way of instalments, provided that these shall be effected in terms of debit orders; and
 - (b) the electricity or water supply to the property in question shall be continued.
- (8) In the case of an indigent person -
 - (a) where the account of such indigent person is outstanding and his or her electricity or water supply has been disconnected, the chief financial officer may enter into an arrangement in terms of which the indigent person effects immediate payment of at least 5% (five percent) of the outstanding amount and pays the balance over a period of 24 (twenty four) months; and
 - (b) where the indigent person utilises a credit electricity metering system –

- (i) application may be made for a pre-payment electricity metering system, provided that the required conversion fee is paid; and
 - (ii) any arrears owed in respect of the supply of electricity shall be transferred to the pre-payment electricity account and recovered at a rate determined from time to time by the municipality.
- (9) Defaulters whose arrears are outstanding for a period in excess of 90 (ninety) days and who have failed to make the arrangements for settlement of their accounts may be reported by the chief financial officer or any person duly authorised thereto to the credit bureau for listing.
- (10) The chief financial officer or any person duly authorised thereto shall, where account has not been paid by the due date, issue a written demand by registered mail, requiring the defaulter to settle the arrears within a period of 14 (fourteen) days from the date of the letter.
- (11) If the defaulter fails to pay the outstanding account within the period of 14 (fourteen) days, then -
 - (a) the Municipality shall proceed to implement the measures required to effect disconnection; and
 - (b) the chief financial officer or any person duly authorised thereto shall instruct attorneys to recover the outstanding balance by way of legal action.
- (12) Any defaulter who enters into a *bona fide* arrangement with the municipality for the settlement of arrears and who fails to honour

the terms of such arrangement shall not be allowed to enter into any further arrangements with the municipality.

- (13) The chief financial officer may, in respect of an owner or occupier of a property where the electricity or water connections have been disconnected at least twice during the preceding period of 12 (twelve) months, give notice in terms of the provisions of this by-law of his or her intention to review the amount of the deposit required from that owner or occupier.

18 Metering

- (1) The municipality shall take readings of all meters relating to consumption of municipal services on a monthly basis.
- (2) The chief financial officer or any person duly authorised thereto may direct that if circumstances prevent the reading of a meter then the user be charged an amount equal to the monthly average consumption in respect of that property.
- (3) Any user of municipal services shall ensure that municipal officials gain access to metering equipment on the property in question at all reasonable times.

19 Payment facilities and methods

- (1) Payments on accounts rendered may be effected at any municipal pay point.
- (2) The chief financial officer may, at his or her discretion and from time to time, designate certain payment methods which will be acceptable to the municipality.

20 Enquiries and appeals

- (1) An aggrieved person may address any grievance or query regarding rates or service charges to the chief financial officer in the prescribed manner.
- (2) The aggrieved person shall clearly state the basis for his or her dissatisfaction and the desired outcome.
- (3) The lodging of an enquiry in the prescribed form shall not relieve the aggrieved person of the responsibility to settle the account, provided that the chief financial officer may, upon receipt of written application, direct that interim payments be made pending the finalisation of the enquiry.
- (4) The chief financial officer shall respond to such an enquiry in writing within a period of 10 (ten) days from the date of the lodgement of the enquiry.

21 Tenders for business

- (1) The municipality may require any person reacting to a tender published by the municipality or intending to enter into a contract with the municipality for the provision of goods or services to produce a certificate issued by the chief financial officer, stating that the said person maintains regular payments on all his or her accounts.
- (2) Where a person fails to provide such certificate, the municipality may recover any outstanding amounts owed for rates or service charges by way of deductions from all monies due and owing to such person and arising from a tender awarded to or contract concluded with the said person.

- (3) In the application of this section, the municipality shall interpret the provisions hereof so as to be consistent with the principles and contents of its procurement policy or supply chain management policy, as the case may be.

22 Tariff policy

- (1) The municipality shall adopt, implement and enforce a tariff policy with regard to the levying of taxes, duties, levies or fees for municipal services provided either by itself or another institution or person in terms of a service delivery agreement.
- (2) The tariff policy shall reflect at least the following principles -
- (a) users must be treated equitably in the application of tariffs;
 - (b) the amount individual users pay for municipal services shall generally be in proportion to their use of that municipal service;
 - (c) poor households must have access to at least basic services through -
 - (i) tariffs that cover only operating and maintenance costs;
 - (ii) special tariffs or life line tariffs for low levels of use or consumption of services or for basic levels of service; or
 - (iii) any other direct or indirect method of subsidisation of tariffs for poor households;

- (d) tariffs must reflect the costs reasonably associated with rendering a municipal service, including capital, operating, maintenance, administration and replacement costs and interest charges;
- (e) tariffs must be set at levels that facilitate the financial sustainability of a municipal service, taking into account subsidisation from sources other than the municipal service concerned;
- (f) provision may be made in appropriate circumstances for a surcharge on the tariff for a municipal service;
- (g) provision may be made for the promotion of local economic development through special tariffs for categories of commercial and industrial users;
- (h) the economical, efficient and effective use of resources, the recycling of waste and other appropriate environmental objectives shall be encouraged; and
- (i) the extent of subsidisation of tariffs for poor households and other categories of users must be fully disclosed.

23 Special tariff for designated municipal services, amenities and properties

- (1) The municipality may determine special tariffs for application to indigent residents, communities and organisations in respect of the following municipal services, amenities and properties, subject to the availability of funds and compliance with prescribed criteria which shall be determined by resolution of the municipality -

- (a) sports grounds and swimming pools;
- (b) fire protection;
- (c) transport;
- (d) museums;
- (e) markets;
- (f) agricultural properties;
- (g) hiring of halls; and
- (h) cemeteries and crematoria.

24 Promotion and encouragement of integrated development plan

Tariffs adopted by the municipality in terms of the tariff policy referred to in section 22 shall encourage and promote the objects and programmes contained in the integrated development plan of the municipality.

25 Review of tariff policy

The tariff policy adopted by the municipality in terms of section 22 shall be reviewed by the Municipality by the last day in January of each year.

26 Service agreements

Where a municipal service is provided by an external agent, the municipality shall ensure that any agreement for the provision of such a municipal service shall contain a reference to the right of the

municipality to control the setting and adjustment of tariffs to be charged by such external agent for the rendering of the municipal service in question in terms of the tariff policy.

27 Fixing of tariffs by resolution

(1) The municipality –

(a) shall, by special resolution, fix tariffs for municipal services -

(i) in respect of any amenity, facility, entertainment, exhibition, performance or municipal service established or provided by it where no such tariff has been fixed by law;

(ii) for the exercise and performance of any power, duty or function conferred or imposed on it by or under any law where no such tariff has been fixed by or under such law;

(b) may -

(i) in fixing such tariff, differentiate between different classes of persons or property on such grounds as it may deem reasonable;

(ii) from time to time amend such tariff; and

(iii) recover any taxes, duties, levies or fees so fixed in terms of the tariff.

(2) The municipality shall, after fixing or amending any tariff in terms of sub-section (1) for any municipal service -

- (a) advertise the fixing or amendment of such tariff;
 - (b) in the advertisement contemplated in terms of sub-section (a), specify the date on or circumstances in which such fixing or amendment shall take effect.
- (3) If the municipality has fixed or amended any tariff in terms of sub-section (1) in any case not contemplated by sub-section (2) then the municipality shall, by publication in the press, give notice of the fixing or amendment of such tariff and of the date on or circumstances in which such fixing or amendment shall take effect and such fixing or amendment shall take effect on the date so fixed or in the circumstances so specified.

CHAPTER 6 OUTSTANDING ACCOUNTS

28 Interest on outstanding balances

- (1) All outstanding accounts for rates or services charges that are not paid by the due date shall attract interest at a rate equivalent to the prevailing prime rate plus 1%.
- (2) All outstanding accounts in respect of sundry debtors that have not been settled within 30 (thirty) days of the billing date shall attract interest at a rate equivalent to the prevailing prime rate plus 1%.
- (3) No interest shall be payable on any outstanding accounts in respect of which an arrangement has been entered into by the municipality and a defaulter or sundry debtor for the payment by

way of instalments, provided that the said arrangement is honoured.

- (4) For the purposes of this section, interest shall be calculated for each month in respect of which an account remains unpaid and a part of a month shall be deemed to be a complete month.

29 Extension of time for payment of outstanding accounts

- (1) Any person who, for any reason whatsoever, is unable to settle an account in respect of service charges by the due date may apply in writing and on the prescribed form to the chief financial officer for an extension of time to be granted for the payment of the said account, provided that there are no other outstanding accounts in respect of the property in question.
- (2) The chief financial officer or any person duly authorised thereto may entirely within his or her own discretion allow such an extension of time for any period not exceeding 1 (one) month.
- (3) No extension of time shall be allowed in respect of any outstanding rates.
- (4) If the owner or occupier of a property has failed to honour an arrangement concluded, as contemplated in terms of subsections (1) and (2), then the total amount due, together with any interest which may have accrued, shall become due and payable with immediate effect.
- (5) An application for an extension of time in respect of outstanding service charges must be lodged with the chief financial officer or any person duly authorised thereto at least 10 (ten) days before the said account becomes due and payable.

30 Arrangements to pay by way of installments

- (1) A defaulter or sundry debtor may enter into an arrangement with the municipality to repay any outstanding and due amount to the municipality under the following conditions or as otherwise determined by the credit control and debt collection policy of the municipality -
 - (a) the outstanding balance, any interest thereon and any additional costs shall be paid in regular and consecutive monthly installments;
 - (b) the arrangement shall be recorded as a written agreement and shall be signed on behalf of the municipality by a duly authorised official;
 - (c) in the event of any dispute arising as to the amount owing by an owner or occupier in respect of municipal services, such owner or occupier shall, notwithstanding such dispute, proceed to make regular minimum payments based on the calculation of the average municipal account for the 3 (three) months prior to the occurrence of the dispute, taking into account inflation as well as annual amendments of tariffs by the municipality.

31 Agreements with employers

- (1) The chief financial officer may enter into a written agreement with any employer within the municipality's area of jurisdiction to deduct outstanding rates and service charges or to settle regular monthly accounts through deductions from salaries or wages of its employees.

- (2) The municipality may, from time to time, provide special rebates, incentives or benefits to the employer or employees in the event of such an agreement, subject to the provisions of the Local Government : Municipal Property Rates Act, 2004.

32 Customer assistance programmes

- (1) An owner or occupier will be entitled to a water leak rebate, provided that –
- (a) notification is given to the municipality immediately upon detection of the leak and prior to its repair;
 - (b) within 10 (ten) days of the repair of the leak, the owner or occupier in question submits either a certificate from a registered plumber or a sworn affidavit from any other person who repaired the leak, stating that –
 - (i) the leak was repaired upon a stipulated date;
 - (ii) the leak was not discernible from the surface; and
 - (iii) the leak occurred on a pipe listed on the schedule of approved pipes and fittings prescribed by the city engineer.
- (2) A leak must be must be repaired within 48 (forty-eight) hours after detection and the repair costs shall be for the account of the user, provided that the chief financial officer may determine that the municipality shall bear the said repair costs where the user is indigent or in other appropriate circumstances.
- (3) Properties which are used exclusively for residential purposes may qualify for a rates rebate, subject to application of the

principle contemplated in terms of section 16(4) with regard to the provisions of the rates by-law.

33 Reconnection of services

The chief financial officer shall authorize the reconnection of services or the reinstatement of service delivery after satisfactory payment or arrangement for payment has been made by a defaulter, in accordance with the municipality's credit control and debt collection policy.

**CHAPTER 7
GENERAL PROVISIONS**

34 Appropriation of payments and acceptance of lesser amounts

- (1) The chief financial officer may appropriate monies received in respect of any municipal services in a manner he or she deems fit and in accordance with the credit control and debt collection policy of the municipality.
- (2) Where the exact amount due and payable to the municipality has not been paid in full, any lesser amount tendered to and accepted by any municipal employee shall not be deemed to be in final settlement of such an amount unless permitted by the credit control and debt collection policy of the municipality.
- (3) The provisions in sub-section (1) shall apply notwithstanding that a lesser payment was tendered or accepted in full settlement.

35 Power of entry and inspection

- (1) For any purpose related to the implementation or enforcement of this by-law and at all reasonable times or in an emergency, a

duly authorised representative of the municipality may enter premises, request information and carry out such inspection or examination as he or she may deem necessary -

- (a) with regard to the installation or repair of any meter or service connection or reticulation; or
 - (b) so as to restrict, stop or disconnect the provision of any service.
- (2) If the municipality considers it necessary that work be performed to enable an employee to perform a function referred to in sub-section (1) properly and effectively, then it may -
- (a) by written notice require the owner or occupier of the premises at his or her own expense to do specific work within a specified period; or
 - (b) if, in its reasonable opinion, the situation is a matter of urgency, then the municipality may do such work or cause it to be done at the expense of the owner and without written notice.
- (3) If the work referred to in sub-section 5(2)(b) above is carried out for the sole purpose of establishing whether a contravention of this by-law has been committed and no such contravention has taken place, then the municipality shall bear the expense connected therewith together with the expense of restoring the premises to its former condition.

36 Delegated authority

The chief financial officer shall be responsible to the municipal manager for the implementation, administration and enforcement of the

credit control and debt collection policy, contemplated in terms of this by-law, within the financial and other capacity constraints of the municipality.

37 Notices

- (1) A notice or document issued by the municipality in terms of this by-law shall be deemed to be duly issued if signed by an employee duly authorized by the municipality.
- (2) If a notice is to be served on a person in terms of this by-law, then such service shall be effected by -
 - (i) delivering the notice to him or her personally or to his or her duly authorized agent;
 - (ii) delivering the notice at his or her residence or place of employment to a person apparently not less than 16 (sixteen) years of age and apparently residing or employed there;
 - (iii) if he or she has nominated an address for legal purposes, delivering the notice to such an address;
 - (iv) registered or certified post, addressed to his or her last known address;
 - (v) in the case of a body corporate, delivering it to the registered office or the business premises of such a body corporate; or
 - (vi) if service cannot be effected in terms of the foregoing sub-sections, by affixing it to the principal door of entry to

the premises or displaying it in a conspicuous place on the property to which it relates.

38 Authentication of Documents

- (1) Every order, notice or other document requiring authentication by the municipality shall be deemed sufficiently authenticated if signed by the municipal manager or by a duly authorized employee of the municipality;
- (2) Delivery of a copy of the document shall be deemed to be delivery of the original.

39 Prima Facie Evidence

A certificate endorsed by the municipal manager reflecting the amount due and payable to the municipality shall, upon mere production thereof, be accepted by any court of law as *prima facie* evidence of the indebtedness reflected therein.

40 Offences and penalties

- (1) Any person who-
 - (a) fails to give the access required by a municipal employee or other duly authorised person in terms of this by-law;
 - (b) obstructs or hinders a municipal employee or other duly authorised person in the exercise of his or her powers or performance of functions or duties in terms of this by-law;
 - (c) unlawfully uses or interferes with municipal equipment or the consumption of services supplied to any other user;

- (d) tampers with or breaks any seal on a meter or on any equipment belonging to the municipality or causes a meter not to register properly the service used;
- (e) fails or refuses to give a municipal employee or other duly authorised person such information as he or she may reasonably require for the purpose of exercising or performing his or her powers or functions in terms of this by-law or gives a municipal employee or duly authorised person false or misleading information, knowing it to be false or misleading; or
- (f) contravenes or fails to comply with a provision of this by-law,

shall be guilty of an offence.

- (2) Upon conviction, an offender shall be liable for a fine not exceeding R10 000.00 or to imprisonment for a period not exceeding 6 (six) months or both such a fine and imprisonment and may be charged for consumption, as determined by the chief financial officer and based on monthly average consumption or as determined by resolution of the municipality from time to time.

41 Application of by-law

This by-law shall be binding on all persons who own or occupy property within the jurisdiction of the municipality.

42 Regulations

The municipality may make regulations regarding –

- (a) any matter required or permitted to be prescribed in terms of this by-law; and
- (b) generally, all matters which in the reasonable opinion of the municipality are necessary or expedient to be prescribed in order to achieve the objects of this by-law.

43 Repeal of by-laws

Any by-laws relating to credit control and debt collection adopted by the municipality or any erstwhile municipal council now comprising an administrative unit of the municipality shall be repealed from the date of promulgation of this by-law.

44 Short title

This by-law is called the Credit Control By-law, 2004 and takes effect on a date determined by the municipality by proclamation in the Provincial Gazette.

No. 26**NKONKOBÉ LOCAL MUNICIPALITY : BY-LAW RELATING TO
ADVERTISING SIGNS, 2004 – PUBLICATION FOR INFORMATION
PURPOSES**

The Nkonkobe Local Municipality, in compliance with the provisions of the Local Government : Municipal Systems Act, 2000, hereby publishes for information purposes the By-law relating to Advertising Signs, 2004, as passed by the municipal council and as set out in the accompanying schedule.

LOCAL GOVERNMENT NOTICE**MUNICIPALITY OF NKONKOBE****BY-LAW RELATING TO ADVERTISING SIGNS**

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-law Relating to Advertising Signs.

Purpose of By-law

The purpose of this by-law is to promote the tidiness of the environment and the safety of residents and to provide for procedures, methods and practices in terms of which the erection or affixment of advertising signs is regulated.

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

'aerial sign' shall mean any sign attached to a kite, balloon, aircraft or any other device whereby it is suspended in the air over any part of the area under the jurisdiction of the municipality;

'clear height' of a sign shall mean the vertical distance between the lowest edge of such sign and the natural or the finished level of the ground, footway or roadway immediately below such sign;

'day' means a calendar day and shall include a Saturday, Sunday and any public holiday;

'depth' of a sign shall mean the vertical distance between the uppermost and lowest edges of such sign;

'display of a sign' shall include the erection of any structure if such structure is intended solely or primarily for the support of such sign and the expression "to display a sign" shall have a corresponding meaning;

'flashing sign' shall mean any illuminated sign, the light emitted from which does not remain constant in all respects;

'flat sign' shall mean any sign which is affixed to or painted directly on a main wall and which at no point projects more than 250 mm in front of the surface of such wall, but does not include a poster; provided, however, that a poster affixed to a main wall shall be deemed to be a flat sign if such poster is—

- (a) not less than 0,80 m² in area;
- (b) bordered by a permanent frame fixed to such main wall; and
- (c) maintained at all times in an un-mutilated and clean condition;

'main wall' of a building shall mean any external wall of such building but shall not include a parapet wall, balustrade or railing of a verandah or a balcony;

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

'new sign' shall mean any sign first displayed after the promulgation of this by-law;

'overall height' of a sign shall mean the vertical distance between the uppermost edge of such sign and the level of the ground, footway or roadway immediately below such sign;

'person' in relation to the display or alteration of or the addition to a sign, or in relation to the intended or attempted display or alteration of, or addition to a sign, shall include the person at whose instance such sign is displayed, altered or added to, or at whose instance such sign is intended or attempted to be displayed, altered or added to, as the case may be; and the person who or whose goods, products, services, activities, property or premises, is or are referred to in such sign shall be deemed to be such person unless he or she proves the contrary;

'poster' shall mean any placard or similar device attached to some fixed object whereby any advertisement or notice is publicly displayed;

'projecting sign' shall mean any sign which is affixed to a main wall and which at some point projects more than 250 mm in front of the surface of such wall;

'public road' means any road, street or thoroughfare or any other place 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 footpath, sidewalk or similar pedestrian portion of a road reserve;
- (c) any bridge, ferry or drift traversed by any such road, street or thoroughfare;

- (d) any other work or object belonging to such road, street or thoroughfare, footpath or sidewalk; and
- (e) any premises with or without structures thereon, used or set aside as a public parking area or public parking place for the parking of motor vehicles whether or not access to such a parking area or place is free of charge;

'running light' means a portion of a sign in the form of an illuminated strip, the illumination of which varies periodically in such a way as to convey the impression of a pattern of lights moving steadily along such strip;

'sign' shall mean any sign, signboard, screen, private lamp, blind or other device by means whereof any advertisement or notice is publicly displayed;

'sky sign' shall mean any sign that is fixed above the roof of a building other than a roof of a verandah or a balcony and shall include any such sign consisting of a single line of free standing, individual, cut-out, silhouette letters, symbols or emblems;

'temporary' means fixed by means of paste or adhesive and which does not exceed a continuous period of 30 (thirty) days;

'thickness' of a projecting sign shall mean the horizontal dimension of such sign measured parallel to the plane of the main wall to which such sign is affixed.

2 Disfigurement

- (a) No person shall by means of posters or other signs disfigure the front of any public road, wall, fence, land, rock, tree or other natural feature, or the front or roof of any building otherwise than is provided in this by-law and any person who contravenes the provisions of this section shall be guilty of an offence.
- (b) The municipality may, subject to such conditions as it may deem fit, grant permission for the display of posters on special occasions such as elections, festivities, university rag processions and similar events.

3 Submission and approval of application to display sign

[1] Save as in provided in section 22[2], every person intending to display a new sign or to alter or to add to an existing sign [hereinafter referred to as the "applicant"] shall make written application to the municipality in terms of a prescribed form, submitting therewith plans drawn in accordance with the following requirements -

- (a) The plans shall be drawn in black ink on tracing linen or stout, durable, drawing paper or shall be linen prints with black lines on

a white background. Such form and plans shall be in duplicate [one set of which shall become the property of the municipality] and shall be dated and signed in ink by the applicant or by a person authorised by such a person in writing to sign on his or her behalf, and all alterations and corrections to such form and plans shall be similarly dated and signed.

- (b) Where the sign is to be affixed to a building the plans shall include an elevation and a section of the façade and, where necessary, the roof of the building, drawn to a scale of 1:100, upon which shall be depicted the sign, any other signs affixed to such façade or roof and enough of the main architectural features of such façade or roof to show the position of the sign in relation to such other signs and features. The location of the sign relative to the ground level and, where necessary, the kerb line shall also be shown on such elevation and section.
- (c) Where the sign is not to be affixed to a building, the location of the sign relative to the ground level and, where necessary, the kerb line, shall be shown on an elevation plan and section drawn to a scale of 1:100.
- (d) Elevations, including full particulars of the subject matter as defined in section 6, plans and sections of the sign itself, as may be necessary to show whether it complies with this by-law, accurately drawn to a large enough scale [but not less than 1:50] shall also be included.
- (e) The plans shall also depict full details of the structural supports of the sign, drawn to a scale of 1:20.
- (f) The plans shall also include a site plan, drawn to a scale of 1:200, showing clearly and accurately the position of the sign and the building, if any, to which it is to be attached, in relation to such of the boundaries of the erf as may be affected by such position, and giving the name of the abutting street and the distance to and the name of the nearest cross-street and showing the direction of true north.
- (g) The plans shall indicate the materials of which the sign is to be constructed, the manner in which the lettering thereon is to be executed, the colours to be used, and whether or not the sign is to be illuminated; and in the latter event the plans shall indicate whether or not the sign is a flashing sign, and if the sign is a flashing sign, full details of its frequency and variations or changes in appearance shall be furnished.

- [2] Notwithstanding the provisions of sub-section [1], it shall be lawful, subject to the provisions of section 6[1], to display any poster and to replace any poster by another poster of the same size without the

consent of the municipality, if any such poster as aforesaid is displayed at a cinema or theatre, or other place of public amusement, or on a hoarding, the erection and use of which for these purpose have been authorised by the municipality, or is a poster which in terms of section 1 is deemed to be a flat sign.

- [3] The municipality shall, within 30 (thirty) days after receiving the form and plans referred to in sub-section [1], specify to the applicant the provisions, if any, of this by-law, or of any other laws that the municipality is required or empowered to administer, with which such form or plans do not comply and the municipality shall, if it deems it necessary, return the form and plans to the applicant.
- [4] Where the form and plans comply with this by-law and any other laws as aforesaid, the municipality shall approve them and shall forward one set thereof to the applicant.
- [5] Approval granted in terms of sub-section [4] shall become null and void if the sign has not been completed in accordance with the approved form and plans within 12 (twelve) months of the date of such approval.

4 Existing signs to comply with this by-law

- [1] Every sign existing at the date of the promulgation of this by-law shall be made to comply therewith in all respects within a period of 1 (one) year from the date of such promulgation. Where any sign does not so comply after the said period of 1 (one) year, it shall forthwith be removed.
- [2] Where any sign not complying with the provisions of this by-law has not been made to comply therewith within the aforementioned period of one year, or where any sign has been erected which is not in conformity therewith, the municipality may order the owner thereof to remove such sign. Upon failure to do so, the municipality may remove the sign and recover the cost from the person who erected the sign or permitted the erection thereof.
- [3] Whenever, through change of ownership or occupancy or change in the nature of the business, industry, trade or profession conducted on any premises or through the erection of new traffic signal lights or through an alteration in the level or position of any street, footway or kerb, or through any other cause whatsoever, a new sign ceases to comply with this by-law, such sign shall be forthwith removed, obliterated or altered by the person displaying such sign so as to comply with this by-law.

5 Enforcement

- [1] Any person who displays or attempts to display a new sign or who alters or adds to, or attempts to alter or add to, an existing sign without the prior approval of the municipality given in terms of section 3, where

such approval is required by the said section 3, shall be guilty of an offence.

- [2] Any such person shall forthwith, after an order in writing to that effect by the municipality, cease or cause to cease all work on the display of such new sign, or shall cease or cause to cease any alteration or addition to such existing sign, as the case may be, and any such person who fails to comply with such order shall be guilty of an offence.
- [3] Any person who, having obtained such approval, does anything in relation to any sign which is a departure from any form or plan approved by the municipality shall be guilty of an offence.
- [4] Any such person shall forthwith, after an order in writing to that effect by the municipality, discontinue or cause to be discontinued such departure, and any person who fails to comply with such order shall be guilty of an offence.
- [5] Whether or not any order as is referred to in sub-sections [2] and [4] has been served on any such person, the municipality may serve upon such person an order in writing requiring such person forthwith to begin to remove or obliterate such sign or anything referred to in sub-section [3] and to complete such removal or obliteration by a date to be specified in such order, which date may be extended by the municipality as it may deem fit.
- [6] Where any person displaying a sign contravenes any of the provisions of this by-law other than those relating to the matters referred to in sub-section [1] and [3], the municipality may serve a notice in writing upon such person, and in such notice shall cite the provisions contravened and shall specify the things to be done in order that such provisions may be complied with.
- [7] Any person who fails to comply with any order referred to in sub-section [5] or with the terms of any notice referred to in sub-section [6] shall be guilty of an offence, and in addition the municipality itself may give effect to such order or notice at the expense of such person.

6 Subject matter of signs

- [1] No sign on any premises shall contain any words, letters, figures, symbols, pictures or devices [hereinafter called "subject matter"] unless every part of such subject matter falls into one or more of the following categories -
- (a) the name, address and contact numbers of such premises or part thereof;
 - (b) the name of the occupier of such premises or part thereof;

- (c) a general description of the type of trade, industry, business or profession lawfully conducted on such premises or part thereof by the occupier thereof;
- (d) Any information, recommendation or exhortation concerning, or any name, description, particulars or other indication of-
 - [i] any goods, not being samples, regularly and lawfully manufactured, kept and sold or kept and offered for sale on such premises;
 - [ii] any services regularly and lawfully rendered or offered on such premises; or
 - [iii] any catering or any entertainment or amusement or any cultural, educational, recreational, social or similar facilities lawfully provided or made available on such premises, or any meeting, gathering or function lawfully held on such premises;

provided that this paragraph shall not be construed as permitting any subject matter which, in the reasonable opinion of the municipality is an evasion of or not in accordance with the intent of this sub-section.

- [2] Notwithstanding the provisions of sub-section [1], in the case of any premises partly or wholly used for residential purposes, no sign other than the name of such premises shall be displayed on the part of such premises used for residential purposes unless the premises is zoned for business purposes in terms of the municipality's town planning scheme regulations.
- [3] The provisions of this section shall not apply to any sign referred to in sub-sections (a), (b), (d), (f), (g), (h), (i), (j), (k), (o) or (p) of section 22(2).
- [4] Where a sign is displayed by means of a device whereby a series of consecutive signs is displayed at one place, the provisions of sub-section [1] shall, subject to the following conditions, not apply to any such sign so displayed-
 - (a) no sign in such series, other than a sign permitted in terms of sub-section [1], shall be displayed on any one occasion for a longer period than 20 (twenty) seconds;
 - (b) the individual signs consecutively displayed within any particular 10 (ten) minute -period shall all be completely different from one another in so far as their subject matter is concerned; provided that this paragraph shall not apply to any sign permitted in terms of sub-section [1];

- (c) where such device is capable of displaying news or of providing entertainment it shall not be operated in any position or place where in the reasonable opinion of the municipality such operation is calculated to bring about or to aggravate congestion of vehicular or pedestrian traffic;
 - (d) no such device, whether or not it is capable of displaying news or of providing entertainment, shall be operated in any position or place where in the reasonable opinion of the municipality such operation or any gathering of persons brought about thereby is calculated to detract from the amenities of the neighbourhood or to depreciate property or to cause a public nuisance;
 - (e) no such sign shall have a clear height of less than 5 m;
 - (f) notwithstanding the granting of approval by the municipality for the display of signs referred to in sub-section [4], the municipality shall be entitled at any time thereafter to revoke such approval if it is satisfied that the display of such signs is in contravention of sub-sections [a], [b] or [e] or is bringing or has brought into existence the conditions referred to in paragraph [c] or [d];
- [5] (a) Where the municipality, by notice in writing, informs any person, displaying signs referred to in sub-section [4], of the revocation of its approval for such display, such person shall forthwith cease to display such signs and shall remove the device by means whereof such signs are displayed by a date to be specified in such notice, which date may be extended by the municipality as it may deem fit.
- (b) Any person who fails to comply with any notice referred to in paragraph sub-section [a] shall be guilty of an offence, and in addition the municipality itself may give effect to such notice at the expense of such person.

7 Signs allowed on buildings - The following signs and no others may be affixed to or painted on buildings; provided that the municipality may prohibit the erection of certain or all of the undermentioned signs or the use of certain colours therein-

- (a) flat signs;
- (b) projecting signs;
- (c) sky signs;
- (d) signs affixed to or painted on verandahs or balconies;

- (e) signs painted on sun blinds affixed to buildings; and
- (f) any sign referred to in sub-sections (a), (b), (d), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o) and (p) of section 22(2); provided that all the conditions applicable to such sign are complied with.

8 Flat Signs

- [1] Flat signs shall not exceed, in aggregate area, 40 m² or ¼ (one-quarter) of the overall area of the main wall to which they are affixed or on which they are painted, whichever of these figures is the lesser; provided that the municipality may fix a lesser aggregate area for any flat sign.
- [2] No flat sign shall extend above the top of such main wall or beyond either end of such main wall.
- [3] (a) Where a building which is adjacent to another building, and which extends over the boundary line of the prospective width of a proclaimed road or public street, is demolished either wholly or partially and is reconstructed in such a manner that it no longer extends over the aforementioned boundary line, no flat sign will be permitted on the side wall of such other building facing the building so re-constructed, in so far as the said side wall extends over the aforementioned boundary line.

(b) For the purposes of this section –
 - [i] 'prospective width' in relation to a proclaimed road shall mean the statutory width as contemplated by any enactment promulgated by any legislative body which has competency to pass legislation on such a matter and in relation to a public road shall mean the width whereto it is to be widened in accordance with a town planning scheme whether in the course of preparation, awaiting approval or in operation; and
 - [ii] 'adjacent' shall mean a distance of 6 m or less.

9 Projecting Signs

- [1] No part of any projecting sign shall project in front of the main wall to which such sign is affixed to a greater extent than –
 - (a) 1,5 m in the case of a sign which has a clear height of not less than 7,5 m; or
 - (b) 1m in the case of any other sign;

provided, however, that where such a sign has a clear height of less than 5 m –

- [i] any portion of such sign which is not more than 600 mm in depth may project as aforesaid to an extent of more than 1 m but not more than 1,5 m; provided that there shall be a clear vertical distance of not less than 3,6 m between any two successive portions, if any, so projecting; and
- [ii] any such sign which is not more than 600 mm in depth may project as aforesaid to an extent of more than 1 m but not more than 1,5 m; provided that there shall be a clear vertical distance of not less than 3,6 m between any two such signs, if any, which are in the same vertical plane.

- [2] No projecting sign shall extend above the top of the main wall to which it is affixed.
- [3] The depth of a projecting sign shall not exceed $1\frac{1}{4}$ (one-and-a-quarter) times the clear height of such sign.
- [4] A projecting sign shall not exceed 600 mm in thickness.

10 Sky-signs

- [1] The depth of a sky-sign shall not exceed $\frac{1}{6}$ (one-sixth) of the clear height of such sky-sign.
- [2] No sky-sign shall project in front of a main wall of a building so as to extend, in plan, beyond the roof of such building in any direction.
- [3] The length of a sky-sign shall not exceed-
 - (a) 14 m, if the depth of such sky-sign does not exceed 4,5 m; or
 - (b) 18 m, if the depth of such sky-sign exceeds 4,5 m.
- [4] Subject to the preceding provisions of this section, the municipality may allow a sky-sign to extend in excess of 18 m in length whenever the street frontage of a site exceeds 55 m, provided that –
 - (a) such sky-sign shall consist of a single line of free standing, individual, cut-out, silhouette letters, symbols or emblems;
 - (b) the length of such sky-sign shall not exceed $\frac{1}{3}$ (one third) of the length of the road frontage of such site;

- (c) such sky-sign shall be erected parallel to the road frontage of such site; and
- (d) if, as a result of the road frontage of such site being reduced, such sky-sign ceases to comply with the preceding provisions of this section, then the owner of such site shall forthwith remove such sky-sign or alter it so as to comply with such provisions.

11 Signs on verandahs and balconies

- [1] The following signs and no others may be affixed to or painted on verandahs and balconies -
 - (a) signs affixed flat to or painted on a parapet wall, balustrade or railing of a verandah or a balcony;
 - (b) signs affixed flat to or painted on a beam or fascia of a verandah or a balcony; and
 - (c) signs suspended below the roof of a verandah or the floor of a balcony.
- [2] No sign affixed to a parapet wall, balustrade or railing of a verandah or a balcony shall exceed 1 m in depth, or project above or below or beyond either end of such parapet wall, balustrade or railing, or project more than 250 mm in front of such parapet wall, balustrade or railing.
- [3] No sign affixed to a beam or fascia of a verandah or balcony shall exceed 600 mm in depth, or project above or below or beyond either end of such beam or fascia, or project more than 250 mm in front of such beam or fascia. Where any such sign is affixed to a beam which is at right angles to the building line and which is below the roof of a verandah or the floor of a balcony, such sign shall not exceed 1,8 m in length.
- [4] No sign suspended below the roof of a verandah or the floor of a balcony shall exceed 1,8 m in length or 600 mm in depth. Every such sign shall be at right angles to the building line.
- [5] Notwithstanding the foregoing, it shall be permissible to erect a sign on the roof of a verandah or balcony, subject to the following conditions-
 - (a) such sign shall be composed of a single line of free-standing, individual, cut-out silhouette letters;
 - (b) such sign shall lie in the vertical plane passing through the foremost edge of such roof, being an edge parallel to the kerb line;

- (c) the subject matter of such sign shall be limited to that referred to in paragraphs [a], [b] and [c] of section 6[1]; and
- (d) the depth of such sign shall not exceed 600 mm.

[6] Notwithstanding the provisions of section 17[1] it shall be permissible for a sign suspended below the roof of a verandah or the floor of a balcony to be bordered by a running light, provided that such running light border shall be not more than 75 mm in width.

12 Signs over footways and roadways

- [1] Any sign projecting over a footway forming part of a public road shall be not less than 2,4 m in clear height, provided that a flat sign in the form of a showcase for the display of goods may project not more than 50 mm over such footway if such footway is not less than 1,5 m wide, irrespective of the clear height of such showcase.
- [2] Any sign projecting more than 150 mm over any place where persons may walk, if such place is not a footway forming part of a public road, shall be not less than 2,1 m in clear height.
- [3] No part of a sign projecting over a footway forming part of a public road shall be nearer than 300 mm to a vertical plane through the kerb line of such footway.
- [4] Where a public road has no footway, signs may project over the carriageway of such public road if such signs are not less than 6 m in clear height.

13 Prohibited signs

- [1] Notwithstanding anything contained in this by-law, the following types of sign are prohibited-
 - (a) swinging signs, loose portable signs [other than signs designed for the purpose of being carried through the streets and signs on portable racks or other articles for containing and displaying goods], aerial signs and other signs not rigidly fixed;
 - (b) posters, except-
 - [i] any poster referred to in section 3[2] of this by-law;
 - [ii] any poster comprising any such sign as is referred to in sub-sections (a), (b), (c), (d), (e), (f), (g), (j), (o) or (p) of section 22(2) of this by-law; and

(c) any sign which is so placed so as to obstruct, obscure, interfere with, or otherwise be likely to introduce confusion into the effective working of any traffic sign.

- [2] No person shall exhibit in any place to which the public has access or shall expose to public view any advertisement, placard, poster, engraving, picture, drawing, print or photograph of an indecent, obscene, repulsive, revolting or objectionable character, or of a nature calculated to produce a pernicious or injurious effect on the public or any particular class of persons.
- [3] Any person contravening the provisions of sub-section [2] shall be guilty of an offence.

14 Signs on walls, fences and hoardings

- [1] Except as provided in section 22, no sign shall be affixed to or painted on a wall (other than the wall of a building), a fence or a hoarding, unless in the reasonable opinion of the municipality such wall, fence or hoarding serves primarily either to conceal a condition or attribute of the property on which such wall, fence or hoarding is erected, which condition or attribute is unsightly by reason of the use to which such property is lawfully being put, or unless such wall, fence or hoarding is a temporary measure to protect the public in the neighbourhood from building, demolition or similar operations.
- [2] In granting its approval in terms of section 3 for the affixing or painting of any sign, contemplated by this section, the municipality may grant such approval for a limited period only and the provisions of section 6 shall not apply to such sign.
- [3] Every such sign affixed or painted in terms of this section shall comply with the following requirements -
- (a) no such sign shall exceed 3 m in depth or 4,2 m in overall height; and
 - (b) Poster signs shall be enclosed with definite panels, which shall be uniform in size and level.

15 Signs on poles and other structures

- [1] Except as provided in section 22, no sign shall be affixed to or painted on a pole or any other structure which is not a building, wall, fence or hoarding unless -
- (a) such sign is indispensable for the effective conduct of the activity in connection with which it is displayed; and
 - (b) either -

- [i] it is impracticable to display a sign effectively at the premises concerned except by affixing a sign to or painting a sign on a pole or other structure as aforesaid; or
 - [ii] in the reasonable opinion of the municipality, a particular sign intended to be affixed to or painted on a pole or other structure as aforesaid would not detract from the amenities of the neighbourhood or depreciate neighbouring property to a greater extent than a sign capable of being displayed at the premises in conformity with any other section of this by-law.
- [2] Where, in the reasonable opinion of the municipality, serious difficulty is experienced by the public in finding the way to a factory in an industrial zone, the municipality may permit the erection of a signboard on a pole on a vacant erf in such zone for purposes of indicating the direction to such factory, subject to the following conditions-
 - (a) not more than one such signboard shall be erected on any one erf; but it shall be permissible to indicate the direction to more than one factory on any such signboard; and
 - (b) the subject matter of the signs on such signboard shall be limited to the names of the factories concerned, the names of their occupiers, and essential directional information and the lettering employed shall not exceed 100 mm in height.
- [3] Where in its opinion these are reasonably required, the municipality may permit the erection of a signboard on a pole on a vacant erf in a township for the purposes of displaying thereon a map showing the street names and erf numbers of such township, together with the name and address of the owner of or agent for such township and the name of the township. Such signboard shall not exceed 3,6 m in area, and the lettering employed thereon shall not exceed 100 mm in height.
- [4] In granting its approval in terms of section 3 for the display of any sign referred to in sub-section [1], [2] or [3] of this section the municipality may grant such approval for a limited period only and upon the expiry of such period the person displaying such sign shall forthwith remove it.

16 Signs on vehicles and signs carried through the street

- [1] No person shall carry or cause to be carried in any public road any sandwich board, lantern, flag, banner, screen or other movable advertising device if such board, lantern, flag, banner, screen or other device hinders or obstructs traffic in such road, or is likely to do so.

- [2] No person shall drive or propel or cause to be driven or propelled in any public road any advertising van or other movable advertising device if such van or device hinders or obstructs traffic in such road, or is likely to do so.
- [3] Any person who contravenes the provisions of sub-sections [1] or [2] shall be guilty of an offence.

17 Illuminated signs

- [1] No flashing sign shall be less than 5 m in clear height, and no illuminated sign shall be displayed in such a position that it is or is likely to be a danger to traffic or to cause confusion with traffic signals.
- [2] No sign that is so intensely illuminated as to create a nuisance shall be displayed.

18 Structural requirements

- [1] Every sign affixed to a building or structure shall be rigidly attached thereto. Every sign which is affixed to the ground and every structure supporting a sign, which structure is affixed to the ground, shall be rigidly anchored to the ground. Every sign and its supports and anchorages, and the building or structure, if any, to which it is affixed, shall be of adequate strength to resist, with a safety factor of 4, the dead load of the sign and a superimposed horizontal wind pressure of 1,5 kPa.
- [2] All signs and supports thereof which are attached to brickwork or masonry shall be attached thereto by means of expansion bolts or by means of bolts passing through such brickwork or masonry and secured on the opposite side thereof. Such bolts shall be not less than 12 mm in diameter.
- [3] Every sign affixed to a building or a wall shall be supported by at least 4 (four) independent supports so designed and disposed that any 2 (two) of such supports will safely support the sign with a safety factor of 2.
- [4] All exposed metalwork in a sign or its supports shall be painted or otherwise treated to prevent corrosion and all timber in a sign or its supports shall be treated with creosote or other preservative to prevent decay.
- [5] Every person displaying a sign shall cause such sign and its supports to be maintained in a safe condition at all times and any person who contravenes the provisions of this sub-section shall be guilty of an offence.

- 19 **Use of glass** - All glass used in signs [other than glass tubing used in neon and similar signs] shall be plate glass at least 5 mm thick.

20 Fire precautions - Except as provided in section 22, all illuminated signs and supports thereof shall be of incombustible material; provided that the municipality may allow any sign approved in terms of sections 14 and 15 and any support for any such sign to be of combustible material.

21 Electrical requirements

- (a) no sign shall be illuminated except by electricity from the municipality's mains where such supply is available.
- (b) every sign in connection with which electric current is used shall be provided with an external switch in a position to be determined by the municipality whereby the electricity supply to such sign may be switched off.

22 Exemptions

- [1] The provisions of these regulations shall not apply to any sign inside a building, except illuminated signs in shop windows.
- [2] There shall be exempted from the provisions of sections 3, 14, 15 and 20 any sign that falls into one or other of the following categories-
 - (a) any sign displayed by the municipality or by any passenger transport business and any and any sign affixed to a street pole with the written permission of the municipality;
 - (b) any sign inside a shop window;
 - (c) any advertisement appearing in a newspaper or periodical sold in the street and any poster in connection therewith;
 - (d) any sign temporarily displayed on the occasion of-
 - [i] any public thanksgiving, rejoicing or mourning; or
 - [ii] any other public function or occasion to which the municipality may apply the provisions of this sub-section;
 - (e) any sign displayed on any vehicle ordinarily in motion upon and any sign carried in public roads;
 - (f) any un-illuminated sign not projecting over a public road and not exceeding 0,60 m² in area, notifying only that the premises to which it is attached are to be sold on a date specified in such sign, or that a sale of furniture or household goods is to take place therein on a date specified in such sign [neither of which dates shall be more than 1 (one) month after the date when the sign is first displayed]; provided that only 1 (one) such sign is

displayed on any public road frontage of such premises and that it is removed within 7 (seven) days after the said specified date;

- (g) any un-illuminated sign not projecting over a public road and not exceeding 0,20 m² in area, notifying only that the premises to which it is attached are for sale or to let or that tenants may be received therein; provided that only 1 (one) such sign is displayed on any public road frontage of such premises;
- (h) any un-illuminated sign not projecting over a public road and not exceeding 1,2 m in area, comprising only the name, address and contact numbers of any building or premises not used for purposes of industry or trade, and attached to such premises; provided that only 1 (one) such sign is displayed on any public road frontage of such premises;
- (i) any un-illuminated sign not projecting over a public road and not exceeding 0,20 m² in area, notifying only the types of trade, business, industry or profession lawfully conducted by any occupant of the premises to which it is attached, the name of such occupant, the contact numbers of such premises and the hours of attendance [if any]; provided that only 1 (one) such sign is displayed by any occupant on any public road frontage of such premises;
- (j) any un-illuminated sign not projecting over a public road and not exceeding 0,60 m² in area, advertising a function or event to be conducted on a date specified in such sign on the premises to which it is attached; provided that such function is not conducted for the private gain of any individual; provided further that such date is not more than 1 (one) month after the date when such sign is first displayed; and provided lastly that only 1 (one) such sign is displayed on any public road frontage of such premises and that it is removed within 7 (seven) days after the said specified date;
- (k) any un-illuminated sign not projecting over a public road, which serves only for purposes of warning or indication of direction in relation to the premises to which such sign is attached, and which is no bigger or higher than is reasonably necessary for the effective performance of its functions;
- (l) any sign painted directly on or forming part of the permanent fabric of the wall of a building;
- (m) any sign painted or otherwise executed on the glass of any window;
- (n) any sign painted directly on a verandah or balcony if it complies with section 11;

- (o) any sign required to be displayed by law; and
- (p) any sign displayed at premises upon which building operations are taking place relating to any services being provided, or any work being done, or any goods being supplied in connection with such operations; provided that any such sign shall be forthwith removed when the provision of such services or the doing of such work or the supply of such goods, as the case may be, has ceased.

23 Savings – Nothing contained in this by-law shall be construed as affecting in any way rights belonging to, or duties imposed upon, the municipality as the entity in which is lawfully vested the ownership of, or the control over, any public road or other place or thing whatsoever within its area of jurisdiction.

24 Waiver of provisions

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

25 Offences and penalties

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 not exceeding R10 000 or imprisonment for a period of no more than 6 (six) months or either such fine or such imprisonment or both such fine and such imprisonment;
- [2] 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
- [3] a further amount equal to any costs and expenses found by a court to have been incurred by the municipality as a result of such contravention or failure.

26 Regulations

The municipality may make regulations not inconsistent with this by-law, prescribing –

- (a) any matter that may or must be prescribed in terms of this by-law; and
- (b) any matter that may facilitate the application of this by-law.

27 Repeal of by-laws - Any by-laws relating to advertising signs adopted by the municipality or any erstwhile municipal council now comprising an administrative unit of the municipality shall be repealed from the date of promulgation of this by-law.

28 Short title

This by-law is called the By-law Relating to Advertising Signs, 2004 and takes effect on the date determined by the municipality by proclamation in the Provincial Gazette.

No. 27**NKONKOBÉ LOCAL MUNICIPALITY : BY-LAW RELATING TO OUTDOOR FACILITIES AND MUNICIPAL BUILDINGS, 2004 – PUBLICATION FOR INFORMATION PURPOSES**

The Nkonkobe Local Municipality, in compliance with the provisions of the Local Government : Municipal Systems Act, 2000, hereby publishes for information purposes the By-law relating to Outdoor Facilities and Municipal Buildings, 2004, as passed by the municipal council and as set out in the accompanying schedule.

LOCAL GOVERNMENT NOTICE**MUNICIPALITY OF NKONKOBÉ****BY-LAW RELATING TO OUTDOOR FACILITIES AND MUNICIPAL BUILDINGS**

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-law Relating to Outdoor Facilities and Municipal Buildings.

Purpose of by-law

The purpose of this by-law is to promote the achievement of a safe and peaceful environment and to provide for procedures, methods and practices to regulate the use and management of outdoor facilities or municipal buildings.

CHAPTER 1**DEFINITIONS**

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

'appurtenance' means any installation or appliance in an outdoor facility or municipal building and includes, without derogating from the generality of the foregoing, any keys, locks, windows, sewerage pans, basins, water taps and fittings and "appurtenances" has a corresponding meaning;

'authorised official' means -

- (a) an official of the municipality who has been authorised by it to administer, implement and enforce the provisions of this by-law;
- (b) a traffic officer appointed in terms of section 3A of the National Road Traffic Act, 1996 [Act No. 93 of 1996];
- (c) a member of the police service, as defined in terms of section 1 of the South African Police Service Act, 1995 [Act No. 68 of 1995]; or
- (d) a peace officer, contemplated in terms of section 1 of the Criminal Procedure Act, 1977 [Act No. 51 of 1977];

'centre' means a building owned or operated by the municipality, whether incorporating a community hall or not, at which group activities of an indoor sporting, cultural or recreational nature can be pursued;

'hirer' means any person who applies, pays and obtains approval for the use of the outdoor facilities or municipal buildings;

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

'notice' means an official notice displayed at every entrance to or at a conspicuous place at or on a outdoor facility or municipal building and in which the municipality shall make known provisions and directions adopted by it in terms of this by-law;

'outdoor facility or municipal building' means –

- (a) any land, square, camping site, swimming bath, river, public resort, recreation site, nature reserve, zoological, botanical or other garden, park or hiking trail which is the property of the municipality, including any portion thereof and any facility or apparatus therein or thereon;
- (b) any building, structure, hall, room, or office including any part thereof and any facility or apparatus therein, which is the property of, or is possessed, controlled or leased by the municipality and to which the general public has access, whether on payment of admission fees or not, but excluding -
 - (i) any public road or street;
 - (ii) any outdoor facility or municipal building contemplated aforesaid if it is lawfully controlled and managed in terms of an agreement concluded by any person with the municipality; and
 - (iii) any outdoor facility or municipal building hired from the municipality;

'person' means a natural or juristic person and vice versa and includes a voluntary association of natural or juristic persons;

'prescribed fee' means the fee determined by resolution of the municipality for the hire of a centre or outdoor facilities or municipal buildings;

'property' means the property on which the outdoor facility or municipal building or buildings of the municipality are situated.

CHAPTER 2**USE OF OUTDOOR FACILITY OR MUNICIPAL BUILDING****2 Maximum number of visitors**

- (a) The municipality may determine the maximum number of visitors who may be present at a specific time in or at an outdoor facility or municipal building.
- (b) The number contemplated in sub-section (a) shall be made known by the municipality by means of a notice.

3 Admission to an outdoor facility or municipal building

- (a) A outdoor facility or municipal building is, subject to the provisions of this by-law, open to the public during the times determined by the municipality and made known in a notice.
- (b) No visitor shall enter or leave an outdoor facility or municipal building at a place other than that indicated for that purpose.

4 Entrance fees

- (a) A visitor to an outdoor facility or municipal building shall pay entrance fees determined from time to time by the municipality and such entrance fees shall be made known by means of a notice.
- (b) Different entrance fees may be determined in respect of visitors of different ages and the municipality may exempt certain groups of persons from the payment of an entrance fee, provided that such exemption does not amount to unlawful discrimination.

5 Nuisances

- (1) No person shall perform or permit any of the following acts in or at an outdoor facility or municipal building –
 - (a) the use of language or the performance of any other act which disturbs the good order;
 - (b) the firing of firearms, airguns, air pistols, fireworks or the use of sling-shots or catapults without the municipality's written consent;
 - (c) the burning of rubble or refuse;
 - (d) the causing of unpleasant or offensive smells;
 - (e) the production of smoke nuisances;

- (f) the causing of disturbances by fighting, shouting, arguing or by the use of loudspeakers, radios, television sets or similar equipment; or
 - (g) in any other manner cause a nuisance, obstruction, disturbance or annoyance to the public.
- (2) An authorised official may, during any activity of the hirer, direct that the hirer removes from the outdoor facilities or municipal buildings any person who is in a state of intoxication and who is behaving in an unseemly or obnoxious manner or causing a nuisance or annoyance to other people in or users of the outdoor facility or municipal building, or to occupiers of other parts of the building or neighbouring buildings.
- (3) An authorised official may, during any activity of the hirer, direct the hirer to prevent the entry to the hired outdoor facilities or municipal buildings of any person who is in a state of intoxication and who behaves in an unseemly or obnoxious manner or is causing a nuisance or annoyance to other people in or users of the outdoor facility or municipal building, or to occupiers of other parts of the building or neighbouring buildings.

6 Health matters

No person shall in or at an outdoor facility or municipal building-

- (a) dump, drop or place any refuse, rubble, material or any object or thing or permit it to be done, except in a container provided for that purpose in or at the outdoor facility or municipal building;
- (b) pollute or contaminate in any way the water in any bath, swimming-bath, dam, river or water-course;
- (c) enter any bath or swimming bath while suffering from an infectious or contagious disease or having an open wound on his or her body; or
- (d) perform any act that may detrimentally affect the health of any visitor to a outdoor facility or municipal building.

- 7 **Structures** - No person shall, without the written consent of the municipality having first been obtained, erect or establish in or on an outdoor facility or municipal building any structure, shelter or anything similar, except the parking of a caravan or tent erected for camping purposes on a site specifically set aside therefor by notice.

8 Liquor and food

- (a) No person shall, contrary to a provision of a notice, bring into an outdoor facility or municipal building any alcoholic or any other liquor or any food of whatever nature, unless stipulated in the conditions of hire.
- (b) No person shall on, in or at an outdoor facility or municipal building, contrary to a provision of a notice, cook or prepare food of any kind whatsoever, except at places set aside for such purposes by notice; provided that the preparation and cooking of food in or at an outdoor facility or municipal building shall be done in a clean and hygienic manner so as not to give rise to excessive smoke or other nuisances or entail any danger to health; provided further that no live animals, poultry or fish may be killed or skinned on, in or at an outdoor facility or municipal building, unless stipulated in the conditions of hire.

9 Animals

- (a) No person shall bring any live animal, bird, fish or poultry into an outdoor facility or municipal building except in accordance with the directions of the municipality.
- (b) The directions contemplated in sub-section (a) shall be made known by means of a notice.

10 Use of outdoor facilities or municipal buildings

- (1) No person shall, without the consent of the municipality or contrary to any condition which the municipality may impose when granting such consent –
 - (a) arrange or present any public entertainment;
 - (b) collect money or any other goods for charity or any other purpose from the general public;
 - (c) display or distribute any pamphlet, placard, painting, book, handbill or any other printed, written or painted work;
 - (d) arrange, hold or address any meeting;
 - (e) arrange or hold a public gathering or procession, exhibition or performance;
 - (f) conduct any trade, occupation or business;
 - (g) display, sell or rent out or present for sale or rent any wares or articles;
 - (h) hold an auction; or

- (i) tell fortunes for compensation.
- (2) For the purposes of this by-law, "public gathering or procession" shall mean a procession or gathering of 15 (fifteen) or more persons and which is not regulated by existing national, provincial or local legislation.

11 Safety and order

- (1) No person shall, subject to sub-section (2), in or at an outdoor facility or municipal building-
 - (a) damage or disfigure anything within such outdoor facility or municipal building;
 - (b) use or try to use anything within such outdoor facility or municipal building for any purpose other than that for which it is designated or determined by notice;
 - (c) light a fire or prepare food, except at a place indicated for that purpose by notice;
 - (d) throw away any burning or smouldering object;
 - (e) throw or roll down any rock, stone or object from any mountain, slope or cliff;
 - (f) pull out, pick or damage any tree, plant, shrub, vegetation or flower;
 - (g) behave him - or herself in an improper, indecent, unruly, violent or unbecoming manner;
 - (h) cause a disturbance;
 - (i) wash, polish or repair a vehicle;
 - (j) walk, stand, sit or lie in a flower bed;
 - (k) kill, hurt, follow, disturb, ill-treat or catch any animal, bird or fish or displace, disturb, destroy or remove any bird nests or eggs;
 - (l) walk, stand sit or lie on grass contrary to the provisions of a notice;
 - (m) lie on a bench or seating-place or use it in such a manner that other users or potential users find it impossible to make use thereof;

- (n) play or sit on play park equipment, except if the person concerned is a child under the age of 13 (thirteen) years; or
 - (o) swim, walk or play, contrary to the provisions of a notice, in a fish-pond, fountain, stream or pond.
- (2) The municipality may, by way of notice and subject to such conditions as the municipality deems necessary and mentioned in a notice, authorise any of the actions contemplated in sub-section (1), or in the conditions of hire.
- 12 Water** - No person may misuse, pollute or contaminate any water source or water supply or waste water in or at any outdoor facility or municipal building.
- 13 Laundry and crockery** - No person may in or at an outdoor facility or municipal building wash any crockery or laundry or hang out clothes, except at places indicated by notice for that purpose.
- 14 Vehicles**
- (a) No person may bring into an outdoor facility or municipal building any truck, bus, motorcar, motor cycle, motor tricycle, bicycle or any other vehicle, craft or aeroplane, whether driven by mechanical, animal, natural or human power, except in accordance with the directions of the municipality.
 - (b) The municipality shall determine the speed limit applicable in an outdoor facility or municipal building.
 - (c) The directions contemplated in sub-section (a) and the speed limit contemplated in sub-section (b) shall be made known by the municipality by way of notice.
- 15 Games** - No game of any nature whatsoever shall be played or conducted in or on an outdoor facility or municipal building by any person or persons except at places set aside for that purpose by notice and in accordance with the directions of the municipality and which is made known by way of notice.

CHAPTER 3

HIRE OF OUTDOOR FACILITY OR MUNICIPAL BUILDING

16 Co-operation between municipal departments -

Every department of the municipality having jurisdiction over or responsibility for any outdoor facility or municipal building must cooperate with any other such department in ensuring that -

- (a) such centre is properly maintained in a state fit for the purposes for which it was designed and is used; and
- (b) no part of such centre is made available to or hired out to more than one person at the same time.

17 Application for hiring of outdoor facilities or municipal buildings

- (1) Any person wishing to apply for the hiring of outdoor facilities or municipal buildings must –
 - (a) submit an application to the municipality in the form prescribed by the municipality for this purpose;
 - (b) clearly stipulate in such application the outdoor facilities or municipal buildings, seating, accommodation and equipment required and the period for which the outdoor facility or municipal building and such other outdoor facilities or municipal buildings as are referred to in this sub-section are required; and
 - (c) ensure that such application form is received by the municipality not less than 30 (thirty) working days prior to the date on which the outdoor facility or municipal building and outdoor facilities or municipal buildings are first required by the applicant, provided that this time period may, depending on the demand for the outdoor facilities or municipal buildings in question, be relaxed by the municipality.
- (2) The municipality may refuse to hire out any outdoor facility or municipal building in terms of sub-section (1) or may cancel any booking thereof if–
 - (a) the outdoor facilities or municipal buildings are to be used for any unlawful purposes; or
 - (b) the outdoor facilities or municipal buildings being applied for are required by the municipality for municipal purposes at the same time; provided that the municipality shall furnish at least 10 (ten) working days' notice of any cancellation of an existing booking.
- (3) No compensation is payable by the municipality to the hirer for any loss which the hirer may suffer by reason of the municipality's having acted in terms of sub-section (2); provided that the municipality may, in its discretion, refund all the charges that have already been paid to it in respect of the application.
- (4) The hirer is limited to the use of the outdoor facilities or municipal buildings specified in the application form and may not use any other outdoor facilities or municipal buildings for which he or she has not applied.

- (5) The outdoor facilities or municipal buildings and accommodation so hired may not, except with the prior written approval of the municipality, be used for any purpose other than the purposes indicated on the application form.
- (6) No outdoor facilities or municipal buildings hired out by the municipality may be used for the purpose of conducting any form of religious worship, unless the consent of the municipality to such use has been given; provided that –
- (a) such use may be made of the outdoor facility or municipal building only at the times specified in the contract of hire or letter of approval; and
- (b) the municipality is entitled to refuse its approval unless it is satisfied that such use will not, by reason of singing, chanting, acclamation or other form of noise-producing worship, constitute an undue interference with the amenities normally enjoyed by other occupants of the building or occupants of neighbouring buildings.
- 18 Tariff of fees** - The municipality may from time to time determine a tariff of prescribed fees for the services of outdoor facilities or municipal buildings provided by the municipality in terms of this by-law.
- 19 Payment of charges** - No person is permitted to use any outdoor facilities or municipal buildings unless the prescribed fee has been fully paid; provided that the municipality may exempt any person or organisation, on good cause, from the payment of portion or all of the prescribed fee.
- 20 Period of hire** - Notwithstanding any determination made by the regarding the dates and period for which outdoor facilities or municipal buildings may be hired, the municipality may allow the hirer reasonable access to the outdoor facilities or municipal buildings before the commencement date of the period of hire, so as to enable the hirer to make the necessary preparations and arrangements in the outdoor facility or municipal building but subject to the payment of the prescribed fee by the hirer.
- 21 Adjustment of period of hire**
- (1) Any person who makes an application for the use of outdoor facilities or municipal buildings in terms of the provisions of section 17 may, subsequent to the approval of such application and the reservation of such outdoor facility or municipal building, apply for the postponement of such reservation to a later date, without penalty or forfeiture; provided that such postponement may be refused if such outdoor facilities or municipal buildings have, in the meantime, been reserved for use by another or others on the dates to which the postponement is sought.

- (2) Any person who has already made an application for the reservation of outdoor facilities or municipal buildings may cancel such reservation provided that if -
- (a) a reservation is cancelled 1 (one) month or longer prior to the commencement date of such reservation, then the hirer must receive a full refund of the prescribed fee already paid;
 - (b) a reservation is cancelled more than 15 (fifteen) days but less than 1 (one) month prior to the commencement date of such reservation, then the hirer must receive a 50% (fifty percent) refund of the prescribed fee;
 - (c) a reservation is cancelled 15 (fifteen) days or less prior to the commencement date of such reservation, then the hirer is not entitled to receive any refund of the prescribed fee.
- (3) Any person may extend the period of hire of outdoor facilities or municipal buildings upon written application to the municipality in the manner provided for in section 17(1), provided that the period of 30 (thirty) working days' notice, as contemplated in terms of section 17(1)(c), shall not apply; provided further that the outdoor facilities or municipal buildings concerned have not, in the meantime, been reserved for use by any other person or persons.

22 Joint hire

- (a) The municipality may let any outdoor facility or municipal building or parts thereof to different hirers for simultaneous use and in such a case, each hirer must use all the ancillary outdoor facilities or municipal buildings, which serve the different parts of the outdoor facility or municipal building, jointly with the other users and in such manner that all the different hirers, their guests, customers and patrons are able to enjoy the use of the outdoor facilities or municipal buildings without infringing on the rights of use by other users.
- (b) The provisions of this by-law, read with the necessary changes, apply to the joint users of the hired outdoor facility or municipal building.

- 23 **Sub-letting** - The hirer may not sub-let any of the hired outdoor facilities or municipal buildings to any other person or organization nor may the hirer cede, pledge or renounce in favour of another person any of his or her rights or obligations under this by-law nor allow any other person to occupy the outdoor facility or municipal building without the prior written consent of the municipality.

24 Condition of outdoor facility or municipal building

- (a) The hirer must inspect the hired outdoor facilities or municipal buildings, including all installations, appliances, fittings, accessories and furniture, before he or she commences to use the same installations, appliances, fittings, accessories and furniture and if the hirer finds that any of the installations, appliances, fittings, accessories and furniture on the outdoor facility or municipal building are not in a proper state of repair, the hirer must report this fact to the municipality.
- (b) If the hirer fails either to inspect the outdoor facilities or municipal buildings in terms of sub-section (a) or to report any defects found therein or therewith, then it shall be deemed that upon commencement of occupation by the hirer, everything in the outdoor facility or municipal building was in a proper state of repair.

25 Duties of the hirer

Every person hiring outdoor facilities or municipal buildings from the municipality must -

- (a) take all reasonable steps to keep all sewerage pipes, water taps and drains within or serving the outdoor facility or municipal building free from obstruction or blockage as a result of the hirer's activities;
- (b) at all times keep the outdoor facility or municipal building in a clean, tidy and sanitary condition;
- (c) not affix or attach to the outdoor facility or municipal building any notices or other matter without the prior consent of the municipality; provided that upon the termination of the hire, the hirer must remove all such attachments;
- (d) not obscure any plate glass windows by painting or otherwise;
- (e) not drive into the walls or partitions or doors of the outdoor facility or municipal building any screws or nails;
- (f) not change or interfere with or overload any electrical installation in the outdoor facility or municipal building;
- (g) not remove or take out from the outdoor facility or municipal building any furniture or other articles whatsoever belonging to the municipality;
- (h) not obstruct or interfere or tamper with any thermostats or air conditioning appliances in the outdoor facility or municipal building or any building in which such outdoor facility or municipal building is located;
- (i) not introduce or install any unsafe or heavy article, furniture, fitting, appliance or equipment which, in the reasonable opinion of the municipality, could damage the outdoor facility or municipal building or

any part thereof; provided that the municipality may impose, on the introduction of such item, such conditions as are reasonable to ensure the safety of the outdoor facility or municipal building and persons using them;

- (j) not install in the outdoor facility or municipal building any air conditioning or ventilating units or equipment without the municipality's prior consent;
 - (k) not permit the storage of motor vehicles or other movable items of any description on the pavements, entrance halls, staircases or passages of the outdoor facility or municipal building;
 - (l) not do anything or allow anything to be done in non-compliance with any reasonable instruction or prohibition given or issued by the municipality;
 - (m) not park vehicles or allow the parking of vehicles by the hirer's employees, invitees, agents, directors or other representatives anywhere at the outdoor facility or municipal building except in properly demarcated parking bays or as may be pointed out by an authorised official.
- 26 Damage to property** - A hirer who fails to keep and maintain the outdoor facilities or municipal buildings hired out to him or her and to return them to the municipality in the same order and condition as when they were hired out to him or her shall be guilty of an offence and, in addition to any remedies available to the municipality at common law, be liable in terms of the penalties specified in this by-law.

27 Advertisements and decorations

- (a) No person who has applied for the hire of outdoor facility or municipal building may publicly announce or advertise any function or event in respect of which an application for the hire of such outdoor facility or municipal building has been made before the municipality has notified such person in writing that the application has been approved.
- (b) Every hirer must, before vacating the hired outdoor facility or municipal building on the termination of the period of hire for any reason whatsoever, remove all posters, notices, decorations, flags, emblems, signs and other forms of advertisement or direction erected or affixed by him or her and make good any damage caused by such removal.

- 28 Admissions and sale of tickets** - The hirer is responsible for all arrangements in connection with the admission of members of the public to any cultural or other activities at the outdoor facility or municipal building and the provision of ushers and other persons necessary to control the admission of persons to the outdoor facility or municipal building and the sale of tickets.

29 Overcrowding

- (a) No overcrowding of the outdoor facility or municipal building may be allowed at any time during any of the hirer's activities and the hirer must comply with the municipality's requirements prescribing the maximum number of persons allowed at the outdoor facility or municipal building during activities.
- (b) Without detracting from the general requirements referred to in sub-section (a), the hirer may not allow more persons admission to the outdoor facility or municipal building than the number of available seats or, where seating is not provided, the maximum number of persons prescribed by notice at the outdoor facility or municipal building or as stipulated in the contract of hire.

30 Sale of refreshments

- (a) No person may sell food or soft drinks at any hired outdoor facility or municipal building during any activities for which they have been hired without the prior written consent of the municipality.
- (b) The municipality may permit the sale of refreshments or foodstuffs by such persons as it may approve after it has received written application to sell such items and the municipality may allocate sufficient accommodation to such approved persons, wherein trading stock, furniture, equipment, installations and books necessarily required for that purpose may be accommodated.
- (c) The provisions of sub-sections (a) and (b) do not apply where the supply and sale of refreshments or foodstuffs is an integral part of the activities of the hirer.
- (d) The municipality shall not be responsible for the payment of compensation to the hirer in respect of any loss, theft or damage suffered by the hirer or any other person in respect of the items referred to in sub-section (b) for any cause whatsoever.

31 Services

- (a) The nature of the municipal services to be provided to an outdoor facility or municipal building shall be determined upon the sole discretion of the municipality.
- (b) The municipality shall not be liable for the non-receipt or non-delivery of goods, postal matter or correspondence belonging to the hirer and the municipality shall also not be liable for anything which the hirer, his or her employees, invitees, agents, directors or representatives may have deposited or left in the outdoor facility or municipal building or any part thereof.

- (c) The municipality may take such steps as it may consider necessary and in its discretion for the proper maintenance and operation of any common areas in the outdoor facility or municipal building.
- (d) An authorised official may attend the hirer's function to ensure compliance with any provision of this by-law.
- (e) The hirer is not entitled to the official services of an authorised official or any other representative of the municipality who attends the hirer's function in terms of sub-section (d).
- (f) The hirer is not entitled to receive free cleaning or other services from the municipality in connection with the hirer's activities during the preparation of a function or during a function.

32 Exclusion of liability

- (1) The municipality shall not be liable for -
 - (a) any damage or loss sustained by any person as a result of an insufficient supply or interruption in the supply of municipal services to the outdoor facility or municipal building or due to any act or omission on the part of the municipality if the municipality considers the interruption necessary to enable it to exercise any of its powers or perform any of its functions under this by-law or under any other law;
 - (b) any loss, theft or damage caused to the stock-in-trade, furniture, equipment, installations, books, papers, clothing or other articles of any nature whatsoever kept at the hired outdoor facility or municipal building by the hirer or anyone else whether in regard to the hirer's business or not;
 - (c) any consequential loss suffered by the hirer by making use of an outdoor facility or municipal building at the hired outdoor facility or municipal building or as a result of rain, hail, lightning, wind, fire, storms, riot or civil commotion or for loss of life or injury to the hirer or anyone else at the outdoor facility or municipal building during a function or event; and
 - (d) any loss suffered by the hirer as a result of any failure or defect at any outdoor facility or municipal building provided such failure or defect is not attributable to any willful act or omission or gross negligence on the part of the municipality.
- (2) Every hirer must, at the time of concluding a contract of hire for an outdoor facility or municipal building complete and sign an indemnity in a form required by the municipality and in favour of the municipality.

33 Destruction of outdoor facility or municipal building

- (1) The municipality may cancel the hire of an outdoor facility or municipal building if-
 - (a) the outdoor facility or municipal building is destroyed or is damaged to such an extent as to be substantially unusable;
 - (b) there is damage to the outdoor facility or municipal building such that it is rendered substantially unusable because of the absence of access to or supply of any necessary municipal service; or
 - (c) there is destruction or damage to the outdoor facility or municipal building and the municipality decides not to proceed with the hire of the outdoor facility or municipal building in order to engage in reconstruction, renovation or rebuilding or for safety reasons.
- (2) Any decision made in terms of sub-section (1) must be communicated by written notice given by the municipality to the hirer within a reasonable period of the event referred to in subsection (1)(a) giving rise to the cancellation; provided that in the case of notice given in relation to an event referred to in sub-section (1)(b) or (c), such notice may be deemed to be effective as from the date on which the damage or destruction took place.
- (3) No hirer shall have any claim against the municipality for damages arising out of the damage to or destruction of the outdoor facility or municipal building or any part thereof or for the resultant loss of beneficial use of the outdoor facility or municipal building by such hirer.

34 Termination for non-compliance - The municipality may at any time cancel the hire of outdoor facilities or municipal buildings if the hirer fails to comply with any of the provisions of this by-law and the municipality shall not be liable for any damage or loss sustained by any person as a result of such cancellation; provided that such a cancellation may be without prejudice to any claims which the municipality may have against the hirer under any provision of this by-law or at common law.

35 Termination of hire

- (a) Upon the termination of the period of hire for any reason, the hirer must return an outdoor facility or municipal building to the municipality in good order and condition and must make good and repair at his or her own cost any damage or breakage or reimburse the municipality for the cost of replacing, repairing or making good any broken, damaged or missing articles and it shall be lawful for the municipality to deduct from any deposit paid by the hirer of the outdoor facility or municipal building the costs of the said damage or breakage.

- (b) Every hirer must vacate the hired outdoor facility or municipal building within such period after expiry of the period of hire as is stated on the application form or contract of hire; provided that failure by the hirer to comply with the provisions of this sub-section entitles the municipality to levy a further prescribed fee for such additional period during which the hirer remains in occupation of the outdoor facility or municipal building after the expiry of the period of hire; provided further that the provisions of this sub-section do not preclude the municipality from taking lawful steps to procure the eviction of any such hirer from the outdoor facility or municipal building.
- (c) Every hirer must comply with all reasonable and lawful instructions of the municipality in respect of the cleaning of an outdoor facility or municipal building upon the hirer's vacation thereof; provided that the municipality itself may elect to undertake the cleaning of all crockery and cutlery used by the hirer.
- (d) Every hirer must comply with all reasonable and lawful instructions of the municipality in respect of the vacation of an outdoor facility or municipal building and the return thereof.

36 Fire hazards and Insurance

- (a) A hirer may not at any time bring or allow to be brought or kept at an outdoor facility or municipal building, nor undertake nor permit to be done or undertaken in the outdoor facility or municipal building, any matter, thing or activity whereby the fire or any other insurance policy of the facility or building concerned may become or becomes void or voidable or whereby the premium for any such insurance may be or is increased.
- (b) If the premiums for such insurance are increased as a result of any act or omission contemplated in sub-section (a), then the municipality may, in its discretion, allow such activity and recover from the hirer the amount due in respect of any additional insurance premiums and the hirer must pay such amount immediately on notification by the municipality or the insurance company to the effect that such additional premiums have been charged.
- (c) The municipality may at any time, at its discretion, require the hirer to take out insurance for the outdoor facility or municipal building hired with an insurance company, approved by the municipality, against loss or damage by fire or any other cause during or as a result of any function for which the outdoor facility or municipal building is hired.

- 37 Storage facilities-** The municipality shall not be responsible for providing outdoor facilities or municipal buildings for the storage of the equipment of the hirer or the hirer's employees, visitors, supporters or agents during any period prior to, during or after a function or event.

- 38 Equipment** - A hirer who requires the municipality to supply any equipment for use during a function or event, may use such equipment only with the permission of the municipality and under the supervision of an authorised official; provided that if the hirer causes damage to the equipment or removes or causes the equipment to be removed from the outdoor facility or municipal building without permission or fails to return it, then the hirer shall be liable for the repair or replacement costs thereof.
- 39 Right of entry**
- (1) Subject to the provisions of applicable national and provincial legislation, the municipality or an authorised official may enter an outdoor facility or municipal building at all reasonable times-
 - (a) to inspect the outdoor facility or municipal building and carry out any repairs or alterations or additions or modifications or improvements on or to the outdoor facility or municipal building; and
 - (b) in order to ensure that the conditions of hire of the outdoor facility or municipal building and the provisions of this by-law are being complied with.
 - (2) A hirer shall have no claim for remission of any charges payable for the hire of an outdoor facility or municipal building, compensation, damages or otherwise in connection with the exercise by the municipality or the authorised official of the rights under sub-section (1).
 - (3) The municipality, or an authorised official is entitled to erect scaffolding, hoardings and building equipment in, at, near or in front of an outdoor facility or municipal building as well as such other devices required by law or which the municipality's architects may certify are necessary to carry out the repairs contemplated in sub-section (1)(a).
- 40 Inspection** - Upon the conclusion of all the hirer's activities at the end of the period of hire or at the termination of the hire under any of the provisions of this by-law, the municipality and the hirer or his nominee must inspect the outdoor facility or municipal building for the purpose of assessing any damage or loss.

CHAPTER 4

GENERAL PROVISIONS

41 Penalties

Any person who contravenes or fails to comply with a provision of this by-law, a notice issued in terms of this by-law or a condition imposed under this by-law, irrespective of whether such contravention or failure has been declared

as an offence elsewhere in this by-law, shall be 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.

42 Regulations

The municipality may make regulations not inconsistent with this by-law, prescribing -

- (a) any matter that may or must be prescribed in terms of this by-law; and
- (b) any matter that may facilitate the application of this by-law.

43 Repeal of by-laws

Any by-laws relating to outdoor facilities and municipal buildings adopted by the municipality or any erstwhile municipal council now comprising an administrative unit of the municipality shall be repealed from the date of promulgation of this by-law.

44 Short title

This by-law is called the By-law Relating to Outdoor facilities and Municipal Buildings, 2004 and takes effect on a date determined by the municipality by proclamation in the Provincial Gazette.

No. 28**NKONKOBÉ LOCAL MUNICIPALITY : BY-LAW RELATING TO PUBLIC
OPEN SPACES, 2004 – PUBLICATION FOR INFORMATION PURPOSES**

The Nkonkobe Local Municipality, in compliance with the provisions of the Local Government : Municipal Systems Act, 2000, hereby publishes for information purposes the By-law relating to Public Open Spaces, 2004, as passed by the municipal council and as set out in the accompanying schedule.

LOCAL GOVERNMENT NOTICE**MUNICIPALITY OF NKONKOBE****BY-LAW RELATING TO PUBLIC OPEN SPACES**

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-Law Relating to Public Open Spaces.

PURPOSE OF BY-LAW

The purpose of this by-law is to provide an effective legal and administrative framework to ensure that the way in which the municipality controls, manages and develops public open spaces is environmentally sustainable, in the long-term interests of the local community of and clearly defines the rights and obligations of the community in relation to such public open spaces.

CHAPTER 1**INTERPRETATION AND APPLICATION**

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

"active game" means any physical sport, game or other activity conducted by one or more persons -

- (a) undertaken within a public open space other than in an area set aside for that purpose;
- (b) which may be a nuisance to or cause injury to other users or damage to vegetation or municipal property within a public open space; and
- (c) includes but shall not be limited to football, cricket, rugby, golf, tennis, hockey, volleyball, netball, badminton, archery, cycling, skate-boarding, roller-skating and roller-blading;

"authorised official" means -

- (a) an official of the municipality who has been authorised by it to administer, implement, and enforce the provisions of this by-law;
- (b) a traffic officer appointed in terms of section 3A of the National Road Traffic Act, 1996 [Act No. 93 of 1996];

- (c) a member of the police service, as defined in terms of section 1 of the South African Police Services Act, 1995 [Act No. 68 of 1995]; or
- (d) a peace officer, contemplated in terms of section 1 of the Criminal Procedure Act, 1977 [Act No. 51 of 1977];

"community work" means any activity undertaken by a person on a voluntary basis or for nominal remuneration in order to protect, preserve, improve or uplift persons or their immediate environment and "voluntary work" shall have a corresponding meaning;

"designated area" means an area designated by the municipality as an area in which an active game or any other activity, which would otherwise be prohibited under chapter 3 of this by-law, may be conducted;

"environment" means the surroundings within which humans exist, made up of –

- (a) the land, water and atmosphere of the earth;
- (b) micro-organisms, plant and animal life;
- (c) any part or combination of (a) and (b) and the interrelationships among and between them; and
- (d) the physical, chemical, aesthetic and cultural properties and conditions of the foregoing that influence human health and well-being;

"environmentally sustainable measures" means the exercise of powers or performance of functions in a manner aimed at ensuring that–

- (a) the risk of harm to the environment and to human health and safety is minimised to the extent reasonably possible under the circumstances;
- (b) the potential benefits to the environment and to human health and safety are maximised to the extent reasonably possible under the circumstances; and
- (c) legislation intended to protect the environment and human health and safety is complied with;

"local community" means that body of persons comprising –

- (a) the residents of the area in which the public open space is situated;

- (b) the ratepayers of the area in which the public open space is situated; and
- (c) any civic and non-governmental organisations or private sector organisations or bodies which are involved in local affairs in the area in which the public open space is situated;

"municipal manager" means a person appointed as such by the municipality in terms of section 82 of the Local Government: Municipal Structures Act, 1998 [Act No. 117 of 1998];

"municipal property" means any structure or thing owned or managed by or on behalf of the municipality and which is incidental to the use and enjoyment of a public open space and includes buildings, lapas, kiosks, benches, picnic tables, playground equipment, fountains, statues, monuments, fences, poles, notices and signs;

"municipality" means the Municipality of Nkonkobe, established in terms of section 12 of the Local Government: Municipal Structures Act, 1998 [Act No. 117 of 1998] and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated to such political structure, political office bearer, councillor, agent or employee;

"notice" means a clear and legible notice drawn up by the municipality in the languages designated by the municipality and prominently erected in a public open space;

"nuisance" means an unreasonable interference or likely interference with –

- (a) the health or well-being of any person;
- (b) the use and enjoyment by an owner or occupier of his or her property; or
- (c) the use and enjoyment by a member of the public of a public open space;

"organ of state" means –

- (a) any department of state or administration in the national, provincial or local sphere of government; or
- (b) any other functionary or institution –
 - (i) exercising a power or performing a function in terms of the Constitution of the Republic of South Africa Act, 1996 [Act No. 108 of 1996] or a provincial constitution; or

- (ii) exercising a public power or performing a public function in terms of any legislation, but does not include a court or a judicial officer;

"peace officer" means the person contemplated in terms of section 1 of the Criminal Procedure Act, 1977 [Act No. 51 of 1977];

"person" means a natural person or a juristic person and includes an organ of state;

"prescribed fee" means a fee determined by the municipality by resolution in terms of any applicable legislation;

"printed matter" includes any advertisement, billboard, poster, book, pamphlet or handbill;

"prohibited activity" means any activity or behaviour that is prohibited in terms of chapter 3 from being conducted in a public open space, either completely or without permission in terms of sections 21 or 22;

"public open space" means any land which –

(a) is either –

(i) set aside in terms of any law, zoning scheme or spatial plan for the purposes of public recreation, conservation, the installation of public infrastructure or agricultural purposes; or

(ii) predominantly undeveloped and open and has not yet been set aside for a particular purpose in terms of any law, zoning scheme or spatial plan; and

(iii) shall include -

(aa) **"conservation open space"** which means public open space that is managed by or on behalf of the municipality for conservation purposes and includes nature reserves, greenbelts, ravines, bird sanctuaries and sites of historic, ecological or archaeological value;

(bb) **"recreational open space"** which means public open space that is managed by or on behalf of the municipality for public recreational purposes, and includes parks, botanical gardens, sports grounds and play grounds, but excludes golf courses;

(cc) **"road reserves"** which means that portion of a road, street or thoroughfare improved, constructed or intended for vehicular traffic which is between the edges of the roadway or that portion of a road,

street or thoroughfare, including the sidewalk, which is not the roadway or shoulder; and

- (dd) **"utility open space"** which means public open space that is managed by or on behalf of the municipality for the purposes of providing a municipal service, including areas subject to electrical, pipeline and other municipal public works, but excludes municipal housing, clinics and other social services;

and

- (b) (i) vests in an organ of state in terms of any legislation; or
- (ii) is owned by an organ of state and set aside for such purpose; or
- (iii) is controlled and managed by the municipality for such purpose;

"service provider" means a person or institution or any combination of persons and institutions which provide a municipal service in terms of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000];

"special event" means a parade, procession, race, concert, show, exhibition, festival, ceremony, film shoot, photographic shoot or similar event, which requires, for that purpose, exclusive use of a part of a public open space;

"user", with reference to a public open space, means any person who enjoys or benefits from the use of public open space;

"vehicle" means a device designed or adapted mainly to travel on wheels, but excludes wheelchairs and children's pushchairs;

"waste" means any substance or article that the owner wishes to dispose of because it is unwanted, superfluous, broken, worn out, contaminated or otherwise spoilt and that has either been discarded or has been accumulated or stored so that it can be discarded, reused, reclaimed or recycled;

"water body" means any body of water within a public open space and includes a pond, fountain, artificial watercourse, dam, lake, canal, reservoir, stream, river or wetland; and

"watercraft" includes any boat, raft, yacht, canoe, inflatable mattress, model ship or boat, radio-controlled boat or similar device.

2 Application of by-law

- (a) This by-law applies to all public open space that falls under the jurisdiction and control of the municipality, excluding cemeteries.
- (b) This by-law is binding on the state.

CHAPTER 2**MANAGEMENT AND ADMINISTRATION OF PUBLIC OPEN SPACES****3 Underlying Principles**

- (1) Public open spaces must be managed and administered in the interests of the local community and in determining the interests of the local community –
 - (a) the long-term collective interests of the local community must be prioritised over the interests of any specific interest group or sector of society;
 - (b) a long-term perspective, that takes into account the interests of future generations, must be adopted; and
 - (c) the interests of other living organisms that depend on public open spaces must be taken into account.
- (2) Public open spaces must be managed in accordance with environmentally sustainable measures.
- (3) Subject to subsections (5) and (7), all persons must be given access to public open spaces on a non-discriminatory and equitable basis.
- (4) Where necessary, special measures must be taken to facilitate access to public open spaces for historically disadvantaged persons and disabled persons.
- (5) Access to a public open space may be restricted in a manner that does not unjustifiably discriminate against any person or class of persons –
 - (a) if the restriction is authorised by this by-law or by any other applicable legislation; or
 - (b) in order to achieve the purposes of this by-law.
- (6) The recreational, educational, social and other opportunities which public open spaces offer must be protected and enhanced

to enable local communities to improve and enrich their quality of life.

- (7) Local communities must be encouraged to use and care for public open spaces in their areas.
- (8) The natural environment and heritage resources within public open spaces must be identified, preserved, protected and promoted, for the benefit of the local community, the public and future generations.

4 Application of principles

The national environmental management principles set out in section 2 of the National Environmental Management Act, 1998 [Act No. 107 of 1998] must be considered and applied by any person –

- (a) exercising a power or performing a function under this by-law;
- (b) formulating or implementing any policy that is likely to have a significant effect on or which concerns the use of public open spaces within the municipality's jurisdiction; or
- (c) exercising a power or performing a function that is likely to have a significant effect on or which concerns the use of public open spaces.

5 General powers

The Municipality may in relation to any public open space –

- (a) designate any area within a public open space as an area within which one or more activities otherwise prohibited in terms of this by-law may be undertaken and erect a prominent notice to this effect at entrances to the designated area;
- (b) develop any public open space in accordance with the principles set out in section 4;
- (c) erect, construct or establish municipal property; and
- (d) exercise any other power reasonably necessary for the discharge of the municipality's obligations in terms of this by-law and relating to the management of public open spaces.

6 Fees

The Municipality may require members of the public to pay –

- (a) a reasonable prescribed fee to use recreational or other facilities that the municipality provides within public open spaces;
- (b) a reasonable prescribed fee for entrance to public open spaces, such fee to take into consideration the costs to maintain such public open spaces;
- (c) a reasonable prescribed fee for the right to undertake a special event;
- (d) a reasonable prescribed fee for the right to exclusively use municipal property for a specific period;
- (e) a deposit prior to undertaking a prohibited activity;
- (f) a reasonable prescribed fee for processing applications for permits or letters of permission under this by-law.

7 Restricting access

The Municipality may restrict access to any public open space or to any part of a public open space for a specified period of time -

- (a) to protect any aspect of the environment within a public open space;
- (b) to reduce vandalism and the destruction of property;
- (c) to improve the administration of a public open space;
- (d) to develop a public open space;
- (e) to enable a special event that has been properly permitted to proceed; or
- (f) to undertake any activity that the municipality reasonably considers necessary or appropriate to achieve the purposes of this by-law.

8 Procedure when exercising powers

If the rights or legitimate expectations of any person will be materially and adversely affected by the municipality's exercising of any power in terms of sections 5, 6 or 7, then the municipality must, before exercising such power –

- (a) give notice of the proposed administrative action, which notice must –
- (i) be publicised -
 - (aa) in a newspaper circulating in its area;
 - (bb) by means of radio broadcasts covering the area of the municipality; and
 - (cc) where the municipal manager deems this to be necessary, in the Provincial Gazette;
 - (ii) be in the languages designated by the municipality, having regard to language preferences and usage within its area;
 - (iii) displayed at the municipal offices;
 - (iv) contain a clear statement of the proposed administrative action; and
 - (v) invite comments and objections with a specified period;
- (b) consider the comments and objections received in response to the notice.

9 Powers of authorised officials

In relation to any public open space, an authorised official may –

- (a) issue an instruction under section 20;
- (b) order any person to leave a public open space if the authorised official reasonably believes that the said person has not complied with any provision of this by-law; and
- (c) exercise any other power that may be exercised by a peace officer in terms of the Criminal Procedure Act, 1977, provided that an official of the municipality may not act in terms of this subsection unless he or she is also a peace officer, as contemplated in terms of section 1 of the Criminal Procedure Act, 1977.

10 Obligations in respect of public open spaces

- (1) The municipality must, within a public open space, erect any notice required under this by-law.

- (2) In respect of recreational open spaces, the municipality must –
- (a) ensure that they are open to the public between sunrise and sunset, or such other times as the municipality may determine; and
 - (b) erect prominently displayed notices at every entrance indicating -
 - (i) the opening and closing times of that recreational open space; and
 - (ii) any rules made in relation to that recreational open space.

CHAPTER 3

PROHIBITED CONDUCT

11 Prohibited activities

- (1) Any person who undertakes an activity or behaves in a manner that is prohibited under sections 12 to 20 commits an offence unless the activity or conduct in question –
- (a) takes place in a designated area within which such activity is allowed;
 - (b) is authorised in terms of permission granted or a permit issued under sections 21 or 22; or
 - (c) was deemed to have been authorised by the municipality under subsection (2).
- (2) Subject to subsection (3), a person is deemed to have permission to undertake a prohibited activity if that person needs to undertake the prohibited activity –
- (a) to perform his or her obligations as an employee, agent or subcontractor of the municipality under his or her contract with, or mandate from, the municipality or to achieve the purposes of this by-law;
 - (b) to carry out duties as an employee, agent or subcontractor of an organ of state within a public open space which is subject to a municipal public works servitude;
 - (c) to fulfil his or her duties as an authorised official to implement this by-law; or

- (d) to fulfill his or her duties as a peace officer.
- (3) No person shall be deemed to have permission to undertake an activity that is prohibited under section 12 (a), (e) or (f) or an activity that the municipality has expressly refused to permit.

12 General

No person shall within a public open space –

- (a) act in a manner that is dangerous to life or property;
- (b) contravene the provisions of any notice within any public open space;
- (c) unlawfully enter a public open space to which access has been restricted in terms of section 7;
- (d) cause a nuisance to other users;
- (e) behave in an indecent or offensive manner; or
- (f) obstruct any authorised official who is exercising a power or performing a duty under this by-law.

13 Use

No person shall, within a public open space –

- (a) bathe, wade, or swim in or wash him- or herself, an animal or any other object, including clothing, in any water body;
- (b) sail, row, paddle, propel or control any watercraft on any water body;
- (c) make, light or otherwise start a fire;
- (d) camp or reside in any public open space;
- (e) consume, brew, store or sell any alcoholic beverage;
- (f) use any sound equipment, including a radio, portable hi-fi or car stereo;
- (g) play an active game;
- (h) shoot a projectile of any nature; or
- (i) ride a horse or bicycle.

14 Waste

No person shall, within a public open space –

- (a) deposit, dump or discard any waste, unless in a receptacle provided by the municipality for that purpose; or
- (b) pollute or deposit any waste or thing in a manner which may detrimentally impact on a water body.

15 Vehicles

No person shall, within a public open space –

- (a) except at times and on roads or pathways prescribed by the municipality, drive, draw or propel any vehicle;
- (b) drive, draw or propel a vehicle in excess of 60 kilometres per hour; or
- (c) park a vehicle in a public open space.

16 Animals and vegetation

No person shall, within a public open space –

- (a) disturb, damage, destroy or remove any vegetation;
- (b) plant any vegetation;
- (c) alter the slope or drainage pattern so as to interfere with the access of water, air or nutrients to any tree;
- (d) capture or attempt to capture, chase, shoot at, injure, throw objects at, tease, molest or in any other way disturb any fish, bird or animal;
- (e) disturb, damage or destroy any bird nest or eggs;
- (f) walk, carry, ride or bring an animal, unless the animal is a guide dog and is accompanied by a person with a sight disability; or
- (g) affix or place on any tree any printed matter.

17 Municipal property and erection of structures

No person shall, within a public open space-

- (a) deface, damage, destroy or remove any municipal property;
- (b) disturb the surface of any land, whether by digging, undertaking any earthworks or in any other manner;
- (c) erect, build or assemble any structure, including but not limited to, a hut, tent, screen, bulletin board, pole, stand or stage;
- (d) affix or place on any municipal property, or distribute, any printed matter; or
- (e) plug, tamper with, or in any way damage any plumbing, electrical, heating or other fixtures or installations in any public open space.

18 Selling and special events

(1) No person shall, within a public open space –

- (a) use municipal property in a way that unfairly restricts or prevents other users of the public open space from utilising that municipal property; or
- (b) sell, hawk, offer or display any goods or articles for sale or hire.

(2) No person may undertake a special event, except in terms of a permit issued for such purpose.

19 Community work

No person shall, within a public open space, undertake any community work or voluntary work of any description such that it –

- (a) damages or poses a risk of damage to a public open space;
- (b) creates a nuisance to users; or
- (c) contravenes any provision of this by-law.

20 Restoration or removal instructions

- (1) Unless permission or a permit has been obtained under sections 21 or 22, an authorised official may issue a restoration or removal instruction to any person who has, directly or indirectly and in a public open space –
 - (a) damaged, defaced, disturbed, destroyed, demolished or removed vegetation or a municipal structure;
 - (b) erected, built or assembled a structure; or
 - (c) dumped, discarded or deposited any waste unless in a receptacle provided by the municipality for that purpose.
- (2) The restoration or removal instruction may direct the said person within the time stated in the notice to take reasonable action -
 - (a) to restore or rehabilitate the affected area to the reasonable satisfaction of the municipality; or
 - (b) to remove a structure or thing and restore the affected site, as nearly as practicable, to its former condition.

CHAPTER 4**APPLICATIONS FOR AUTHORISATION****21 Application for permission**

- (1) Any person who wants to undertake a prohibited activity must apply in writing to the municipality for permission to do so.
- (2) The municipality may, after receiving an application, request the applicant to provide additional information that the municipality reasonably requires in order to consider the application.
- (3) The municipality may refuse to consider an application until it has been provided with the information required under subsection (2) and until the prescribed fee, if any, has been paid.
- (4) Subject to subsections (2) and (3), the municipality must consider the application within a reasonable time and must either -
 - (a) refuse the application; or
 - (b) grant permission in writing subject to whatever conditions the municipality considers appropriate to achieve the

purposes of this by-law, which may include payment of a deposit or a fee.

- (5) The municipality shall not grant permission for any person to perform any activity that is prohibited under section 12 (a), (e) or (f).
- (6) Every person whose application, as contemplated in terms of subsection (1), has been approved shall complete and sign an indemnity in a form provided by the municipality in favour of the municipality, its employees and service providers.

22 Application for a special event permit

- (1) An application for permission to hold a special event in a public open space must be made at least 15 (fifteen) working days before the proposed date of the special event.
- (2) The time period referred to in subsection (1) may be reduced on good cause at the municipality's discretion.
- (3) The application must contain the following information –
 - (a) the name and full contact details of the applicant, including name, organisation, address, telephone and fax numbers and email address, if available;
 - (b) the nature and purpose of the special event;
 - (c) the intended route or area proposed to be used by the special event; and
 - (d) the permission, if any, required under chapter 3 of this by-law.
- (4) Subject to any conditions imposed by the municipality, the holder of a special events permit has the right to use the area of public open space specified in the permit to the exclusion of any other persons during the period specified in the permit.
- (5) Every person whose application, as contemplated in terms of subsection (1), has been approved shall complete and sign an indemnity in a form provided by the municipality in favour of the municipality, its employees and service providers

CHAPTER 5**CO-OPERATIVE MANAGEMENT AGREEMENTS****23 Municipality may conclude co-operative management agreements**

- (1) The municipality may enter into a written agreement with any organ of state, local community or organization to provide for –
 - (a) the co-operative development of any public open space; or
 - (b) the co-operative management of any public open space; and
 - (c) the regulation of human activities within a public open space.
- (2) The municipality shall not enter into a co-operative management agreement in relation to a public open space unless such agreement will promote the purpose of this by-law.
- (3) The municipality must monitor the effectiveness of a co-operative management agreement in achieving the purposes for which it was concluded.
- (4) A co-operative management agreement may be cancelled by the municipality in terms of written notice given to the other party where the said agreement –
 - (a) is not effective in achieving the purposes for which it was concluded; or
 - (b) inhibits the attainment of the purposes of this by-law.

CHAPTER 6**TREE PRESERVATION ORDERS****24 Municipality may issue a tree preservation order**

- (1) If the municipality believes that any tree or group of trees in a public open space requires protection, then the municipality may issue a tree preservation order in respect of that tree or group of trees.
- (2) A tree preservation order –
 - (a) must indicate the tree or trees to which it relates; and

- (b) may provide that any person who cuts, disturbs, damages, destroys, removes, transports, exports, purchases, sells, donates or in any other manner acquires or disposes of the tree or trees to which it relates, shall be guilty an offence.
- (3) The municipality must erect a prominently displayed copy of any tree preservation order granted at or in the vicinity of the tree or trees to which the order relates.

25 Procedure for issuing tree preservation order

Unless the issuing of a tree preservation order is required as a matter of urgency, the municipality must, before issuing a tree preservation order under section 24 -

- (a) give notice of the proposal to protect the tree or group of trees and invite comments and objections within a specified period, in accordance with the procedure contemplated in terms of section 8(a);
- (b) notify any affected organs of state; and
- (c) consider the comments and objections received in response to the notice.

CHAPTER 7

GENERAL PROVISIONS

26 Procedure for appeals

- (1) Any person whose rights are affected by a decision taken by any authorised official under this by-law may, within 21 (twenty one) days of the date of the notification of the decision, appeal against such decision by giving written notice of the appeal and reasons therefore to the municipal manager.
- (2) The municipal manager shall promptly submit the appeal to the appropriate appeal authority mentioned in subsection (4).
- (3) The appeal authority must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.

- (4) An appeal submitted in terms of this section shall be dealt with in the manner prescribed by section 62 of the Local Government: Municipal Systems Act, 2000.

27 Offences and penalties

- (1) Any person who –
 - (a) contravenes or fails to comply with any provisions of this by-law;
 - (b) fails to comply with any notice issued in terms of this by-law;
 - (c) fails to comply with any lawful instruction given in terms of this by-law; or
 - (d) obstructs or hinders any authorised official in the execution of his or her duties under this by-law;

shall be guilty of an offence and liable on conviction to a fine of no more than R10 000.00 or in default of payment thereof to imprisonment for a period not exceeding 6 (six) months.

- (2) In the case of a continuing offence, the said person shall be liable on conviction to an additional fine of R250.00 or an additional period of imprisonment of 1 (one) day 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.
- (3) The said person shall be liable on conviction to a further amount equal to any costs and expenses found by a court to have been reasonably incurred by the municipality as a result of such contravention.

28 Regulations

- (1) The municipality may make regulations regarding –
 - (a) the designation of any area within which stipulated activities may be prohibited, as contemplated in terms of section 5(a);
 - (b) the prescription of fees or deposits, as contemplated in terms of section 6(a) – (f) and 21(3) and (4)(b);

- (c) the location, size, number, construction and contents of any notice required in terms of this by-law;
- (d) the issuing of a restoration or removal instruction, as contemplated in terms of section 20, including –
 - (i) the form and contents thereof; and
 - (ii) a guideline to time periods within which restoration or removal must be effected;
- (e) applications for authorisation, including –
 - (i) the time periods applicable for –
 - (aa) the lodging of an application, as contemplated in terms of sections 21(1) and 22(1); and
 - (bb) the consideration of the said applications and determination thereof;
 - (ii) a guideline as to what conditions may be stipulated before a prohibited activity or special events may take place, as contemplated in terms of sections 21(4)(b) and 22(4); and
 - (iii) the form and contents of an indemnity, as contemplated in terms of sections 21(6) and 22(5);
- (f) the procedure, form and contents of a co-operative management agreement, as contemplated in terms of section 23;
- (g) the issuing of a tree preservation order, as contemplated in terms of sections 24 and 25, including –
 - (i) the form and contents of such order; and
 - (ii) requirements for the distribution or publicisation of the order ;
- (h) the procedure and time periods associated with an appeal, subject to the Local Government: Municipal Systems Act, 2000, as contemplated in terms of section 26;
- (i)
 - (i) the prescription of penalties for the offences contemplated in terms of section 27; and
 - (ii) the amendment of such penalties from time to time;

- (j) any matter which may be prescribed in terms of this by-law and any matter which may facilitate the application of this by-law.
- (2) (a) The municipality shall, not less than 1 (one) month before promulgating a regulation in terms of subsection (1), cause a draft of the regulation to be communicated to the local community and to be made public in terms of sections 21 and 21A of the Local Government: Municipal Systems Act, 2000, together with a notice declaring the intention of the municipality to issue such a regulation and inviting comments or representations.
- (b) if the municipality decides to alter the draft regulations as a result of comments or representations received pursuant to such invitation, then it should not be necessary to communicate and make public the alteration before the amended draft is promulgated as a regulation.

29 Repeal of by-laws

Any by-laws relating to open spaces, parks or gardens adopted by the municipality or any municipality now comprising an administrative unit of the municipality shall be repealed from the date of promulgation of this by-law.

30. Short Title

This by-law is called the By-Law Relating to Public Open Spaces, 2004 and takes effect on a date determined by the municipality by proclamation in the Provincial Gazette.

No. 29**NKONKOBÉ LOCAL MUNICIPALITY : BY-LAW RELATING TO SOLID
WASTE DISPOSAL, 2004 – PUBLICATION FOR INFORMATION
PURPOSES**

The Nkonkobe Local Municipality, in compliance with the provisions of the Local Government : Municipal Systems Act, 2000, hereby publishes for information purposes the By-law relating to Solid Waste Disposal, 2004, as passed by the municipal council and as set out in the accompanying schedule.

LOCAL AUTHORITY NOTICE

MUNICIPALITY OF NKONKOBE

BY-LAW RELATING TO SOLID WASTE DISPOSAL

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-law Relating to Solid Waste Disposal.

Purpose of By-law

The purpose of this by-law is to promote a safe and healthy environment for the benefit of the public residing within the municipal boundaries and to provide for practices and procedures to regulate solid waste disposal.

CHAPTER 1

DEFINITIONS

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

"attendant" means an employee, agent or contractor of the municipality duly authorised to control or manage a disposal site;

"bin liner" means a plastic bag, as prescribed by the municipality, for placement inside a container;

"builder's refuse" means any waste or refuse resulting from or generated by the construction, renovation or demolition of a building or other structure or works;

"bulky refuse" means any refuse, other than industrial refuse, which emanates from any premises and which by virtue of its mass, shape, size or quantity cannot be conveniently accumulated in or removed from a container with a bin liner;

"charge" means the charge prescribed by the municipality by resolution of its municipal council;

"container" means a standard type of refuse container as approved by the municipality;

"contaminated animal carcass, body part and bedding" means a contaminated carcass, body part and bedding of an animal that was intentionally exposed to pathogens in research, in the production of biologicals or in the *in vivo* testing of pharmaceuticals;

"contaminated sharp" means a discarded sharp (e.g. hypodermic needle, syringe, Pasteur pipette, broken glass, scalpel blade) which has come into contact with infectious agents during use in patient care or in medical, research or industrial laboratories;

"culture and stock of an infectious agent and an associated biological" means a specimen culture and stock from a medical or pathological laboratory, in respect of an infectious agent from a research or industrial laboratory, waste from the production of a biological and a live or attenuated vaccine and culture dish and device used to transfer, inoculate and mix cultures;

"day" means a calendar day, including a Saturday, Sunday and any public holiday;

"disposal site" means any site set aside by the municipality for the disposal of refuse or waste material and which can be identified as such by means of a notice to this effect at or near the entrance of such site;

"domestic refuse" means any refuse or waste usually emanating from or incidental to the normal occupation of a dwelling, flat, hotel, boarding-house, restaurant, guest house, hospital, school, café, shop, old age home or office but shall not include stones, soil, gravel, bricks, waste liquids, sewage, or industrial, builder's or trade refuse;

"garden refuse" means any refuse which is generated as a result of normal gardening activities such as grass cuttings, leaves, trees, plants, flowers, weeds and other similar light matter;

"human blood and blood products" means waste such as serum, plasma and other blood components;

"industrial refuse" means any refuse generated as a result of manufacturing, maintenance, production and dismantling activities;

"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 waste" means waste from surgery and autopsy (e.g. soiled dressings, sponges, drapes, lavage tubes, drainage sets, underpads and gloves), contaminated laboratory wastes (e.g. specimen containers, slides and cover slips, 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 Nkonkobe, established in terms of Section 12 of the Local Government : Municipal Structures Act, 1998 (Act No. 117 of 1998) and includes any political structure, political office bearer, councillor, duly authorised agent thereof or any employee thereof acting in connection with this by-law by virtue of a power vested in the municipality and delegated to such political structure, political office bearer, councillor, agent or employee;

"municipal service" means, unless otherwise stated, the provision or supply of water, electricity, sewage or fire protection services;

"occupier" means, for the purposes hereof, the person who controls and resides in or who controls and otherwise uses immovable property and includes joint occupiers;

"offensive matter" means such matter, including fluids, that may be classified as such by the municipality from time to time;

"owner" means and includes -

- [a] the person or persons in whom the registered title in immovable property is vested;
- [b] the person administering an estate as curator, executor, proxy, trustee or administrator of a person in whom the legal title in immovable property is vested and who is insolvent, deceased or of unsound mind;
- [c] the agent or persons receiving the rental of immovable property in cases where the registered owner is away or absent;
- [d] the beneficiary of a usufruct over immovable property, or
- [e] the fiduciaries of municipal property;

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

"trade refuse" means any trade material or trade waste as determined by the municipality and agreed to by the owner or occupier; and

"transfer station" means any site set aside by the municipality for the interim storage of refuse or waste material, pending its removal to and disposal at a disposal site.

CHAPTER 2

REFUSE REMOVAL AND DISPOSAL

2. **Domestic refuse removal** – The municipality shall provide a service for the

removal and disposal of domestic refuse subject to such conditions as it may determine.

3. **Use of service compulsory** – Every owner or occupier of immovable property shall make use of the service for the removal and disposal of domestic refuse, as provided by the municipality, in respect of all domestic refuse which emanates from such property.
4. **Municipality to remove refuse** – No person other than the municipality or person authorised thereto in writing by the municipality shall remove domestic refuse from any property or dispose of it any manner whatsoever.
5. **Accumulation and removal of domestic refuse**
 - [1] Subject to the provisions of subsection [6], the municipality may require every owner or occupier of a property to provide on such property a container with a capacity of not less than 85 litres, constructed of a material approved by the municipality and with a closefitting lid and handles for the accumulation of domestic refuse.
 - [2] If the municipality is of the opinion that more than 1 (one) container for the accumulation of domestic refuse is essential on a particular property, it may, according to the quantity of domestic refuse normally accumulated on such property, require the occupier thereof to provide as many containers as it may determine on such property.
 - [3] If a container used by an owner or occupier does not comply with the requirements of the municipality, then the municipality may instruct such owner or occupier to obtain and use some other suitable container complying with its requirements.
 - [4] The municipality may, where it considers it necessary or desirable, supply containers to particular classes of owners or occupiers or to particular classes of properties or in particular areas, in which event the cost of such containers shall be recovered from the owners or occupiers of the properties concerned.
 - [5] All containers shall be equipped with bin liners, unless the municipality determines otherwise.
 - [6] The municipality may, generally or in particular, issue instructions to owners and occupiers with regard to the manner in which or the arrangements according to which refuse or refuse bags shall be placed in containers, be removed therefrom, be tied and thereafter be placed or deposited for removal and any disregard of such instructions shall constitute a contravention of this by-law.
 - [7] No material, including any liquid, which by reason of its mass or other property is likely to render such bin liners or containers difficult or

dangerous for the municipality's employees to handle or carry shall be placed in such bin liners or containers.

- [8] The containers or bin liners or both shall be removed by the municipality at such intervals as the municipality may deem necessary but only if such containers or bin liners or both have been placed or deposited at the prescribed places as determined by the municipality.
 - [9] The municipality shall not be liable for the loss of or for any damage to a container or bin liner.
 - [10] In any case where the occupier of a property is not also the owner, the municipality may hold the owner him- or herself, instead of the occupier, liable for compliance with the provisions of this by-law.
 - [11] The municipality may, in specific cases, impose different requirements, other than the use of an 85 litre container, for the removal and disposal of refuse and the owner or occupier of immovable property, as the case may be, shall be obliged to comply with the aforesaid directions of the municipality.
 - [12] The municipality may determine requirements for the reclamation of refuse in which case directions shall be issued in terms of which certain types of refuse shall be separated and disposed of.
6. **Accumulation of domestic refuse** – The owner or occupier of any property shall ensure that all domestic refuse generated on such property shall be accumulated only in a container envisaged by section 5 and in no other manner.
7. **Garden refuse**
- [1] Garden refuse may be removed from the property where it accumulates according to any arrangements which the owner or occupier of such property has made.
 - [2] If any accumulation of garden refuse is not removed within a reasonable time or if such accumulation creates a nuisance or danger to public health or a fire hazard to property, then the municipality may instruct such owner or occupier in writing to effect the removal of such accumulation within a specified period, no more than 14 (fourteen) days from the date of such instruction.
 - [3] Where necessary and subject to the availability of its facilities and resources, the municipality may, in its discretion and upon application by the owner or occupier of property, remove an accumulation of garden refuse from such property at the cost of the owner or occupier and in accordance with such terms and conditions as the municipality may determine.

- [4] No garden refuse may be dumped, kept or stored in or on any sidewalk or vacant ground.

8. **Removal of bulky or industrial refuse**

- [1] The owner or occupiers of premises in which bulky or industrial refuse is generated shall ensure that such refuse is disposed of in terms of this by-law within a reasonable period, but no more than 14 (fourteen) days after the generation thereof.
- [2] Bulky or industrial refuse shall, once it has been removed from the premises on which it was generated, be deposited on a site designated by the municipality as a disposal site for such refuse.
- [3] No obligation is imposed on the municipality in terms of this by-law to remove bulky or industrial refuse.

9. **Builder's refuse**

- [a] Builder's refuse which may have accumulated in the course of the construction, alteration, renovation or demolition of any structure or works shall be removed from the property concerned according to suitable arrangements to be made by the owner or occupier of such property with the municipality.
- [b] If there is any undue delay in the removal of such refuse after the completion of the works involved, the municipality may direct, by written notice to such owner, that the refuse be removed within a specified time, no more than 14 (fourteen) days from the date of such notice, to an approved disposal site.

10. **Trade refuse** – The municipality may enter into an agreement with the owner or occupier of any premises for the removal of trade refuse by the municipality at a charge fixed by the municipality.

11. **Abandoned objects** – Any object, other than a vehicle deemed to have been left or abandoned anywhere in terms of the National Road Traffic Act, 1996 [Act No. 93 of 1996], which may be reasonably regarded by the municipality as having been abandoned, may be removed and disposed of by the municipality in any manner as it may deem fit.

CHAPTER 3

DISPOSAL OF INFECTIOUS WASTE

12. **Storage of infectious waste**

- [1] All infectious waste must be placed at the point of generation into a container approved by the municipality.

- [2] The container used for the storage of contaminated sharps must be –
 - (a) constructed of such material that the said contaminated sharp object cannot pierce the container; and
 - (b) fitted with a safe and hygienic lid which must be sealed after use.
- [3] The container used for the disposal of other infectious waste must be –
 - (a) constructed of a suitable material that prevents the leakage of the contents;
 - (b) fitted with a safe and hygienic lid which must be sealed after use.
- [4] All containers must be adequately labelled and marked with the universal biohazardous waste symbol.

13. Transport of infectious waste

- [1] All containers of infectious waste must be sealed intact at the point of generation.
- [2] The vehicle used for transporting infectious waste must be clearly marked, indicating that infectious waste is in transit.
- [3] The vehicle used for the transport of infectious waste must be so designed that -
 - (a) the driver's cab is separated from the load area; and,
 - (b) the load area must be enclosed with suitable sealable, lockable doors.
- [4] All infectious loads being carried or conveyed for disposal must be recorded by the person or institution from which such waste is generated and the record must contain details of the premises at which the infectious waste was generated and the premises where the waste will be disposed of.

14. Removal and disposal of infectious waste

- [1] At the request of the owner or occupier, the municipality may remove infectious waste from the premises of generation and dispose thereof in a safe, sanitary and supervised manner and the owner or occupier of such premises or the owner of the waste shall be liable to the municipality for payment of the charges in respect of the said removal services.

- [2] Private contractors may, with the written consent of the municipality and subject to such terms and conditions as the municipality may determine, remove and dispose of infectious waste.
 - [3] No obligation is imposed on the municipality in terms of this by-law to remove infectious waste.
 - [4] Infectious waste may, with the written consent of the municipality and subject to compliance with such terms and conditions as the municipality may determine, be disposed of in an approved high temperature and pollution free incinerator on the premises of origin of such waste.
 - [5] Unless otherwise determined by the municipality, the burning temperatures in the primary and secondary chambers of the incinerator shall, at all times, exceed 800° C and 1000° C respectively and shall also have rapid cooling to prevent carcinogenic chemicals from entering the atmosphere.
 - [6] The municipality may determine additional conditions pertaining to the storage, placement, removal and conveyance of 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 this by-law.
15. **Infectious waste** – For the purpose of this by-law, infectious waste shall include all waste defined in terms of section 1 as well as contaminated animal carcasses, body parts, bedding, sharps, cultures and stocks of infectious agents and associated biologicals, human blood and blood products.

CHAPTER 4

CONTROL OF DISPOSAL SITES AND TRANSFER STATIONS

16. **Disposal sites and transfer stations for refuse**
- [1] The municipality shall set aside and maintain disposal sites and transfer stations where refuse shall be disposed of, deposited or dumped.
 - [2] Any person disposing of, depositing or dumping refuse in any other place shall be guilty of an offence.
 - [3] The municipality may, from time to time, determine tariffs for the disposal of, depositing or dumping of refuse at a disposal site or transfer station.

17. **Ownership of refuse** – All refuse removed by the municipality and all refuse on disposal sites or transfer stations controlled by the municipality shall be the property of the municipality and no person who is not duly authorised by the municipality to do so shall remove or in any manner interfere with such refuse.

18. **Liability**

[1] Where any object has been removed and disposed of by the municipality in terms of section 17, the owner or person responsible for such object shall be liable to pay the municipality the charge fixed by it for its removal, disposal or custody.

[2] For the purposes of subsection [1], the person responsible shall be –

[a] the owner of the object, including any person who is entitled to be in possession of the object by virtue of a hire-purchase agreement or an agreement of lease, at the time when it was abandoned or deposited in the place from which it was so removed, unless he or she can prove that he did not know that it had been deposited in such place; or,

[b] any person who deposits the object in the said place; or

[c] any person who knowingly permits or permitted the object to be deposited in the said place.

19. **Control of disposal sites and transfer stations**

The municipality may control a disposal site or transfer station or may enter into a contract with a person to control, manage and operate a disposal site or transfer station on behalf of the municipality, in accordance with the provisions of this by-law and the provisions of any other applicable legislation.

20. **Access to disposal sites and transfer stations**

[1] No person shall enter a disposal site or transfer station or shall be or remain on such premises except on such days and at such times as shall be fixed by the municipality from time to time.

[2] A notice, indicating the days and hours during which a disposal site or transfer station will normally be open for the disposal of, depositing or dumping of refuse, shall be displayed by the municipality in a clearly visible place at or near the entrance to such premises.

[3] The municipality may limit access to a disposal site or transfer station by permitting access to only those persons who have paid the prescribed fee and who are in possession of written permission issued by the municipality, authorizing them to dispose of, deposit or dump refuse at a disposal site or transfer station or authorising them to recycle any materials or objects at or on such site.

- [4] Notwithstanding anything to the contrary contained in this by-law, any employee of the municipality or anybody acting on behalf of the municipality and duly authorised thereto, may enter a refuse disposal site or transfer station at any time in the exercise of his or her duties.
- [5] Any person making use of or entering a disposal site or transfer station shall do so solely at his or her own risk and the municipality will not be responsible for the safety of such person or for any damages or losses sustained by such person as a result of his or her presence at or on such premises.
- [6] Anybody who enters a disposal site or transfer station or who is found thereon in contravention of the provisions of this by-law shall be guilty of an offence.

21. Off-loading of refuse

- [a] Any person who wishes to dispose of, deposit or dump refuse at a disposal site or transfer station shall off-load such refuse at such place within the borders of the said premises as directed by an attendant.
- [b] Any person who disregards the reasonable instructions of an attendant shall be guilty of an offence.

22. Prohibition on disposal of, depositing or dumping of offensive matter -
The municipality reserves the right to prohibit the disposal of, depositing or dumping of any offensive or toxic matter at a refuse site or transfer station.

23. Charges and deposit - The charges payable to the municipality for the establishment, provision and maintenance of a refuse removal service and the amount a person making use of such service shall deposit with the municipality shall be determined by resolution of the municipal council concerned.

CHAPTER 5

GENERAL PROVISIONS

24. Offences and Penalties

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 a penalty not exceeding -

- [a] a fine of R10 000 or imprisonment for a period of 6 (six) months or such imprisonment without the option of a fine 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 such additional imprisonment without the option of a fine 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 a court to have been incurred by the municipality as result of such contravention or failure.

25. Regulations

- [1] The municipality may make regulations regarding –
 - [a] the conditions in terms of which the municipality shall provide a refuse removal and disposal service, as contemplated in terms of sections 2,3,4 and 5, including –
 - (i) the construction, capacity and number of containers for domestic refuse;
 - (ii) the provision of such containers to particular classes of owners, occupiers or properties;
 - (iii) arrangements with regard to the use of containers and disposal of domestic refuse for removal by the municipality; and
 - (iv) requirements for the reclamation of refuse;
 - [b] arrangements for the removal and disposal of –
 - (i) garden refuse, as contemplated in terms of section 7(3);
 - (ii) builder's refuse, as contemplated in terms of section 9(a);
 - (iii) trade refuse, as contemplated in terms of section 10; and
 - (iv) infectious waste, as contemplated in terms of section 14(1);
 - [c] the compilation of a tariff of costs and charges, as may be applied in terms of section 7(3), 9(a), 10, 14(1), 16(3), 18(1), 20(3) and 23;
 - [d] the identification, designation, preparation and maintenance of disposal sites and transfer stations for the disposal of different categories of refuse and waste mentioned in this by-law;

- [e] the removal and disposal of abandoned objects, as contemplated in terms of section 11;
 - [f] with regard to infectious waste –
 - (i) the construction, capacity and number of containers for storage of infectious waste, as contemplated in terms of section 12;
 - (ii) additional requirements, as may be necessary from time to time, for the transfer of infectious waste, as contemplated in terms of section 13;
 - (iii) the terms and conditions for the storage, placement, removal, transport and disposal of infectious waste as contemplated in terms of section 14;
 - [g] the terms and conditions of any contract concluded by the municipality with any person to control, manage and operate a disposal site or transfer station, as contemplated in terms of section 19;
 - [h] access to disposal sites or transfer stations, as contemplated in terms of section 20, including –
 - (i) the days and times during which access shall be permissible;
 - (ii) the construction and contents of notices required to indicate the days and times of access;
 - (iii) the terms and conditions of written permission issued by the municipality so as to limit access in terms of section 20(3);
 - [i]
 - (i) the prescription of penalties for the offences contemplated in terms of section 24; and
 - (ii) the amendment of such penalties from time to time;
 - [j] any matter which may be prescribed in terms of this by-law and any matter which may facilitate the application of this by-law.
- [2] [a] The municipality shall, not less than 1 (one) month before promulgating a regulation in terms of sub-section 1, cause a draft of the regulation to be communicated to the local community and to be made public in terms of sections 21 and 21A of the Local Government : Municipal Systems Act, 2000 [Act No. 32 of 2000], together with a notice declaring the

intention of the municipality to issue such a regulation and inviting comments or representations.

- [b] If the municipality decides to alter the draft regulation as a result of comments or representations received pursuant to such invitation, then it shall not be necessary to communicate and make public the alteration before the amended draft is promulgated as a regulation.

26. Repeal of by-laws

Any by-laws relating to solid waste disposal adopted by the municipality or any erstwhile municipal council now comprising an administrative unit of the municipality shall be repealed from the date of promulgation of this by-law.

27. Short title

This by-law is called the By-law Relating to Solid Waste Disposal, 2004 and takes effect on a date determined by the municipality by proclamation in the Provincial Gazette.

No. 30**NKONKOBÉ LOCAL MUNICIPALITY : BY-LAW RELATING TO
CEMETERIES AND CREMATORIA, 2004 – PUBLICATION FOR
INFORMATION PURPOSES**

The Nkonkobe Local Municipality, in compliance with the provisions of the Local Government : Municipal Systems Act, 2000, hereby publishes for information purposes the By-law relating to Cemeteries and Crematoria, 2004, as passed by the municipal council and as set out in the accompanying schedule.

LOCAL GOVERNMENT NOTICE**MUNICIPALITY OF NKONKOBÉ****BY-LAW RELATING TO CEMETERIES AND CREMATORIA**

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-law Relating to Cemeteries and Crematoria.

Purpose of By-law

The purpose of this by-law is to promote the establishment, conduct and control of cemeteries and crematoria serving the area falling within the municipal boundaries of the Municipality of Nkonkobe.

CHAPTER 1**DEFINITIONS**

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

'adult' where the word is used to describe a body, means any deceased person over the age of 12 whose coffin will fit into the grave opening prescribed for adults in terms of this by-law;

'authorised official' means an official of the municipality who has been authorised by it to administer, implement and enforce the provisions of this by-law;

'body' means the dead body of a human being and includes the body of a still-born child and any human remains;

'burial authority' means any board of trustees appointed for the management of a cemetery or a crematorium as envisaged by the Cremation Ordinance No. 6 of 1926 or similar national or provincial legislation and includes any municipal council having the powers and duties of a board of trustees;

'burial order' means an order issued in terms of the Births and Deaths Registration Act, 1992 (Act No. 51 of 1992);

'burial plot' means the demarcated place in a cemetery that has been designated as such by the caretaker or an authorised official for the location of a grave;

'caretaker' means a person or official appointed by the municipality to be in charge of and to exercise control in or over a cemetery;

'cemetery' means a piece of land duly set aside and demarcated by the municipality or a predecessor local authority on an official plan for human burials, within the municipal boundaries of the municipality;

'child' where the word is used to describe a body, means any deceased person of or less than the age of 12 years and whose coffin will fit into the grave opening prescribed for children in terms of this by-law;

'crematorium' means any building fitted with appliances, facilities or structures for the purpose of burning human remains and shall include anything incidental or ancillary thereto;

'grave' means a site on a burial plot that has been prepared for the burial of a body;

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

'next of kin' means –

- (a) the surviving spouse of the deceased; or failing such spouse,
- (b) an adult child of the deceased; or failing such child,
- (c) a parent of the deceased; or failing such parent,
- (d) an adult brother or sister of the deceased; or failing such brother or sister,
- (e) the nearest available adult relative of the deceased;

'non-resident' means any person who at the time of his or her death was not resident within the municipal boundaries of the municipality;

"resident" means a person who, at the time of death, was ordinarily resident within the municipal boundaries of the municipality or any person who, at the time of death, was the owner of fixed property within the municipal boundaries of the municipality for a period of at least 6 (six) months immediately prior to death; provided that, unless otherwise stipulated herein, the term does not include inmates of hospitals, institutions or other persons temporarily resident within the municipal boundaries of the municipality;

"tariff" means the charges as determined by the municipal council of the municipality from time to time in terms of this by-law.

CHAPTER 2**CEMETERIES****2 Establishment of cemeteries**

- [1] The municipality may establish cemeteries within its municipal boundaries.
- [2] No person shall –
- (a) establish a cemetery within the municipal boundaries of the municipality without the prior approval of an authorised official; or
 - (b) knowingly inter or cause to be interred any body in a cemetery which has been established without such approval.

3 Taking over conduct and control of cemeteries by the municipality

- [1] The municipality may take over the conduct and control of any cemetery situated within its municipal boundaries.
- [2] Where the conduct and control of a cemetery were the responsibility of a burial authority, the municipality and the burial authority may agree upon the terms and conditions of such taking over, provided that –
- (a) the ownership of all movable and immovable property in respect of the cemetery shall vest in the municipality, subject to –
 - (i) the existence of any trust or other condition relating to the property;
 - (ii) payment by the municipality to the burial authority of fair compensation, determined with reference to market value, where such payment would be equitable or otherwise appropriate in the circumstances; and
 - (iii) compliance with the provisions of the Deeds Registries Act, 1937 [Act No. 47 of 1937], as amended from time to time;
 - (b) all revenue and other funds payable or recoverable in respect of the cemetery shall be payable to and recoverable from the municipality;
 - (c) all other privileges and rights and all liabilities and obligations

in respect of the cemetery shall devolve upon the municipality; and

- (d) the provisions of the conditions set out in terms of subsection (a) shall apply *mutatis mutandis* to subsections (b) and (c).

- (3) Notwithstanding the existence and continued functioning of a burial authority and where the municipality decides not to take over the conduct and control of any cemetery, responsibility for the proper and effective conduct and control of such cemetery shall remain with the municipality.

4 Setting aside of portion of a cemetery for burial of deceased of a religious group

The municipality may set aside any portion of a cemetery for the burial of the deceased of any religious group, body or community, provided that -

- (a) the foregoing shall be interpreted so as to apply to a person of any major faith, commonly recognised as such;
- (b) such setting aside shall not entitle any person to be buried in any particular place in a cemetery.

5 Disposal of right to burial

- (a) The municipality may sell or otherwise dispose of the right to burial in a specified burial plot or a specified cemetery on such conditions as it may determine from time to time and shall issue the person thus acquiring such right with a certificate setting out the conditions attaching to such acquisition.
- (b) The holder of a right to burial shall not dispose of such right except with the written permission of the municipality and such holder or his or her next of kin shall not permit any other person, not approved by the municipality, to be buried in the specified burial plot or specified cemetery in respect of which such right exists.

6 Written permission for burial

[1] No person shall bury a body in a cemetery -

- (a) except in terms of the authority of a written permit issued by the caretaker or authorised official; or
- (b) otherwise than in accordance with the conditions specified in such permit.

- [2] An application for the permit referred to in subsection (1) shall be accompanied by a burial order and shall contain such information as may be required by the caretaker or an authorised official.

7 Burial

- [1] Except with the permission of the caretaker or an authorised official, who shall record the circumstances in terms of which such permission is granted, no person shall bury a body in a cemetery during the hours between sunset and sunrise.
- [2] No person shall -
- (a) bury a body unless the grave is of sufficient depth so that the top of the body, or the top of a coffin, as the case may be, is not less than 1 050 mm below the surface of the ground when the grave has been filled up;
 - (b) bury more than one body in a grave unless the grave has been dug to a sufficient depth so that subsection (a) may be complied with and so that the first body or coffin may be covered with 100 mm of reinforced concrete or 300 mm of soil when the second body is buried; or
 - (c) remove a body from a grave in order to enlarge such grave.

8 Measurements of burial plots and graves

- [1] The standard measurements for burial plots shall be determined by the municipality.
- [2] The standard measurements for graves shall be as follows -
- (a) in respect of adults -
 - (i) length: 2 200 mm;
 - (ii) width: 1 200 mm; and
 - (iii) depth: 1 800 mm;
 - (b) in respect of children -
 - (i) length: 1 350 mm;
 - (ii) width: 600 mm; and
 - (iii) depth: 1 500mm.
- [3] Where deemed necessary or appropriate by the municipality, a grave may be prepared in such a manner so as to permit the burial of a body in a vertical position, provided that -
- (a) an express request has been made to this effect by the next of kin;

- (b) the consent of the next of kin has been obtained in circumstances where sub-section (a) does not apply; and
- (c) standard measurements have been determined by the municipality to give effect to such manner of burial.

9 Appearance of burial plots and graves

- [1] No person shall erect or place any kerb, tombstone, monument, railing, fence or similar ornamentation upon a burial plot or grave -
 - (a) except under the authority set out in a written permit issued by the caretaker or an authorised official;
 - (b) otherwise than in accordance with the conditions set out in such permit; or
 - (c) in such a manner so as to exceed the boundaries of a burial plot.
- [2] The size (outer dimensions) of any kerb, tombstone, monument, railing, fence or similar ornamentation on burial plots or graves shall not exceed the following measurements -
 - (a) in respect of adults -
 - [i] single burial plot: 2 500 mm x 1 050 mm;
 - [ii] double burial plot: the size of two single burial plots;
 - [iii] family burial plot: the appropriate multiple of a single burial plot;
 - [iv] width of kerb: 150 mm; and
 - [v] tombstones shall not be higher than 1 600 mm above the surface of the ground;
 - (b) in respect of children:
 - [i] single burial plot: 1 500 mm x 1 000 mm;
 - [ii] width of kerb: 150 mm; and
 - [iii] tombstones shall not be higher than 1 200 mm above the surface of the ground.
- [3] An application for a permit referred to in subsection (1) shall contain such details as may be required by the municipality in respect of the ornamentation concerned and the inscription to be placed thereon and

the municipality may refuse to issue such permit if, in its reasonable opinion, such ornamentation is likely to be of improper workmanship or quality or is likely in any way to disfigure a cemetery or is calculated to offend the public.

[4] No person shall -

- (a) use any portion of a cemetery for the cutting, dressing and manufacturing of kerbs, tombstones, monuments, railings, fencing or similar ornamentation except with the permission of the municipality or otherwise than in accordance with the conditions determined by the municipality;
- (b) carry out any work in connection with any kerb, tombstone, monument, railings or fence or similar ornamentation on or around a grave or bring any materials into a cemetery for the purposes of such work, except during the hours between sunrise and sunset on Mondays to Fridays but excluding public holidays; or
- (c) at any time leave any building sand, stones, builders' rubble, soil, rubbish or other debris in the cemetery.

10 Maintenance of graves and ornamentation

- [1] Whenever a person who erected or placed ornamentation in a cemetery allows it to fall into such state of disrepair as in the reasonable opinion of the municipality constitutes a danger or a disfigurement in the cemetery, the municipality may by written notice require him or her to effect such repairs as may be specified in such notice and if his or her address is unknown then such notice may be published in a newspaper circulating within the area of the municipality.
- [2] In the event of the required repairs not being effected within (3) three months from the service or publication of such notice, the municipality may itself effect the repairs or remove the ornamentation without paying compensation and may recover the expense of such repairs or removal from such person.
- [3] The holder of a right to burial in a specified burial plot or in a specified cemetery shall keep that burial plot and the ornamentation thereon in good order and repair.
- [4] The municipality may undertake the upkeep of graves at the prescribed tariff.
- [5] No person shall undertake the upkeep of graves in a cemetery except with the written consent of the municipality.

11 Planting of trees or shrubs

- [1] No person shall -
- (a) plant a tree or shrub on a burial plot or grave without the permission of the caretaker or authorised official; or
 - (b) when cleaning a burial plot or grave, deposit the material cleared from such location in the cemetery at a place other than the facilities provided for such purpose.
- [2] The caretaker or an authorised official may prune, cut down, dig up or remove any shrub, plant or flower in a cemetery if such is unsightly in his or her reasonable opinion.

12 Prohibition

No person shall -

- [1] enter or leave a cemetery except by the proper gates;
- [2] sit, stand or climb upon or over any grave, ornamentation, gate, wall, fence or building in a cemetery;
- [3] drive a hearse in a cemetery except upon the roads or paths provided for that purpose;
- [4] conduct a religious ceremony or service according to the rites of any religious group, body or community in that part of a cemetery set aside for members of any other religious group, body or community;
- [5] expose or convey a body in an street, cemetery or other public place in such a manner so as to offend the public;
- [6] mark, draw, scribble, place an advertisement upon, or in any way deface any grave, ornamentation, gate, wall, fence or building in a cemetery;
- [7] smoke in a cemetery;
- [8] create or allow to be created a nuisance in a cemetery;
- [9] disrupt or allow to be disrupted any funeral proceedings in a cemetery;
- [10] discharge any fire-arm in a cemetery, except as a salute at a military funeral;
- [11] use or cause any cemetery to be used for any purpose likely to offend the public;

- [12] bring any cat, fowl or other animal or bird into a cemetery or allow it to wander therein;
- [13] trade or hawk goods or services in a cemetery;
- [14] drive a permitted vehicle in a cemetery at a speed in excess of 20km/h; or
- [15] obstruct, resist or oppose the caretaker or an authorised official in any cemetery in the course of his or her duty or refuse to comply with any order or request which the caretaker or authorised official is entitled to make in terms of this by-law.

CHAPTER 3

CREMATORIA

13 Establishment of crematoria

- [1] The authority provided to the municipality in terms of this by-law to establish cemeteries shall be deemed to extend to and include the establishment of crematoria, provided that no body shall be burned in any crematorium until -
 - (a) the plans and site thereof have been approved by the municipality; and,
 - (b) the crematorium has been certified by the municipality as complete, built in accordance with such plans and properly equipped for the purposes of cremation.
- [2] The provisions contained in sections 1, 2, 3, 6 and 12 of this by-law shall apply, *mutatis mutandis*, to this chapter.

14 Site of crematorium

No crematorium shall be constructed –

- [a] within 200m of any residential erf, except with the written consent of any owner or occupier in respect of such erf; or
- [b] Within 50m of any public road, street or thoroughfare.

15 Donations of land

A municipality may accept –

- (a) a donation of land for the purpose of establishing a crematorium; and

- (b) a donation of money or other property to enable the municipality to establish, conduct or control a crematorium.
- 16 **Regulations in respect of cremation** - The municipality may make regulations with regard to cremation and the disposal or internment of ashes.
- 17 **Prevention of cremation** - A magistrate shall have authority to prevent any cremation or revoke any permission to proceed with a cremation when such magistrate deems it to be necessary for purposes of having an investigation carried out in terms of the Criminal Procedure Act, 1977 [Act No. 51 of 1977], as amended from time to time.

CHAPTER 4

EXHUMATIONS

- 18 **Restrictions on exhumation**
- [1] Except as herein provided, no person shall exhume, disturb, remove or re-inter any body from or in a cemetery without the prior written approval of the municipality and otherwise in accordance with such conditions as may be imposed by the municipality in terms of subsection (3).
- [2] The provisions of subsection [1] shall not apply in respect of the exhumation and re-interment of any body which has mistakenly been interred in a grave reserved for the interment of another body if –
- (a) compliance with the provisions of subsection [1] would unduly delay the interment of such other body; and
- (b) the exhumation and re-interment are carried out in accordance with the order of a magistrate.
- [3] The approval contemplated in sub-section (1) may be granted by the municipality, provided that –
- (a) conditions may be imposed in respect thereof for the sake of public health; and
- (b) a health officer or an authorised official may be present at the exhumation or during the activities contemplated in terms of sub-section (1).
- 19 **Application for the approval of the municipality**
- [1] Any person who wishes to obtain the approval required in terms of section 18(1) shall make written application to the municipality and shall –

- (a) indicate :
 - (i) the location of the grave and the proposed place of re-interment;
 - (ii) the reasons for the application; and
 - (ii) the measures and precautions to prevent any danger to health or cause for offence;
 - (b) furnish such proof as may be available with regard to the date and cause of death;
 - (c) submit the written approval of the religious group, body or community that may be affected by the proposed exhumation and re-interment; and
 - (d) attach to such application the written approval of the next-of-kin.
- [2] The municipality may require any applicant who is unable to comply with all or any of the requirements stipulated in terms of subsection (1) to publish in a local newspaper a notice –
- (a) stating that application has been made for the approval of the municipality in terms of subsection (1);
 - (b) indicating the location of the grave concerned, the names as may be available of the person interred therein and the place of the proposed re-interment; and,
 - (c) calling upon any interested person to lodge with the municipality in writing, not later than 14 (fourteen) days after publication of the notice, any objection to the proposed exhumation and re-interment.
- [3] The municipality shall give due consideration to any objection lodged in response to the notice contemplated by subsection (2).

CHAPTER 5

CLOSED OR DISUSED CEMETERIES

20 Closure of cemeteries

- [1] The municipality may close any cemetery or portion thereof, provided that –
- (a) the closure is by reason of the prevention of danger to the health of the public or any other justifiable reason;

- (b) notification of such closure is published in a local newspaper and displayed for the public to view; and
 - (c) a copy of the notification is provided to the relevant burial authority, if still extant and functioning.
- [2] Notwithstanding the closure of a cemetery or portion thereof, the municipality may permit the interment of a body in a specified burial plot in such cemetery or portion thereof, subject to such conditions as the municipality may impose.
- [3] No person shall inter any body in a cemetery or portion thereof closed in terms of subsection (1) or in a specified burial plot in contravention of any conditions imposed in terms of subsection (2).

21 Maintenance of closed or disused cemetery - The municipality may, at the request of a religious group, body, community or other persons having an interest in any closed or disused cemetery, undertake the maintenance of such cemetery.

22 Use of disused cemeteries

- [1] The municipality may, after compliance with the provisions of subsection (3) and subject to any conditions of title, use any cemetery or portion thereof which has been closed or disused for a period of not less than 20 (twenty) years for such purpose as will not desecrate the ground, any human remains or any graves in such cemetery or portion thereof.
- [2] After compliance with the provisions of subsection (3) and subject to any conditions of title, the municipality may remove to another cemetery the human remains and graves, insofar as may be possible, from any cemetery or portion thereof which has been closed or disused for a period of not less than 20 (twenty) years, provided that such removal is effected respectfully and so as not to offend the next-of-kin concerned and the public.
- [3] Before acting in terms of subsections (1) or (2), the municipality shall -
- (a) give notification in a local newspaper and display for public view its intention to do so;
 - (b) invite the public to comment and submit any objections to the municipality in respect thereof; and
 - (c) take all such comments and objections, as may be received, into consideration.

CHAPTER 6**GENERAL PROVISIONS****23 Prohibition of interment**

- [1] The municipality may prohibit the interment of a body in any cemetery, provided that -
- (a) the prohibition is by reason of the prevention of danger to the health of the public or any other justifiable reason;
 - (b) notification of such prohibition is published in a local newspaper and displayed for the public to view; and
 - (c) a copy of the notification is provided to the relevant burial authority, if still extant and functioning.
- [2] Any such prohibition shall not discriminate against any person on grounds of race, gender, marital status, ethnic or social origin, colour, sexual orientation, religion, conscience, believe, culture, language or birth.

24 Identification of burial plots or graves and keeping of registers

- [1] Each burial plot or grave located at a cemetery within the municipal boundaries of the municipality shall be identified by number allocated by the municipality, such that -
- (a) the location of the burial plot or grave and details of any deceased interred therein may be readily ascertained by the public; and
 - (b) the number is listed in a register maintained by the municipality.
- [2] The municipality shall maintain a register of all interments and cremations performed at the cemeteries and crematoria located within its municipal boundaries, such register to stipulate -
- (a) the names of the deceased;
 - (b) the deceased's date of birth and date of death; and
 - (c) the identification of the burial plot or grave in respect of which the deceased was interred, provided that no such detail is necessary in the event of the deceased's cremation.
- [3] The municipality shall maintain a register of all rights to burial in a specified burial plot or a specified cemetery, as envisaged by this by-law, including -
- (a) the names and address of the holder of such a right;

- (b) the date and number of any certificate setting out the conditions attaching to such right; and
 - (c) details of any permission granted by the municipality to the holder for the holder's disposal of such right.
- [4] The registers referred to in subsections (1), (2) and (3) may constitute one comprehensive record to be kept securely at the principal address of the municipality.
- [5] Any register contemplated by this section shall be made available to any member of the public upon receipt of reasonable request.

25 Offences and penalties

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 a penalty not exceeding-

- (a) a fine of R10 000 or imprisonment for a period of 6 (six) months or such imprisonment without the option of a fine 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 such additional imprisonment without the option of a fine 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 a court to have been reasonably incurred by the municipality as a result of such contravention or failure.

26 Regulations

- [1] The municipality may make regulations regarding –
- (a) the granting of approval for –
 - (i) the establishment of a cemetery, as contemplated in terms of section 2(2)(a);
 - (ii) the plans and site of a crematorium, as contemplated in terms of section 13(1)(a); and
 - (iii) the exhumation, disturbance, removal or re-interment of a body, as contemplated in terms of chapter 4, including -
 - (aa) the conditions attached to such approval, as contemplated in terms of section 18(3);

- (bb) the form and contents of the written application contemplated in terms of section 19(1);
- (b) the terms and conditions for the taking over, by the municipality, of the conduct and control of a cemetery, as contemplated in terms of section 3(2);
- (c) the identification and designation of any portion of a cemetery for the burial of persons of a religious group, body or community, as contemplated in terms of section 4;
- (d) with regard to the disposal of a right to burial, as contemplated in terms of section 5 –
 - (i) the conditions of such disposal or sale;
 - (ii) the form and contents of the certificate mentioned in the said section;
- (e) the granting of written permission for burial, including –
 - (i) the conditions attached thereto, as contemplated in terms of section 6(1)(b);
 - (ii) any additional information required, as contemplated in terms of section 6(2);
- (f) the burial of a body, as contemplated in terms of section 7;
- (g) the measurements of burial plots and graves, as contemplated in terms of section 8, including amendments thereto;
- (h) with regard to ornamentation in terms of section 9 –
 - (i) the issuing of a permit as contemplated in terms of section 9(1) and (3), including –
 - (aa) the form and contents thereof; and
 - (bb) guidelines as to when such permit may be refused;
 - (ii) the measurements of such ornamentation, as contemplated in terms of section 9(2), including amendments thereto; and
 - (iii) the granting of permission for the activities contemplated in terms of section 9(4);
- (i) the issuing of a written notice in connection with the maintenance of graves and ornamentation as contemplated in terms of section 10(1), including –

- (i) the form and contents thereof; and
- (ii) the delivery or publicisation of such notice;
- (j) the determination of tariffs, as contemplated in terms of section 10(4);
- (k) procedures and requirements for cremation and disposal or interment of ashes, as contemplated in terms of section 16;
- (l) conditions attached to permission for interment in a cemetery that has been closed, as contemplated in terms of section 20(2);
- (m) the identification of burial plots or graves and the keeping of registers, as contemplated in terms of section 24, including -
 - (i) the manner of identification; and
 - (ii) the form and contents of the registers required in terms of the said section;
- (n) (i) the prescription of penalties for the offences contemplated in terms of section 25; and
 - (ii) the amendment of such penalties from time to time;
- (o) any matter which may be prescribed in terms of this by-law and any matter which may facilitate the application of this by-law.
- (2) (a) The municipality shall, not less than 1 (one) month before promulgating a regulation in terms of sub-section (1), cause a draft of the regulation to be communicated to the local community and to be made public in terms of sections 21 and 21A of the Local Government : Municipal Systems Act, 2000 [Act No. 32 of 2000], together with a notice declaring the intention of the municipality to issue such a regulation and inviting comments or representations.
- (b) If the municipality decides to alter the draft regulation as a result of comments or representations received pursuant to such invitation, then it shall not be necessary to communicate and make public the alteration before the amended draft is promulgated as a regulation.

27. Repeal of by-laws

Any by-laws relating to cemeteries and crematoria adopted by the municipality or any erstwhile municipal council now comprising an administrative unit of the municipality shall be repealed from the date of promulgation of this by-law.

28. Short title

This by-law is called the By-law Relating to Cemeteries and Crematoria, 2004 and takes effect on a date determined by the municipality by proclamation in the Provincial Gazette.

No. 31**NKONKOBÉ LOCAL MUNICIPALITY : BY-LAW RELATING TO STANDING
ORDERS FOR COUNCIL, 2004 – PUBLICATION FOR INFORMATION
PURPOSES**

The Nkonkobe Local Municipality, in compliance with the provisions of the Local Government : Municipal Systems Act, 2000, hereby publishes for information purposes the By-law relating to Standing Orders for Council, 2004, as passed by the municipal council and as set out in the accompanying schedule.

LOCAL GOVERNMENT NOTICE
MUNICIPALITY OF NKONKOBÉ
BY-LAW RELATING TO STANDING ORDERS FOR COUNCIL

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-law relating to Standing Orders for Council.

Purpose of By-law

The purpose of this by-law is to prescribe rules and orders for the internal arrangements, business and proceedings of the Municipality and to regulate the establishment, composition, procedures, powers and functions of its Committees.

ARRANGEMENT OF RULES

CHAPTER 1 DEFINITIONS

1. Definitions

CHAPTER 2 APPLICATION OF RULES

2. Suspension of rules
3. Application of rules to non-member participants
4. Attendance register for Council meetings
5. Adjournment in the event of no quorum
6. Public participation

CHAPTER 3 SITTING OF THE COUNCIL

7. Election of Speaker
8. The role of the Speaker
9. Conduct of business and proceedings

10. Business limited by notice of meeting
11. Order of business for ordinary meeting
12. Sitting days
13. Venue
14. Public notice of meetings of Council
15. Minutes of proceedings
16. Opportunity for prayer or meditation
17. Interruption, suspension or adjournment of proceedings
18. Orders to leave sittings
19. Removal of persons
20. Visiting provincial or national government representatives

CHAPTER 4 ORDER IN MEETINGS AND RULES OF DEBATE

21. Order of debate
22. That the motion be amended
23. That consideration of the question be postponed
24. That the Council adjourns
25. That Council adjourns for a caucus meeting
26. That the debate now be adjourned
27. That the question be put
28. That the Council proceeds to the next business
29. Freedom of speech
30. Movement in Chamber
31. Members may not be interrupted
32. Precedence of the Speaker
33. Member ordered to leave
34. Censure of member
35. Grave disorder
36. Members to address Speaker
37. Calling of members
38. Time limits for speeches
39. Offensive and unbecoming language
40. Rule of anticipation

41. Explanations
42. Points of order
43. Acting for absent member
44. Rights of member to speak
45. When reply allowed
46. Debate closed
47. Postponed questions put without further debate
48. Questions put again
49. Question fully put
50. Absence of quorum for decisions
51. Declaration of vote
52. Recording of opposition
53. Unopposed business
54. Demand for division
55. Procedure for divisions
56. Points of order during division
57. Confusion or error during division
58. Correction of Minutes
59. Same question rule
60. No amendment to draft resolution
61. Rescission of resolution
62. Recommendation of Committee
63. Motions without notice
64. Notice of motion
65. Acting for absent member
66. Speaker may amend notices
67. Question of privilege
68. Withdrawal and lapsing of motion
69. Matters of public importance

CHAPTER 5 PUBLIC ACCESS

70. Meetings open to the public
71. Exclusion of members of the public from meetings

72. Removal of persons
73. Reports of the Executive Committee
74. Delivery of reports of Executive Committee
75. Moving of report of the Executive Committee
76. Consideration of the budget
77. Petitions
78. Publication of proceedings, evidence, reports, etc

CHAPTER 6 COUNCIL COMMITTEES

79. Establishment of Committees
80. Executive Committee
81. Mayoral Committee
82. Audit Committee
83. Administration Committee
84. Finance Committee
85. Human Resources Committee
86. Public Works and Services Committee
87. Socio-Economic Development Committee
88. The appointment of Committees
89. The duties of Committees
90. Voting in Committees
91. Attendance at Committee meetings

CHAPTER 7 THE CONDUCT OF COMMITTEE MEETINGS

92. The chairperson
93. Notice of meetings
94. Quorum
95. Agenda
96. Decisions
97. Minutes
98. Recommendations
99. Amendments to recommendations

- 100. Procedural recommendations
- 101. The right of the public to address a Committee
- 102. Application of chapter to special Council meetings and Council in Committee
- 103. Council in Committee

CHAPTER 8 PROBITY

- 104. Application
- 105. Attendance at meetings
- 106. Sanction for non-attendance of meetings
- 107. Declaration of interests
- 108. Full time member

CHAPTER 9 GENERAL PROVISIONS

- 109. Regulations
- 110. Repeal of by-laws
- 111. Short title

SCHEDULE A

Nomination form for election of Speaker

CHAPTER 1 DEFINITIONS

1. Definitions

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

'authorised official' means –

- [a]** an official of the Municipality who has been authorised by it to administer, implement and enforce the provisions of this by-law;
- [b]** a traffic officer appointed in terms of section 3A of the National Road Traffic Act, 1996 [Act No. 93 of 1996];

[c] a member of the police service, as defined in terms of section 1 of the South African Police Service Act, 1995 [Act No. 68 of 1995]; or

[d] a peace officer, contemplated in terms of section 1 of the Criminal Procedure Act, 1977 [Act No. 51 of 1977];

'Accounting Officer' means the municipal official referred to in section 60 of the Local Government: Municipal Finance Management Act, 2003 [Act No. 56 of 2003];

'Chief Financial Officer' means a person designated in terms of section 80(2)(a) of the Local Government: Municipal Finance Management Act, 2003;

'Chief Whip' means the chairperson or designated leader of the political party having a majority representation on the Council;

'Code of Conduct' means the Code of Conduct for Councillors contained in Schedule 1 to the Local Government : Municipal Systems Act, 2000 [Act No. 32 of 2000];

'Constitution' means the Constitution of the Republic of South Africa Act, 1996 [Act No. 108 of 1996];

'Council' means the Municipal Council of the Municipality and as contemplated in terms of section 157 (1) of the Constitution;

'MEC for Local Government' means the member of the Executive Council of the Province of the Eastern Cape responsible for local government in the said province;

'Municipal Structures Act' means the Local Government: Municipal Structures Act, 1998 [Act No. 117 of 1998], as amended;

'Municipal Systems Act' means the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000], as amended; and

'Municipality' means the Municipality of Nkonkobe, established in terms of section 12 of the Municipal Structures Act, 1998 and includes any political structure, political office bearer, councillor, duly authorized agent thereof or any employee thereof acting in connection with this by-law by virtue of a power vested in the Municipality and delegated to such political structure, political office bearer, councillor, agent or employee; and

'Party Whip' means the chairperson or designated leader of any political party having representation on the Council such, representation not constituting a majority.

CHAPTER 2 APPLICATION OF RULES

2. **Suspension of rules**

The Council may by resolution dispense with or suspend a provision of these rules for a specific period or purpose.

3. **Application of rules to non-member participants**

Except where clearly inappropriate, these rules apply to a Council member, a local government representative or an official in the national or provincial executive participating in the proceedings of the Council and shall apply to all meetings of the Council.

4. **Attendance register for Council meetings**

Every member attending a Council meeting shall sign his or her name in the attendance register kept for this purpose.

5. Adjournment in the event of no quorum

- (1) At a meeting of the Council, a majority of members must be present 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 the Council with a supporting vote of a majority of the Councillors.
- (3) A resolution to dissolve the Council in terms of section 34(1) of the Municipal Structures Act must be taken by a supporting vote of at least $\frac{2}{3}$ (two thirds) of the members at a meeting called specifically for this purpose.
- (4) All other questions before the Council are decided by a majority of the votes cast.
- (5) If there is no quorum either at the commencement of or any stage during a meeting of Council, then –
 - (a) the Speaker shall adjourn the meeting temporarily and for a maximum of 15 (fifteen) minutes; and
 - (b) in the event that there is still no quorum upon the expiry of the said adjournment –
 - (i) the names of the members present shall be entered in the minutes by the Municipal Manager; and
 - (ii) the Speaker shall declare the meeting to be closed.

6. Public participation

- (1) Members of the public may participate in the proceedings of the Council by –
 - (a) attending sittings of the Council or meetings of Council Committees;
 - (b) submitting petitions to the Council on any matter within the Council's competence;
 - (c) responding to invitations –
 - (i) to comment in writing on by-laws or other matters before or which are due to come before the Council;
 - (ii) to make representations or recommendations in writing on such by-laws or other matters; or
 - (iii) to give evidence or to make representations or recommendations before Council Committees on such by-laws or other matters, either in person or through a representative.
- (2) Public participation in terms of sub-rule (1) is subject to and must be exercised in accordance with the applicable provisions of these rules.
- (3) The public shall have access to all official notices to members and to all documents tabled in the Council, subject to reasonable measures taken by the Speaker to regulate such access.

CHAPTER 3 SITTINGS OF THE COUNCIL

7. Election of Speaker

- (1) At the first sitting of Council after its election or when necessary to fill a vacancy, the Municipal Manager or, where he or she is not available, a person designated by the MEC for Local Government presides over the election of the Speaker.
- (2) The Municipal Manager or the duly designated person must call for the nomination of candidates for the position of Speaker at the meeting contemplated in terms of sub-rule (1).
- (3) The nomination must be made on the form contained in Schedule A to these rules.
- (4) The nomination form must be signed by two members of the Council.
- (5) The person who is nominated must indicate acceptance of the nomination by signing either the nomination form or any other form of written confirmation.
- (6) At the meeting contemplated in terms of sub-rule (1), the person presiding must announce the names of the persons who have been nominated as candidates, but may not permit any debate.
- (7) If only one candidate is nominated, then the person presiding must declare that candidate elected.
- (8) If more than one candidate is nominated –

- (a) a vote must be taken at the meeting by secret ballot;
 - (b) each member present at the meeting may cast one vote;
and
 - (c) the person presiding must declare elected the candidate
who receives a majority of the votes.
- (9) If no candidate receives a majority of the votes, then the candidate who receives the lowest number of votes must be eliminated and a further vote taken on the remaining candidates in accordance with sub-rule (8). This procedure must be repeated until a candidate receives a majority of the votes.
- (10) When applying sub-rule (9), if two or more members each have the lowest numbers of votes, then a separate vote must be taken on those candidates and repeated as often as may be necessary to determine which candidate is to be eliminated.
- (11) If only two candidates are nominated, or if only two candidates remain after an elimination procedure has been applied, and those two candidates receive the same number of votes, then a further meeting must be held within 7 (seven) days, at a time determined by the person presiding.
- (12) If a further meeting is held in terms of sub-rule (11), then the procedure prescribed in this rule must be applied at that meeting as if it were the first meeting for the election in question.

8. The role of the Speaker

- (1) The Speaker decides when and where the Council meets, provided that the Council shall meet at least once every quarter.

- (2) If a majority of the members request the Speaker in writing to convene a meeting, then the Speaker must convene a meeting at the date, time and venue set out in the request.
- (3) Where the Speaker fails or refuses to convene a meeting contemplated in terms of sub-rule (2), for whatever reason, the Municipal Manager must convene a meeting at the date, time and venue set out in a written request submitted to the Municipal Manager on behalf of a majority of the members.
- (4) All meetings of the Council are chaired by the Speaker.
- (5) In the event that the Speaker is absent or not available to perform the functions of the Speaker, or during a vacancy -
 - (a) the Deputy-Speaker shall perform the said functions; and
 - (b) where there is no Deputy-Speaker or where he or she is absent or not available, or during a vacancy, the Council must elect another member to act as Speaker and perform the said functions.
- (6) The election of an Acting Speaker, as contemplated in terms of sub-rule (5)(b), must comply with the following requirements -
 - (a) no election of an Acting Speaker may take place until either the Speaker or the Deputy-Speaker, as the case may be, has confirmed his or her unavailability in writing or a period of 1 (one) hour has elapsed since the time stipulated for the commencement of the meeting, whichever is the sooner;
 - (b) the Municipality Manager or, where he or she is not available, the Acting Municipal Manager, failing which a

person designated by the MEC for Local Government, shall preside over the election of an Acting Speaker; and

- (b) the election of an Acting Speaker shall be effected by a supporting vote of a majority of the members present at the meeting.
- (7) Upon the election of an Acting Speaker, the meeting may proceed without further adjournment and as if the Speaker or Deputy-Speaker, as the case may be, was neither absent nor unavailable.
- (8) The Speaker shall –
- (a) perform the duties and exercise the powers delegated to the Speaker in terms of Section 59 of the Municipal Systems Act;
 - (b) prepare the agenda for Council meetings, in consultation with the Mayor and Municipal Manager;
 - (c) maintain order during meetings;
 - (d) ensure compliance in the Council and Council Committees with the Code of Conduct and the Council's rules of order as adopted from time to time;
 - (e) ensure that Council meetings are conducted in accordance with this by-law;
 - (f) ensure that members conduct themselves in a dignified and orderly manner;

- (g) ensure that members of the public attending any meetings of the Council conduct themselves in an orderly manner and obey any rulings made by the Speaker.
- (9) The ruling of the Speaker in regard to the application of this chapter and any other procedural matter is final and binding on a meeting.
- (10) The Speaker may give a ruling or determine a rule in respect of any eventuality for which these rules do not provide, provided that such a ruling or determination shall not be in conflict with the Constitution.
- (11) A rule determined by the Speaker remains in force until a meeting of Council has decided thereon at its next scheduled meeting or an earlier meeting if a majority of councillors so request.

9. Conduct of business and proceedings

The Council must conduct its business and proceedings in accordance with the Constitution, these rules and resolutions of the Council in –

- (a) plenary sittings; and
- (b) Committees and Sub-Committees.

10. Business limited by notice of meeting

- (1) Subject to the provisions of sub-rule (2) and with the exception of an urgent report of the Executive Committee, no business not specified in the notice of a meeting shall be transacted at the said meeting.

- (2) A member may, during a meeting, propose that the provisions of sub-rule (1) be suspended to enable him or her to make a written proposal and to read out the said proposal at the meeting.
- (3) The written proposal shall be signed by the proposer and seconder and handed to the Speaker and shall be dealt with in terms of the provisions of these rules.
- (4) The proposer contemplated in terms of sub-rule (2) shall have the right to reply.

11. Order of business of ordinary meeting

- (1) The order of business of an ordinary meeting convened in terms of rule 8 shall be as follows –
 - (a) opening;
 - (b) applications for leave of absence;
 - (c) official notices;
 - (d) proposals of condolence or congratulations by the Speaker;
 - (e) proposals of condolence or congratulations by other members;
 - (f) minutes of previous meeting;
 - (g) report of the Mayor;

- (h) report of the Municipal Manager;
 - (i) report of the Executive Committee;
 - (j) questions in respect of which notice has been given;
 - (k) motions or proposals deferred from previous meetings;
 - (l) petitions; and
 - (m) new motions.
- (2) After the matters referred to in paragraphs (a) to (b) of sub-rule (1) have been considered, the Council may at its discretion bring forward any business which is on the agenda.
- (3) If a proposal in terms of sub-rule (1) (d) or (e) is opposed, then such proposal shall lapse without further discussion.

12. Sitting days

The sitting time of the Council is 10h00 or any other time as the Speaker may determine, until the Council is adjourned for the day.

13. Venue

- (1) The Council sits at the seat of Council.
- (2) The Council may sit at a place other than the seat of Council on the basis of public interest, security or convenience, provided the Council, by resolution –

- (a) identifies the public interest, security or convenience that is the basis for the change of venue;
 - (b) approves the change of venue to a specified place and for a specified period; and
 - (c) specifies the estimated costs of effecting the change of venue and maintaining it for the specified period.
- (3) The business of the Council to be attended to at a sitting of the Council must be set out on in agenda arranged by the Speaker and notice thereof dispensed by the Municipal Manager to the members at least 7 (seven) days prior to the meeting.

14. Public notice of meetings of Council

The Municipal Manager must give 5 (five) days' notice to the public of the date, time and venue of every –

- (a) ordinary meeting of the Council; and
- (b) special or urgent meeting of the Council, except when time constraints make this impossible.

15. Minutes of proceedings

- (1) The Municipal Manager must ensure that all resolutions of the Council are recorded in a minute book and that resolutions adopted by the Council in closed meetings are recorded in a separate minute book.
- (2) The accuracy of the minutes must be considered at the next meeting, failing which, at the meeting thereafter.

- (3) If there is a dispute about the contents of the minutes, then –
- (a) the relevant debate, if it was recorded, must be transcribed;
 - (b) in the absence of a transcription, 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 or report, as the case may be, the Council may by vote decide on the accuracy of the minutes, with only those members who were present at the time of the disputed debate being entitled to vote.
- (4) The Municipal Manager must ensure that the names of members attending any meeting, members who are absent and members who have been granted leave of absence are recorded in the minutes.

16. Opportunity for prayer or meditation

At the start of the proceedings of the Council the Speaker must afford members an opportunity for silent prayer or meditation.

17. Interruption, suspension or adjournment of proceedings

- (1) The Speaker may interrupt, suspend or adjourn proceedings of the Council, provided that –
- (a) prior consultation takes place with the Mayor, Chief Whip and Party Whips; and

(b) good cause exists for such interruption, suspension or adjournment.

(2) During an adjournment the Speaker may change the date, time or venue for the resumption of proceedings.

18. Orders to leave sittings

The Speaker may, at a sitting of the Council, order a member of the public to leave the Chamber when it is necessary to give effect to the measures taken by the Speaker under rule 8(8)(g).

19. Removal of persons

When instructed by the Speaker, an authorised official must remove or arrange for the removal of a person –

(a) who, without permission, is present in that part of the Chamber designated for members only or in another place which is out of bounds for that person; or

(b) who disrupts the proceedings of the Council, causes a nuisance, does not leave the Chamber when ordered to leave in terms of rule 18, or in any other way contravenes a material provision of this by-law.

20. Visiting provincial or national government representatives

The Speaker, after consultation with the head of a delegation, may invite any representative of the provincial or national government, who is on a visit to the Council, to address the Council.

CHAPTER 4
ORDER IN MEETINGS AND RULES OF DEBATE

21. Order of Business

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

- (a) the motion be amended;
- (b) consideration of the question be postponed;
- (c) the Council adjourns;
- (d) the Council adjourns for a caucus meeting;
- (e) the debate be adjourned;
- (f) the question be put; and
- (g) the Council proceeds to the next business.

22. That the motion be amended

- (1) Every amendment shall be relevant to the motion in respect of which it is moved.
- (2) An amendment shall be placed in writing, signed by the mover, handed to the Speaker or Municipal Manager and 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 then the amendment last proposed shall be put to the vote first, and if carried then the question shall be resolved accordingly.
- (5) If the amendment last proposed is not carried, then the amendment proposed immediately prior to such amendment shall be put to the vote.
- (6) No further amendment shall be moved in respect of a motion or amendment after the Speaker has commenced to take a vote on such motion or amendment.

23. 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 placed in writing.
- (3) The mover of such motion may speak for no more than 10 (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 or 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 upon, then the question shall be placed first on the list of points of discussion for the day on which the postponed motion shall be considered.

24. That the Council adjourns

- (1) A member may, except during the course of a speech by another member or while a vote is being taken, move that the Council or the Committee adjourns.
- (2) Such motion shall be seconded but need not be put in writing.
- (3) The mover may speak to the motion for 5 (five) minutes, but the seconder shall not speak beyond formally seconding the motion.
- (4) If the motion is carried then Council shall adjourn immediately, provided that the Speaker may direct that the meeting proceed first to dispose of unopposed business.
- (5) If a motion that the Council adjourns is not carried then the Speaker shall not accept another such motion until a period of 30 (thirty) minutes has elapsed.
- (6) A specific member shall not, on the same day and during the course of any one meeting of the Council, move or second more than one motion to adjourn.
- (7) No discussion on a motion to adjourn shall be permitted, provided that –
 - (a) the mover may speak to the motion, as contemplated in terms of sub-rule (3); and
 - (b) the member who first rises for such purpose may speak against the motion for no more than 5 (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 may be set out in the agenda for the meeting.
- (11) Notwithstanding the provisions of rule 17(1), the Speaker has the right to adjourn a meeting at any time after every 2 (two) hours for a maximum of 10 (ten) minutes, but not during the taking of a vote.

25. That the Council adjourns for a caucus meeting

- (1) A Party Whip may, at any time, except while a vote is being taken, move that the Council adjourns for a caucus meeting.
- (2) Such motion shall be seconded but need not be placed in writing.
- (3) The mover may speak to the motion for 5 (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. In this regard –
 - (a) if the request is refused by the Speaker then he or she shall give reasons for refusing such request, the said reasons to be entered in the minutes;
 - (b) the ruling of the Speaker on the request will be final and shall not be open for discussion; and

(c) if the request for a caucus meeting is approved by the Speaker then the Council shall adjourn immediately, provided that the Speaker may direct that the meeting proceeds 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, then the Council shall proceed with its normal business, provided that a quorum of members is present.
- (8) If a quorum of members is not present, then meeting shall adjourn for 10 (ten) minutes and where the caucus members do not return within 10 (ten) minutes the meeting will be closed by the Speaker and the reasons for such closure will be stated in the minutes.

26. That the debate now be adjourned

- (1) After 30 (thirty) 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 5 (five) minutes, but the seconder shall not speak beyond formally seconding it.

- (4) Save as provided in sub-rule (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 5 (five) minutes.
- (5) If such motion is carried, then the meeting shall proceed to the next business on the agenda and 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.

27. That the question be put

- (1) After 30 (thirty) minutes of debate on a specific matter, a member may move, without discussion, that the question be put. In this event –
 - (a) the motion, if seconded, shall be put immediately; and
 - (b) if the motion is carried then the question with regard to the motion under discussion shall be put immediately.

- (2) A second motion that the question be put shall not be moved within a period of 15 (fifteen) minutes of a decision in respect of the first motion.

28. That the Council proceeds to the next business

- (1) After 30 (thirty) minutes of debate on a specific matter, a member may move, without discussion, that the Council proceeds to the next business and the motion, if seconded, shall be put immediately.
- (2) When a motion is carried that the Council proceeds 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 15 (fifteen) minutes of such first motion.

29. Freedom of speech

Members –

- (a) shall have freedom of speech in the Council, in its Committees and Sub-Committees, subject to these rules; and
- (b) shall not be liable to civil or criminal proceedings, arrest, imprisonment or damages for-
- (i) anything that they have said in, produced before or submitted to the Council or any of its Committees or Sub-Committees; or

- (ii) anything revealed as a result of anything that they have said in, produced before or submitted to the Council or any such Committee or Sub-Committee.

30. Movement in Chamber

A member of the Council may not –

- (a) pass between the Speaker and a member addressing the Speaker;
- (b) pass between the Speaker and the Table; or
- (c) stand in any of the passages in the Chamber.

31. Members may not be interrupted

No member may interrupt another member who is addressing the Speaker, except to call attention to a point of order or a question of privilege.

32. Precedence of the Speaker

Whenever the presiding Speaker rises during a debate in the Council, a member addressing or seeking to address the Speaker must sit down and allow the Speaker to be heard without interruption.

33. Member ordered to leave

- (1) The Speaker may order a member to leave the Chamber immediately for the remainder of the day's sitting if the Speaker is of the opinion that-

- (a) the member is deliberately contravening a provision of these rules;
 - (b) the member is in contempt of or is disregarding the authority of the Speaker; or
 - (c) the member's conduct is grossly disorderly.
- (2) A member ordered to leave the Chamber may not participate in any Council activities during that day.

34. Censure of member

If the Speaker is of the opinion that the behaviour of a member is of so serious a nature that an order to leave the Chamber for the remainder of the day's sitting is inadequate, then the Speaker may order the offending member to leave the Chamber until the Speaker has announced what action is to be taken against the member.

35. Grave disorder

In the event of grave disorder at a sitting of the Council, the Speaker may suspend the proceedings or adjourn the sitting.

36. Members to address Speaker

A member must address the Speaker when speaking and, if possible, must stand while doing so.

37. Calling of members

- (1) A member may speak in a debate in the Council only when called by the Speaker.

- (2) The Speaker must call members in accordance with –
 - (a) a list of scheduled speakers for the debate; and
 - (b) the times allocated for speeches by members representing different wards or parties.
- (3) The list of scheduled speakers must be prepared by the Party Whips, in consultation with each other.

38. Time limits for speeches

- (1) Except where these rules provide otherwise, members may not speak in a debate in the Council longer than the time allocated to them in the list of scheduled speakers.
- (2) If or in so far as times have not been allocated, then –
 - (a) the Council member in charge of the business before the Council may speak for as long as may be needed; and
 - (b) other members may not speak on a budget vote for longer than 5 (five) minutes at a time or on any other business before the Council for longer than 3 (three) minutes at a time.

39. Offensive and unbecoming language

No member may –

- (a) use offensive or unbecoming language in the Council; or
- (b) deliberately make a statement in the Council which the member knows is false.

40. Rule of anticipation

- (1) No member, while addressing the Council, may anticipate the discussion of a matter appearing on the agenda.
- (2) In determining whether an address to the Council is out of order on the ground of anticipation, the Speaker must consider whether it is probable that the matter anticipated will be discussed in the Council within a reasonable time.

41. Explanations

- (1) During a debate in the Council a member may be allowed to explain a previous speech but only when and to the extent that the speech has been misquoted or misunderstood in a material respect.
- (2) The member giving the explanation may not introduce any new matter.
- (3) No debate on the explanation may be allowed.
- (4) A member may, with the prior consent of the Speaker, explain a matter of a personal nature to the Council.
- (5) The member may not speak for longer than 3 (three) minutes and is strictly confined to vindicating his or her own conduct.

42. Points of order

When a point of order is raised, the member addressing the Speaker must stop speaking and sit down and after the point of order has been stated the Speaker may summarily give or reserve his or her ruling or decision.

43. Acting for absent member

If the member in charge of a motion is absent from the Council, then another member authorised by the absent member may take charge of the motion.

44. Rights of member to speak

A member may speak in the Council –

- (a) when called by the Speaker; or
- (b) to a point of order.

45. When reply allowed

A reply must be allowed to a member –

- (a) who introduced a subject for discussion; or
- (b) who is in charge of the order of the day under discussion.

46. Debate closed

A reply to a debate closes the debate in the Council unless the Speaker allows further discussion.

47. Postponed questions put without further debate

A question that was postponed after the debate on it was concluded in the Council must be put without further debate.

48. Questions put again

If the Speaker has put a question and it is not heard or understood, then the question must be put again.

49. Question fully put

(1) No member, except a member who is permitted to make a declaration of vote, may speak to any question after it has been fully put by the Speaker.

(2) A question to be decided by the votes of individual members is fully put when both the "Yes" and the "No" votes have been given on it.

50. Absence of quorum for decisions

(1) When a question before the Council is to be decided by the votes of individual members and fewer than $\frac{1}{3}$ (one third) of the members are present when the vote is to be taken, the bell must be rung for 3 (three) minutes.

(2) If at least $\frac{1}{3}$ (one third) are still not present after the bell has been rung then the Speaker must postpone the decision of the question.

51. Declaration of vote

(1) When a question to be decided by the votes of individual members has been fully put, the Speaker, on request, may allow a member of each political party to state the reasons why the party is in favour of or against the question.

- (2) Such reasons shall be restricted to a speech of no more than 3 (three) minutes.

52. Recording of opposition

- (1) Where a question to be decided by the votes of individual members is put by the Speaker, a member may request that his or her opposition to the question, or the opposition of his or her political party, be recorded in the minutes.
- (2) The recording of a member's or political party's opposition shall not preclude the said member's or party's participation in any discussion or debate pertaining to the question.
- (3) The Speaker may determine the manner in which a vote is to be conducted in the event of the recording of opposition.

53. Unopposed business

- (1) When a meeting of the Council has been in progress for not less than 2 (two) hours, the Speaker may interrupt the proceedings and direct that the Council proceed immediately 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 further meeting.
- (3) For the purposes of this by-law, an item on the agenda shall be deemed to be opposed business if a member has indicated his or her intention to discuss such item immediately after the Speaker has informed 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.

54. Demand for division

- (1) After a question has been put and the Speaker has indicated whether either the "Yes" or the "No" vote has carried it, any member may demand a division.
- (2) If fewer than 4 (four) members support the demand for a division, then the Speaker must immediately declare the decision on the question.
- (3) If 4 (four) or more members support the demand, then a division must take place and without debate.

55. Procedure for divisions

A division shall take place in accordance with the following procedure –

- (a) the Speaker must order the bell to be rung and, after the bell has rung for 3 (three) minutes, order the doors to the Chamber to be locked;
- (b) when the doors have been locked, no member is allowed to enter or leave the Chamber until the result of the division has been declared;
- (c) the Speaker must put the question again and instruct the "Yes" votes, the "No" votes and the members abstaining to take their seats in areas designated by the Speaker;
- (d) the Secretary must record the names and numbers of the members in the various designated areas, provided that the

Speaker may appoint tellers from among the members present to assist in recording the names and numbers; and

- (e) when the names and numbers have been recorded the Speaker must declare the result of the division.

56. Points of order during division

While a division is in progress, members may speak to a point of order arising out of or during the division.

57. Confusion or error during division

In the event of confusion or error in a division, the procedure set out in rule 55 must be repeated, provided that if there is an inaccuracy in the numbers of the votes and these numbers can accurately be corrected in another, less cumbersome way, then the procedure need not be repeated.

58. Correction of minutes

If the numbers have been inaccurately reported or any errors occur in the names on the division list, then the Speaker must order the minutes of the proceedings to be corrected.

59. Same question rule

- (1) A matter proposed for discussion in the Council may not in substance be the same as a matter that has been discussed in the Council during the preceding 6 (six) months.
- (2) A draft resolution proposed for approval by the Council may not in substance be the same as a draft resolution which has been

approved or rejected by the Council during the preceding 6 (six) months.

- (3) Sub-rule (2) does not prevent the Council from amending or rescinding any order, resolution or vote of the preceding 6 (six) months.

60. No amendment to draft resolution

No amendment to a draft resolution may be proposed, except an amendment –

- (a) on a question of privilege;
- (b) to replace the name of a member in the draft resolution with the name of another member; or
- (c) allowed by the Speaker.

61. Rescission of resolution

- (1) If a member wishes to give notice of his or her intention to move the rescission or alteration of a resolution, or part thereof, then –
- (a) the member shall deliver a written notice of motion to the Municipal Manager, which shall be –
 - (i) signed and dated by the said member; and
 - (ii) state at which meeting of the Council it will be introduced;

- (b) the notice of motion shall be delivered to the Municipal Manager at least 10 (ten) working days before the meeting; and
 - (c) in addition to the requirements of sub-rule (a), the notice of motion shall state that –
 - (i) the member will move that the stated resolution be rescinded or altered, as the case may be; and
 - (ii) in the case of an intended alteration, the exact alteration desired shall be stipulated.
- (2) If a Committee has resolved to recommend to the Council that a resolution or part thereof be rescinded or altered, then –
- (a) notification to move such rescission or alteration shall be given by including a recommendation to this effect in a report of the Committee to Council;
 - (b) the Municipal Manager shall send a copy of such report and details of the meeting at which it will be considered to each member –
 - (i) at the address furnished by the member for delivery of notices and documents; and
 - (ii) at least 24 (twenty-four) hours before such meeting.
- (3) Subject to the recommendation of a Committee, a resolution or part thereof shall not reviewed at any meeting of the Council

unless the permission of the majority of the members present has been obtained.

62. Recommendation of Committee

- (1) The adoption of a recommendation included in a report of a Committee shall be deemed to have been moved by the chairperson of such Committee.
- (2) In the absence of a chairperson or when he or she opposes a recommendation, the adoption of a recommendation contemplated in terms of sub-rule (1) shall be deemed to have been moved by a member of such Committee duly delegated to do so.
- (3) The motion to adopt the recommendation need not be seconded and the chairperson of the Committee in question shall not be precluded from exercising his or her right to speak thereon.
- (4) Any matter submitted for decision in terms of sub-rule (1) may be amended prior to a decision being taken thereon.
- (5) Notwithstanding sub-rule (3), a recommendation to amend must be seconded.
- (6) The Council must decide a recommendation to amend first and only thereafter take a decision on the substantive matter before it.
- (7) An amendment may not result in the negation of the matter submitted for a decision.

63. Motions without notice

Notice of motion must be given, except when –

- (1) an amendment to a draft resolution is proposed in terms of these rules;
- (2) a motion arises out of a question of privilege;
- (3) the postponement or discharge of or giving precedence to an order of the day is proposed;
- (4) the referral of a by-law to a committee is proposed;
- (5) the member in charge proposes a draft resolution on the report of a committee immediately after the debate on the report has been concluded;
- (6) all the members present unanimously concur that the motion be dispensed without notice;
- (7) these rules specifically provide otherwise; or
- (8) the Speaker rules that notice may be dispensed with in any particular case.

64. Notice of motion

- (1) When giving notice of a motion a member must –
 - (a) read it aloud and deliver at the Table a signed copy of the notice; or

(b) deliver to the Secretary a signed copy of the notice, on any working day, for inclusion on the agenda.

(2) A written notice of motion delivered to the Secretary after 12h00 on any working day may be placed on the agenda only after the expiry of 24 (twenty four) hours unless the Speaker directs otherwise.

(3) No motion may be proposed on the day on which notice is given, except if all the members present unanimously concur.

65. Acting for absent member

A member authorised by an absent member may give notice of a motion on behalf of the absent member.

66. Speaker may amend notices

A notice of motion which offends against practice or these rules may be amended or otherwise dealt with as the Speaker may decide.

67. Question of privilege

An urgent motion directly concerning the privileges of the Council shall take precedence over other motions and orders of the day.

68. Withdrawal and lapsing of motion

(1) A member who has proposed a motion may propose without notice that it be withdrawn.

(2) A motion on the agenda which has not been disposed of when Council concludes business on the last sitting day in any year shall lapse upon the said conclusion of business.

69. Matters of public importance

- (1) A member may, on any sitting day of the Council, request the Speaker in writing to allow a matter of public importance to be discussed by the Council.
- (2) If the matter affects the Council, then the Speaker may grant the request and –
 - (a) place the matter on the agenda or, if it is an urgent matter and the Council is sitting, allow the discussion to take place on the day the request is made after having considered the availability of members to participate in the debate;
 - (b) allocate a period of time for the discussion; and
 - (c) arrange for a member or other person to reply to the debate.
- (3) Such a discussion may not exceed the time allocated to it by the Speaker.
- (4) At least 15 (fifteen) minutes before the expiration of the allocated time, if a member, other than the person replying to the debate, is still speaking then the Speaker must interrupt the said member and allow that person to reply if that person so wishes.
- (5) Questions of privilege may not be discussed under this rule.
- (6) Matters already discussed by the Council during an annual session may not be discussed under this rule during the same session.

- (7) Rule 26 shall not apply to a debate contemplated in terms of this rule.

CHAPTER 5 PUBLIC ACCESS

70. Meetings open to the public

- (1) Subject to sub-rule (4), members of the public have the right to attend all Council meetings and Committee meetings.
- (2) The Municipal Manager must put up a notice outside the town hall on which appear, in the languages designated by Council, the time, date, place and agenda, subject to sub-rule (5), of all Council meetings and all Committee meetings.
- (3) Save where he or she is precluded by the urgency of the meeting from doing so, the Municipal Manager must give notice, by publication in at least the local or regional newspaper and in the languages designated by Council, of the time, place, date and agenda, subject to sub-rule (5), of all Council meetings.
- (4) Subject to the provisions of section 20 (2) of the Municipal Systems Act, the Speaker, in the case of the Council, or the Mayor, in the case of the Executive Committee, or the chairperson, in the case of any other Committee, may close a meeting or part of the proceedings of a meeting to the public if, in his or her reasonable opinion –
 - (a) there may be unlawful disclosure to the public of personal information regarding any person;
 - (b) trade secrets of any person may be disclosed;

- (c) financial, commercial, scientific or technical information, other than trade secrets of any person, may be disclosed and such disclosure would be likely to cause harm to the financial or commercial interests of such person;
- (d) information which has been supplied in confidence by any person may be disclosed and such disclosure could reasonably be expected to place such person at a disadvantage in contractual or other negotiations or to prejudice such person in commercial competition;
- (e) information may 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;
- (f) information may be disclosed which 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;
- (g) information, privileged from production in legal proceedings, may be disclosed;
- (h) information may 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 financial or commercial 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

- (i) information may 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.
- (5) The agendas of Council and Committee meetings contemplated in terms of sub-rules (2) and (3) hereof need not reflect those items in respect of which the meeting will be closed to public.
- (6) A decision in terms of sub-rule (4) to exclude the public must be taken by the Committee or Sub-Committee concerned, provided that the chairperson of the committee or Sub-Committee may at any time –
 - (a) before the start of the meeting, rule that the meeting must take place in closed session, provided that the Committee or Sub-Committee may at any time after the start of the meeting open the meeting; or
 - (b) close the meeting for a decision by the Committee or Sub-Committee as to whether the Committee or Sub-Committee should consider any matter in closed session.
- (7) The Municipal Manager must-
 - (a) set aside places for the public during Committee and Sub-Committee meetings; and
 - (b) determine the entrances and routes in respect of which the public can obtain access to the places where Committees and Sub-Committees meet.

(8) The Municipal Manager may take reasonable and lawful measures to –

- (a) regulate public access, including access of the media, to Committees and Sub-Committees;
- (b) prevent and control misconduct of the public during Committee and Sub-Committee meetings; and
- (c) provide for the searching of any person, including that person's vehicle or other property in that person's possession, and, where appropriate, the refusal of entry to or the removal of any person

71. Exclusion of members of the public from meetings

The member presiding at a meeting of a Committee or Sub-Committee may order a member of the public to leave the meeting –

- (a) when the public is excluded from a meeting in terms of rule 70 (4); or
- (b) when necessary to give effect to the measures taken by the Municipal Manager under rule 70 (8).

72. Removal of persons

When instructed by the Speaker or by a person duly delegated thereto, an authorised official must remove or arrange for the removal of any person who –

- (a) without permission, is present in that part of a Committee room designated for members of the Committee or Sub-Committee only;

- (b) disrupts the proceedings of a Committee or Sub-Committee or causes a nuisance; or
- (c) does not leave when ordered to leave in terms of rule 71.

73. Reports of the Executive Committee

- (1) A report submitted by the Executive Committee shall first contain the matters in respect of which recommendations are made and where no powers have been delegated to the Executive Committee and thereafter the matters which have been delegated to the Executive Committee.
- (2) Unless an item is submitted to the Council for information only, every item relating to matters in respect of which the Executive Committee has no delegated powers shall contain a recommendation which may be adopted by the Council.

74. Delivery of reports of Executive Committee

A report of the Executive Committee, with the exception of a report accepted by the chairperson as a matter of urgency, shall for the purposes of a meeting be served in the manner provided in these rules.

75. Moving of report of the Executive Committee

- (1) The chairperson of the Executive Committee, or a member called upon by the chairperson to do so, shall submit a report of the Executive Committee to a meeting by requesting that the report be considered and such request shall not be discussed.
- (2) Where the report of the Executive Committee is considered, the chairperson shall order the recommendations, in that part of the report in respect of which the Executive Committee has no

delegated powers, point by point unless he or she sees fit to vary the order.

- (3) The recommendations in the report of the Executive Committee, as discussed in terms of sub-rule (2), shall be deemed to have been proposed and seconded.
- (4) If a recommendation, contemplated in terms of sub-rule (2), has been adopted, then such recommendation shall become a resolution of the Council.
- (5) After the conclusion of matters in respect of which the Executive Committee has no delegated powers, the Speaker shall permit debate on the matters delegated to the Executive Committee, provided that-
 - (a) such debate shall be limited to a period not exceeding 1 (one) hour or such extended period as the Council may determine;
 - (b) a member, except the chairperson of the Executive Committee, shall not speak on such matters for longer than 10 (ten) minutes;
 - (c) no other proposal shall be submitted during such debate, except a proposal that the Executive Committee be requested to reconsider its recommendation; and
 - (d) during such debate a member may request that his or her opposition to a recommendation, in respect of which the Executive Committee has delegated powers, be minuted after which the Municipal Manager shall cause to be minuted such opposition and any reasons therefor.

76. Consideration of the budget

Notwithstanding anything to the contrary in these rules, the following provisions shall apply when the budget is considered by the Council –

- (a) no proposal which is designed to increase or decrease the estimated revenue or expenditure of the Council shall be put to the vote before the debate on the budget has closed;
- (b) after the debate on the budget has been closed, the Speaker shall put to the vote the proposals contemplated in terms of sub-rule (a) in the order in which they were proposed;
- (c) if any proposal contemplated in terms of sub-rule (a) is accepted, then –
 - (i) the meeting may be adjourned to a date and time determined by the Speaker, in which event the budget shall not be deemed to have been amended by said proposal; or
 - (ii) where a Speaker does not adjourn the meeting, the budget shall be deemed to have been amended in accordance with the said proposal;
- (d) subsequent to an adjournment in terms of sub-rule (c)(i), the Executive Committee shall investigate the implications of every proposal accepted and shall report thereon to the Council when the meeting resumes;
- (e) after the Executive Committee has reported in terms of sub-rule (d), the Speaker shall permit debate on the proposals accepted; and

- (f) thereafter, the Speaker shall put every such proposal to the vote again and if such proposal is accepted then the budget shall be amended in accordance with that resolution.

77. Petitions

- (1) A petition may be submitted by a member in the course of a meeting and he or she shall not be obliged to mention or divulge the contents or the title thereof when it is submitted.
- (2) A petition as contemplated in terms of sub-rule (1) shall be referred to the Executive Committee for a report to the Council.

78. Publication of proceedings, evidence, reports, etc

- (1) Any document produced or under consideration by a Committee or Sub-Committee shall be accessible to the public, provided that the documents or information listed hereunder may not be published or disclosed –
- (a) the proceedings of or information placed before a Committee or Sub-Committee from which the public were excluded in terms of rule 70 (4);
- (b) any report or summary of such proceedings or information;
- (c) any document placed before or presented to the Committee or Sub-Committee as a confidential document;
- (d) any document –
- (i) submitted or to be submitted to members of the

Committee or Sub-Committee as a confidential document by order of the chairperson of the Committee or Sub-Committee; or

- (ii) subsequent to its submission to members, declared by the chairperson as a confidential document.
- (2) Notwithstanding the provisions of sub-rule (1), permission may be given by the Committee or Sub-Committee in question, the Speaker or the Council for the said documents or information to be published or disclosed.
- (3) The permission authorising the publication or disclosure of the documents or information contemplated in terms of sub-rule (1) may provide that specific parts of or names mentioned in a document or information may not be published or disclosed.
- (4) For the purposes of sub-rule (1) a document is under consideration by a Committee or Sub-Committee when –
 - (a) the presiding member places the document or permits the document to be placed before the Committee or Sub-Committee; or
 - (b) a person, appearing before the Committee or Sub-Committee, presents the document to the Committee or Sub-Committee.
- (5) Sub-rule (1) shall apply to documents or information that –
 - (a) contain private information that is prejudicial to a particular person;

- (b) are for any other reason privileged or confidential in terms of the law;
- (c) are subject to a media embargo, until the embargo expires; or
- (d) are of such a nature that their privileged or confidential treatment is reasonable and justifiable in an open and democratic society.

CHAPTER 6 COUNCIL COMMITTEES

79. Establishment of Committees

Council shall have the following Committees:-

- (a) an Executive Committee;
- (b) a Mayoral Committee
- (c) an Audit Committee;
- (d) an Administration Committee;
- (e) a Finance Committee;
- (f) a Human Resources Committee;
- (g) a Public Works and Services Committee;
- (h) a Socia-Economic Development Committee; and

- (i) any other Committee that Council may appoint.

80. Executive Committee

In giving effect to the powers and functions set out in section 44 of the Municipal Structures Act, the Executive Committee must-

- (a) meet as often as is reasonably required in order to exercise and perform its powers and functions effectively, but no less often than once every month;
- (b) ensure that it receives monthly reports from the Committees referred to in rule 79 and report a defaulting Committee to Council if no report has been received in any particular month from such Committee;
- (c) consider monthly reports at a meeting convened for the succeeding month and –
 - (i) dispose of the matters raised in such reports to the extent that it is able to do so pursuant to its delegated powers; and
 - (ii) make recommendations on such matters as it is unable to dispose of and forward the reports together with such recommendations to the Council;
- (d) keep minutes of all its meetings, which minutes it must, after they have been adopted at the next meeting, be forwarded to the Council.

81. Mayoral Committee

- (1) The Mayor shall appoint a Mayoral Committee from amongst the members of the Council where the Council has more than 9 (nine) members.
- (2) In appointing a Mayoral Committee, the Mayor shall exercise the powers and perform the functions contemplated in terms of Section 60 of the Municipal Structures Act.
- (3) The Mayoral Committee shall consist of –
 - (a) the Deputy-Mayor, if any; and
 - (b) as many members as may be necessary for effective and efficient government, provided that no more than 20% (twenty percent) of the members or 10 (ten) members, whichever is the least, are appointed.
- (4) The Mayor and members of the Mayoral Committee shall exercise and perform the powers and functions designated by the Council.

82. Audit Committee

The audit committee shall be responsible for -

- (a) internal audits;
- (b) accounting policies;
- (c) the adequacy, reliability and accuracy of financial reporting and information;

- (d) compliance with applicable legislation; and
- (e) any other matter referred to it by Council.

83. Administration Committee

The Administration Committee shall be responsible for the following -

- (a) to ascertain that the administration of the Council is responsive to the needs of the local community;
- (b) to facilitate a culture of public service and accountability amongst its staff;
- (c) to ensure that the administration of the Council is performance orientated and focused on the objects of local government set out in section 152 of the Constitution and the developmental duties as required by section 153 of the Constitution;
- (d) ensuring that Council's political structures, political office bearers and managers and other staff members align their roles and responsibilities with the priorities and objectives set out in the Municipality's integrated development plan;
- (e) establishing clear relationships and facilitate co-operation, coordination and communication between -
 - (i) the Council's political structures, political office bearers and administration;
 - (ii) the parties indicated in terms of sub-rule (e)(i) and the local community;

- (f) assigning clear responsibilities for the management and coordination of Council's administrative units and mechanisms;
- (g) to hold the Municipal Manager accountable for the overall performance of the administration;
- (h) maximising efficiency of communication and decision-making within the administration;
- (i) to delegate responsibility to the most effective level within the administration; and
- (j) to ensure that an equitable, fair, open and non-discriminatory working environment is provided.

84. Finance Committee

The Finance Committee shall be responsible for the following -

- (a) internal financial control;
- (b) risk management;
- (c) performance management;
- (d) effective financial governance;
- (e) compliance with the Local Government : Municipal Finance Management Act, 2003 [Act No. 56 of 2003] and any other applicable legislation;
- (f) performance evaluation; and
- (g) any other matter referred to it by Council.

85. Human Resources Committee

- (1) The Human Resources Committee shall be responsible for formulating the Municipality's policy on –
- (a) the administration of the Municipality, including information services and information technology;
 - (b) the appointment, dismissal and retrenchment of municipal employees;
 - (c) the preparation of job descriptions and employment contracts of municipal employees;
 - (d) the resolution of disputes between employees, and between employees and the Municipality.
- (1) The Human Resources Committee shall also be responsible for ensuring that the Municipal Manager properly performs his or her functions in terms of section 55 of the Municipal Systems Act, in so far as those functions relate to the matters set out in sub-rule (1), and for reporting to Council on any concerns it has regarding the Municipal Manager's performance in this regard.

86. Public Works and Services Committee

- (3) The Public Works and Services Committee shall be responsible for –
- (a) the provision and maintenance of municipal services such as bulk water, electricity, sewage disposal and solid waste disposal;
 - (b) fire and health services;

- (c) markets, abattoirs and cemeteries;
- (d) local amenities;
- (e) the establishment, regulation, operation, management and control of passenger transport services;
- (f) the establishment, operation, management, control and regulation of roads within the municipal area; and
- (g) the control of traffic and provision, regulation and control of parking.

87. Socio-Economic Development Committee

The Socio-Economic Development Committee shall be responsible for-

- (a) economic and social development;
- (b) tourism, sport and recreation;
- (c) libraries and museums;
- (d) health services;
- (e) environmental management;
- (f) housing and planning;
- (g) air pollution; and
- (h) civil protection.

88. The appointment of Committees

- (1) The members and chairperson of the Committees set out in sub-rule 79 shall be appointed by the Council.
- (2) The Council must first determine the number of members for each Committee, having due regard to the need to ensure a fair distribution of the work load among its members.
- (3) Thereafter the Speaker must call for nominations for appointment to each Committee.
- (4) If there are more nominations for a Committee than seats available on such Committee, then an election must be held by a show of hands.
- (5) The Speaker shall retain the power to alter the outcome of an election in order to ensure fair representation of all political parties and interests on each Committee, but may do so only on the following basis –
 - (a) a member representing any particular political party or interest group may not be replaced by a member of another political party or interest group where the latter member's political party or interest group is already fairly represented on the Committee in question; and
 - (b) a member may not be appointed to a Committee by the Speaker unless the said member obtained more votes than any other member of the same political party or interest group.

89. The duties of Committees

- (1) The Executive Committee must regularly report in writing to the Council with regard to its activities and no less often than once a month.
- (2) The other Committees must report in writing to the Executive Committee with regard to their activities and -
 - (a) in the case of the Human Resources Committee, whenever it has met;
 - (b) in the case of the remaining Committees, no less often than once a month.
- (3) The Municipal Manager must ensure that minutes are kept of all meetings of Committees, copies of which must, once adopted, be forwarded -
 - (a) in the case of the Executive Committee, to the Council; and
 - (b) in the case of the other Committees, to the Executive Committee.

90. Voting in Committees

- (1) A Committee shall be deemed to have obtained a quorum where a majority of its members are present.
- (2) Decisions must be made on the basis of the majority vote of members present.

- (3) In the event of any equality of votes, the chairperson must exercise a casting vote.

91. Attendance at Committee meetings

- (1) The Speaker, the Mayor and members have the right to attend meetings of any Committee 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.

CHAPTER 7

THE CONDUCT OF COMMITTEE MEETINGS

92. The chairperson

- (1) The chairperson of the Executive Committee shall be the Mayor, or in the event that he or she is for any reason not available, a member amongst those who shall be nominated and appointed by the Mayor to act as chairperson.
- (2) All other Committees will be chaired by the person elected by Council to do so.
- (3) Subject to sub-rule (1), in the event that the chairperson is for any reason not available to chair a meeting, an acting chairperson must be elected from amongst the members present.
- (4) The chairperson must –
 - (a) maintain order during meetings;

- (b) ensure compliance with the Code of Conduct and the Council's rules of order as adopted from time to time;
 - (c) ensure that meetings are conducted in accordance with this by-law;
 - (d) ensure that members conduct themselves in a dignified and orderly manner; and
 - (e) ensure that members of the public attending any meetings conduct themselves in an orderly manner and obey any rulings made by the chairperson.
- (5) The ruling of the chairperson with regard to the application of this chapter and any other procedural matters shall be final and binding on the meeting.

93. Notice of meetings

- (1) Meetings of all Committees, as contemplated in terms of rule 79, shall take place once every month, unless Council determines otherwise.
- (2) A chairperson must give at least 48 (forty-eight) hours' notice of such meeting to the Committee members.
- (3) In the case of any urgent meeting, the chairperson must give the Committee members notice as far in advance as he or she is practically able to do.
- (4) The chairperson must determine whether any meeting is urgent or not.

- (5) The chairperson must, after receiving a written request signed by a majority of the members of any Committee, call a meeting of that Committee.

94. Quorum

- (1) The quorum for a meeting of any Committee is a majority of its members.
- (2) Where there is no quorum –
- (a) the commencement of the meeting must be suspended for no more than 30 (thirty) minutes or until a quorum is obtained, whichever is the sooner;
- (b) at the end of the 30 (thirty) minute period and where there is still no quorum, the chairperson may –
- (i) further suspend the meeting for such period as he or she deems appropriate; or
- (ii) adjourn the meeting to another date, time and venue, at his or her discretion.
- (3) In the absence of the chairperson, the meeting shall be adjourned, by operation of this sub-rule, 30 (thirty) minutes after the commencement time.
- (4) In the event of the adjournment of a meeting and before the date to which the meeting is adjourned, the chairperson may refer a matter to the Executive Committee or Mayoral Committee, subject to any directions given by Council in this regard and provided that –

- (a) the matter is deemed urgent enough by the chairperson;
and
- (b) the Executive Committee or Mayoral Committee, as the case may be, may refuse such referral and insist that the matter be discussed at the next meeting of the Committee in question.

95. Agenda

- (1) Subject to sub-rule (2), all meetings must be conducted according to the order in which matters appear on the agenda before the Committee and only matters that are on the agenda may be debated.
- (2) The chairperson, on good cause shown, may change the order of the matters appearing on the agenda and may allow further matters to be added to the agenda.

96. Decisions

- (1) All decisions shall be taken by a supporting vote of the majority of the members present at any Committee meeting.
- (2) The dissent, opposition or abstention of any Committee member must, if that member so requests, be recorded in the minutes of the meeting.

97. Minutes

- (1) The chairperson must ensure that all resolutions of the Committee are recorded in a minute book and that resolutions adopted by the Committee in closed meetings are recorded in a separate minute book.

- (2) The accuracy of the minutes must be considered at the next meeting, failing which, at the meeting thereafter.
- (3) The chairperson must ensure that the names of Committee members attending any meeting, members who are absent and members who have been granted leave of absence are recorded in the minutes.

98. Recommendations

- (1) All recommendations must be submitted to the chairperson of the relevant Committee and must be received by him or her at least 3 (three) days before the Committee meeting.
- (2) The member who submits the recommendation must sign it.
- (3) The recommendation must –
 - (a) set out in precise terms the decision required of the Committee as well as a motivation as to why such decision is required;
 - (b) require a decision which is legal and within the Committee's executive or legislative power; and
 - (c) provide sufficient information to enable a decision to be taken.

99. Amendments to recommendations

- (1) Any matter submitted for a decision in terms of rule 99 may be amended prior to a decision being taken thereon.
- (2) The proposal to amend must be seconded.

- (3) The Committee must decide a proposal to amend first and only thereafter take a decision on the substantive matter before it.
- (4) An amendment may not amount to a negation of the matter submitted for decision.

100. Procedural recommendations

When a matter is under discussion at any Committee meeting, no further debate must be allowed if any of the following procedural recommendations are accepted; that –

- (a) consideration of the matter be adjourned and resumed at a time determined by the chairperson;
- (b) the meeting of the Committee be adjourned and reconvened at a date and time determined by the chairperson;
- (c) the matter be referred to another Committee; or
- (d) the matter be decided immediately.

101. The right of the public to address a Committee

- (1) The chairperson may, at his or her discretion, grant any person the opportunity to address any meeting of the Committee, provided that –
 - (a) any request to do so by the said person shall be –
 - (i) in writing; and

- (ii) clearly state the matter in respect of which the said person wishes to address the meeting;
- (b) the chairperson may dispense with the requirements of sub-rule (1)(a) where –
 - (i) the request is deemed urgent enough by the chairperson; or
 - (ii) the said person is invited to address the meeting by the chairperson.
- (2) In exercising his or her discretion in terms of sub-rule (1), the chairperson should given particular consideration to the question of whether an address by such person will substantially assist the Committee in coming to a decision on any particular matter before it.
- (3) In granting a person such an opportunity, the chairperson may impose such conditions as he or she may deem fit.
- (4) If the chairperson is of the view that the person should rather address another Committee, then –
 - (a) the chairperson must refer any request to the chairperson of the relevant Committee or the Speaker, as he or she deems appropriate; and
 - (b) the chairperson of the relevant Committee or the Speaker, as the case may be, shall exercise his or her discretion with regard to –
 - (i) permitting such an address; and

- (ii) imposing such conditions as may be necessary in the event that the address is permitted.

102. Application of chapter to special Council meetings and Council in Committee

This chapter shall apply to special Council meetings and meetings of Council in Committee, provided that a member may speak more than once at such meetings.

103. Council in Committee

- (1) A member may, at any time after the confirmation of the minutes during a meeting of the Council, move that Council now resolves itself into Committee, in which event –
 - (a) the member shall briefly state the reasons for such motion; and
 - (b) subject to the seconding of such motion, it shall be put to the vote immediately and without discussion.
- (2) If such motion is carried, then the place of meeting shall be cleared of all members of the public and the press.
- (3) A member may, during the course of discussion by Council in Committee, move that Council resumes, in which event –
 - (a) the member shall briefly state the reasons for such motion; and
 - (b) subject to the seconding of such motion, it shall be put to the vote immediately and without discussion.

- (4) Where the Council resumes without the question before Council in Committee having been disposed of, the debate shall resume at the point at which the Council resolved itself into Committee.

CHAPTER 8 PROBITY

104. Application

The provisions of this chapter shall apply to all members, whether in their capacity as members of the Council or of any Committee of the Council.

105. Attendance at meetings

- (1) A member who is unable to attend a meeting of the Council or of a Committee must apply to the Speaker or the chairperson, as the case may be, for leave not to attend such meeting.
- (2) Any application contemplated in terms of sub-rule (1) must be –
- (a) in writing; and
 - (b) submitted to the Speaker or chairperson no later than –
 - (i) 48 (forty-eight) hours in the case of a Council meeting; and
 - (ii) 24 (twenty-four) hours in the case of a Committee meeting,before the meeting takes place.

- (3) If for any reason it is not possible to give notice of absence as contemplated in terms of sub-rule (2), then the application must be given as soon as possible, together with a written explanation as to why the application could not be given timeously.
- (4) It is in the sole discretion of the Speaker or chairperson, as the case may be, as to whether or not such application should be granted.

106. Sanctions for non-attendance at meetings

- (1) Where a member fails to attend a meeting and either failed to apply for leave in terms of rule 105 or made application but leave was refused, the member –
 - (a) shall be guilty of a contravention of this by-law; and
 - (b) may be sentenced to a fine not exceeding R1 000.00.
- (2) In the event that a member is absent from 3 (three) consecutive meetings of the Council or of the relevant Committee, he or she shall, if found guilty, be removed from office as a member.
- (3) For the purposes of determining whether or not a member has contravened this by-law and what sanctions should be imposed, as contemplated in terms of sub-rules (1) and (2) –
 - (a) the Speaker shall appoint a committee of 3 (three) members to –
 - (i) investigate the alleged contravention;
 - (ii) invite the said member to make representations;
and

- (iii) decide whether or not the member is guilty of the contravention, whereupon the committee shall -
 - (aa) advise the Speaker of its finding; and
 - (bb) recommend a fine or other sanction, including removal from office;
- (b) a recommendation by a committee appointed in terms of sub-rule (a) that the member be removed from office shall be referred by the Speaker to the MEC for Local Government;
- (c) any recommendation made by the said Committee must be considered by the Speaker and referred to Council for discussion if he or she deems it necessary, provided that-
 - (i) the Speaker may impose a fine or other sanction, as recommended, without referring the recommendation to Council; and
 - (ii) a recommendation that the member be removed from office may not be effected by the Speaker unless confirmed by the MEC for Local Government after its referral to him or her in terms of sub-rule (3)(b).
- (4) With regard to the time limits applicable in terms of this rule -
 - (a) the Speaker shall appoint a committee, contemplated in terms of sub-rule 3(a), within 10 (ten) working days of a member's alleged contravention;

- (b) the said committee shall advise and make a recommendation to the Speaker, as contemplated in terms of sub-rule (3)(a)(iii), within 20 (twenty) working days of its appointment;
- (c) the imposition of a fine or other sanction by the Speaker or Council, as the case may be, shall be effected as soon as possible by the Speaker or Council, but by no later than 20 (twenty) working days after referral of the recommendation by the Committee or confirmation thereof by the MEC for Local Government; and
- (d) a recommendation that the member be removed shall be
 - (i) referred to the MEC for Local Government by the Speaker, as contemplated in terms of sub-rule (3)(b), within 5 (five) working days of its referral by the committee; and
 - (ii) confirmed or refused by the MEC for Local Government within 20 (twenty) working days of its referral to him or her by the Speaker, as contemplated in terms of sub-rule (3) (b).

107. Declaration of interests

All gifts received by members from any person other than the said member's immediate family and having a value in excess of R250-00 must, within 2 (two) weeks from date of receipt, be declared by such member in writing to the Municipal Manager.

108. Full time member

- (1) Any full time member who wishes to undertake any other paid work must apply in writing to do so to the Municipal Manager.
- (2) The application must include at least the following information –
 - (a) the name of the person for whom the work will be done;
 - (b) the nature of work;
 - (c) the duration of work; and
 - (d) the amount of remuneration for the work.
- (3) Upon receipt of such an application, the Municipal Manager must ensure that it is tabled at the next meeting of the Council for consideration.

**CHAPTER 9
GENERAL PROVISIONS**

109. Regulations

The Council may make regulations not inconsistent with any provision of this by-law, prescribing –

- (a) Any matter that may or must be prescribed in terms of this by-law; and
- (b) Any matter that may facilitate the application of this by-law.

110. Repeal of by-law

Any by-laws relating to the standing orders for Council adopted by the Municipality or any erstwhile municipal council now comprising an administrative unit of the Municipality shall be repealed from the date of promulgation of this by-law.

111. Short title

This by-law is called the By-law Relating to Standing Orders for Council, 2004 and takes effect on a date determined by the Municipality by proclamation in the Provincial Gazette.

Schedule A

NOMINATION FORM FOR ELECTION OF SPEAKER

We, the undersigned members of the Municipal Council of Nkonkobe Municipality, hereby nominate the following person as a candidate for election as Speaker:

.....
(Full name of person nominated in block letters)

.....
(Address)

First Proposer
(Name in block letters and signature)

Second Proposer
(Name in block letters and signature)

I, the abovementioned nominee, do hereby accept the nomination.

.....
Signature

CONTINUES ON PAGE 281 — PART 2