

person mentioned in (a), and

- (d) in the event of the Council being unable to determine the identity of a person mentioned in (a), (b) and (c), any person who is in the opinion of the Council deemed to be in charge of such premises, building or installation;

"premises" means any building, beach, land, terrain, road, vehicle and can include a vessel, train or aircraft;

"site" means any erf, lot, plot, stand or other piece of land on which a building has been, is being or is to be erected;

"Standards Act" means the Standards Act, 1993 (Act 29 of 1993);

"storage vessel" means a pressure vessel as defined in the regulations for pressure vessels promulgated in terms of the Occupational Health and Safety Act;

"summary abatement" means to immediately judge a condition to be a fire hazard or other threatening danger to life or property and to order immediate correction of such condition;

"tank" means a container mounted permanently or temporarily on or embodied in a vehicle and so constructed to be suitable for the containment of flammable liquid or gas cargo;

"underground tank" means a tank used or intended to be used for the storage of flammable liquid wholly sunk into and below the surface of the ground;

"vehicle" means a vehicle as defined in the National Road Traffic Act.

and any reference to an SABS Code shall refer to the relevant Code published by the South African Bureau of Standards and issued in terms of the Standards Act.

CHAPTER 2

FIRE PROTECTION OF BUILDINGS

Reporting a fire hazard and other threatening danger

2. An owner or the person in charge of any premises must, upon discovering any evidence of a fire hazard or other threatening danger pertaining to this by-law, immediately notify the Council of such fire hazard or threatening danger.

Access for emergency vehicles

3. (1) When, in the opinion of the Council, premises are not readily accessible from public roads it must be provided with emergency vehicle access which must -
 - (a) be constructed so that it is capable of supporting the mass of the heaviest emergency vehicle required to cater for the risk of the premises; and
 - (b) where the premises have a motorized or electronically operated gate, be equipped in such a manner that access to the premises can be gained without the use of a motor or electronic device.
- (2) Fire lanes must be provided for all premises which are set back more than 45 metres from a public road or exceed nine metres in height and are set back over 15 metres from a public road.
- (3) Fire lanes must be at least four metres in width, the position of which must be decided upon after consultation with the Council, and the area from ground level to a clearance height of four metres above the fire lane must remain unobstructed.
- (4) A cul-de-sac that is more than 90 metres in length, must be provided with a minimum turning circle at the closed end of the road capable of accommodating the largest emergency vehicle which is required to cater for the risk of the premises.
- (5) The design, marking, use and maintenance of fire lanes not forming part of a public road must comply with the requirements of the Council.
- (6) It is unlawful for a person to park a vehicle in or otherwise obstruct a fire lane.

Division and occupancy separating elements

4. An owner or person in charge of a building may not alter a division or occupancy separating element in anyway that would render it less effective or to allow flame, heat or combustion products from penetrating into the adjacent compartment or structure.

Fire doors and assemblies

5. (1) Subject to the provisions of SABS 1253, a fire door and assembly must be maintained in such a manner that in the event of a fire it retains its integrity, insulation and stability for the time period required for that particular class of door.
- (2) A fire door may be kept open, only when it is equipped with an automatic releasing hold-open device approved by the Council.
- (3) A fire door and assembly may not be rendered less effective through-:
 - (a) altering the integrity, insulation or stability of a particular class of door;
 - (b) disconnecting the self-closing mechanism;
 - (c) wedging, blocking or obstructing the door so that it cannot close;
 - (d) painting the fusible link actuating mechanism of a door;
 - (e) disconnecting or rendering less effective an electric or electronic release mechanism, or
 - (f) any other action that renders a fire door or assembly less effective.

Escape Routes

6. (1) No part of a fire escape route shall be obstructed or rendered less effective in any way.
- (2) A locking device, which is fitted to an access or escape door in an escape route, must be of a type approved by the Council.
- (3) Where required by the Council, an escape route must be clearly indicated with signage, which complies with SABS 1186, indicating the direction of travel in the event of fire or any other emergency.

CHAPTER 3**FIRE SAFETY EQUIPMENT****Fire extinguishers**

7. (1) Fire extinguishers must be provided and installed on premises as required by the National Building Regulations (T1) and (T2).
- (2) Fire extinguishers must be maintained in accordance with the requirements of the Occupational Health and Safety Regulations, SABS 1475: Part 1, SABS 1571, SABS 1573 and SABS 0105: Part I.
- (3) No person may fill, recharge, recondition, modify, repair, inspect or test a fire extinguisher in terms of SABS 1475: Part I, unless such a person is the holder of a permit issued by the South African Bureau of Standards or a certificate of competence issued by the South African Qualifications Certification Committee.
- (4) The owner or person in charge of the premises may not allow a fire extinguisher to be filled, recharged, reconditioned, modified, repaired, inspected or tested by a person not in possession of a permit or certificate mentioned in subsection (3).
- (5) Where a fire extinguisher has been filled, recharged, reconditioned, modified, repaired, inspected or tested by a person not in possession of a permit mentioned in subsection (3), the Council must instruct the owner or person in charge of such premises to have the work carried out by a person who is in possession of such a permit or certificate.
- (6) When, in the opinion of the Council, a fire extinguisher is unsafe or ineffective either by reason of deterioration, design or construction, the Council must instruct the owner or the person in charge of the premises to have the appliance inspected and tested in terms of SABS 1475: Part 1 and SABS 1571.
- (7) A fire extinguisher may not be removed from the premises for filling, recharging, reconditioning, modification, repair, inspection or testing unless the appliance is replaced temporarily with a similar appliance in good working condition.
- (8) A fire extinguisher may not be installed, dismantled, recharged, disconnected, serviced, modified, repaired or tested in an area where such action would create a danger or hazard.

Testing and maintenance of fire protection systems

8. (1) A fire protection system must be tested and maintained on a regular basis and the owner or person in charge of the premises must keep a detailed record of the test and maintenance of the system.
- (2) A person may not test a fire protection system before notifying the occupants of the premises concerned of the starting and completion times of the test, and where applicable, the parties who monitor the fire protection system.
- (3) A fire protection system designed for detecting, fighting, controlling and extinguishing a fire must be maintained in accordance with the National Building Regulations (T2).
- (4) A fire protection system may not be installed, dismantled, recharged, disconnected, serviced, modified, repaired or tested in any area where such action would create a danger or hazard.
- (5) The owner or person in charge of the premises must immediately notify the Council when the fire protection system, or a component thereof, is rendered inoperable or taken out of service and must notify the Council as soon as the system is restored.
- (6) The owner or person in charge of the premises must take all steps deemed necessary by the Council to provide alternate equipment to maintain the level of safety within the premises.

Interference with fire protection systems and fire extinguishers

9. No person shall tamper or interfere with a fire extinguisher or fire protection system, except as may be necessary during emergencies, maintenance, drills or prescribed testing.

CHAPTER 4

PUBLIC SAFETY

Attendance of a service

- 10.(1) When the Council is of the opinion that a representatives of the fire brigade service are required to be in attendance during a function in a place used for entertainment or public assembly, the Council may provide, in the interest of public safety and subject to the exigencies of the service, one or more members, a vehicle or equipment of a service to be in attendance on the premises for the duration of the function or part thereof.

- (2) Where the entertainment or public assembly is taking place on Council property, the costs of the attendance of the representatives of the fire brigade service shall be recoverable from the organizers

Formulation of an emergency evacuation plan

11. (1) The owner or person in charge of a school, hospital, residential institution, hotel, guest house, hostel or other similar occupancy which has a population in excess of 25 persons (including staff), must formulate an emergency evacuation plan detailing the appropriate action to be taken by the staff or the occupants in the event of a fire or other threatening danger.
- (2) The Council may order the owner or person in charge of the premises, other than those contemplated in subsection (1), to formulate an emergency evacuation plan detailing the appropriate action to be taken by the staff or the occupants in the event of a fire or other threatening danger.
- (3) The plan mentioned in subsections (1) and (2) must be revised if an aspect thereof is no longer applicable or if the building for which the plan was designed has changed.
- (4) The emergency evacuation plan must be tested in its entirety at a maximum of six-monthly intervals or when the plan has been revised and a record of the testing must be kept in a register.
- (5) The register mentioned in subsection (4) must contain the following information:
 - (a) the date and time of the test;
 - (b) the number of participants;
 - (c) the outcome of the test and any corrective actions required, and
 - (d) the name and signature of the person supervising the test.
- (6) The register, together with the emergency evacuation plan, must be available on the premises for inspection by the Council.
- (7) The Council may evaluate the formulation and implementation of the emergency evacuation plan and may officially communicate any recommendations or remedial actions to improve or rectify faults in the plan.

Displaying of escape route plans

12. The escape route plan must be displayed in a conspicuous position in any room designed for sleeping purposes.

Barricading of vacant buildings

13. The owner or person in charge of a building or portion thereof which is vacant must remove all combustible waste or refuse therefrom and lock, barricade or otherwise secure all windows, doors and other openings in the building to the satisfaction of the Council which will prevent the creation of a fire hazard caused by the entering of an unauthorized person.

CHAPTER 5**HOUSEKEEPING****Combustible waste and refuse**

14. (1) The owner or person in charge of the premises or a portion thereof must not allow combustible waste or refuse to accumulate in any area or in any manner so as to create a fire hazard or other threatening danger.
- (2) Combustible waste and refuse must be properly stored or disposed of to prevent a fire hazard or other danger.

Combustible or flammable substances and sweeping compounds

- 15 (1) Only water-based solutions, detergents, floor sweeping compounds and grease absorbents must be used for cleaning purposes.
- (2) The use of sawdust or similar combustible materials to soak up spilled combustible or flammable substances is prohibited.

Accumulations in chimneys, flues and ducts

16. The owner or person in charge of the premises or a portion thereof must not allow soot or any other combustible substance to accumulate in a chimney, flue or duct of the premises in such quantities or in such a manner as to constitute a fire hazard or other threatening danger.

Sources of ignition

17. (1) Smoking, the carrying of matches, the use of heating, flame-emitting devices or spark-producing equipment is prohibited in areas containing combustible or flammable substances.
- (2) Hot ashes, cinders or smouldering coals must be placed in a non-combustible container and the container must be placed on a non-combustible surface or stand.
- (3) An adequate distance, as deemed appropriate by the Council, must be ensured and maintained between combustible substances and heating or lighting equipment or other sources of ignition.
- (4) Portable heaters must be secured so that they cannot be overturned and the Council may prohibit the use of portable heaters in respect of occupancies or situations where such use or operation would present a fire hazard or other threatening danger.

Smoking

18. (1) If conditions exist where smoking creates a fire hazard on the premises, smoking is prohibited and "No Smoking" signs must be displayed as directed by the Council and the signs must comply with SABS 1186: Part 1.
- (2) No person may remove a "No Smoking" sign.
- (3) No person may light or smoke a cigar, cigarette, pipe, tobacco or other substance or ignite or otherwise set fire to other material, nor hold, possess, throw or deposit any lighted or smouldering substance in any place where expressly prohibited.
- (4) A person may not throw, put down or drop a burning match, burning cigarette, or other burning material or any material capable of spontaneous combustion or self-ignition in a public road or public place.

Electrical fittings, equipment and appliances

19. No person may cause or permit –
 - (1) an electrical supply outlet to be overloaded; or
 - (2) an electrical appliance or extension lead to be used in a manner which is likely to create a fire hazard or other threatening danger.

Flame-emitting device

20. A person may not cause or permit a flame-emitting device, such as a candle, lantern or torch, but not limited thereto, to be used in a manner which is likely to create a fire hazard or other threatening danger.

CHAPTER 6

FIRE HAZARDS

Combustible material

21. (1) A person may not store, transport, use or display or cause or permit to be stored, transported, used or displayed, whether inside or outside any premises, any combustible material or a flammable substance in quantities or in a position or in a manner likely to cause or create a fire hazard or other threatening danger.
- (2) The owner or person in charge of any premises may not permit vegetation to grow or accumulate thereon, or other combustible material to accumulate thereon, in a manner likely to cause a fire hazard or other threatening danger.

Lighting of fires and burning of combustible material

22. (1) The lighting of fires and the disposal of combustible material by burning is prohibited, save in the circumstances set out in this section.
- (2) A person may light a fire or use a flame-emitting device for the purpose of preparing food or for any other domestic purpose in a manner which will not cause a fire hazard or other threatening danger or where such a fire is not precluded by any other legislation.
- (3) Burning may take place on State land, a farm, a small holding, or land within a proclaimed township that is not utilised for residential purposes provided that the prior approval is obtained from the Council.

CHAPTER 7

FLAMMABLE SUBSTANCES

Storage and use of a flammable substance

23. (1) Prior to the construction of a new installation or the alteration of an existing

installation, whether temporary or permanent, for the storage of a flammable substance, the owner or person in charge of the installation must submit a building plan to the Council, in accordance with the National Building Regulations, and a copy of the approved plan must be available at the site where the installation is being constructed.

- (2) Prior to the commissioning of an above ground or underground storage tank installation, liquid petroleum gas installation or associated pipework, the owner or person in charge of the installation must ensure that it is pressure-tested in accordance with the provisions of the National Building Regulations (T1), SABS 0131: Parts 1 and 2, SABS 089: Part 3 and SABS 087: Parts 1,3 and 7 (whichever is applicable) in the presence of the Council.
- (3) Notwithstanding subsection (2), the Council may require an existing above ground or underground storage tank installation, liquid petroleum gas installation or associated pipework, to be pressure-tested in accordance with the provisions of the National Building Regulations (T1).
- (4) The Council must be notified at least 48 hours prior to the pressure test.
- (5) The owner or person in charge of the premises may not store or use:
 - (a) a flammable gas in excess of 19 kilogram, or
 - (b) a flammable liquid of a danger group (i), (ii), (iii) or (iv) in excess of 200 litres, unless he or she has obtained a flammable substance certificate from the Council.

Flammable substance certificate

24. (1) The owner or person in charge of the premises, who requires a flammable substance certificate mentioned in section 23(5), must submit an application to the Council.
- (2) The Council must refuse to issue the flammable substance certificate if the premises do not comply with the requirements of the National Building Regulations (T1) as well as additional requirements set out in this by-law, and where the Council is of the opinion that the non-compliance of the premises can be remedied, the Council must instruct the owner or person in charge of the premises in writing to take all reasonable steps to render the premises safe prior to usage of the premises and the issuing of the certificate.
- (4) A flammable substance certificate must be renewed annually, on or before the date as indicated on the flammable substance certificate, and whenever

the quantity or class of the flammable substance requires to be changed.

- (5) Premises must be used in accordance with any conditions specified in the flammable substances certificate and when in the opinion of the Council, a flammable substance is stored or utilised for any process in a manner which is hazardous to life or property, or an installation is unauthorised, an order may be issued for the removal of the flammable substance or installation from the premises.
- (6) A supplier may not supply flammable substances to the owner or person in charge of the premises, unless the owner or person in charge of the premises is in possession of a valid flammable substance certificate issued by the Council.
- (7) A flammable substance certificate is valid only:
 - (a) for the installation for which it was issued;
 - (b) for the state of the premises at the time of issue, and
 - (c) for the quantities stated on the certificate.
- (8) The flammable substance certificate must be available on the premises for inspection at all times.

Permanent or temporary above ground storage tank for a flammable liquid

- 25(1) A temporary above ground storage tank other than that at a bulk storage depot is permitted, at the discretion of the Council, on the merit of the situation, provided that the following requirements are complied with:
- (a) if it has a capacity not exceeding 9 000 litres and is not used for the storage of flammable substances with a flash point below 40 degrees centigrade;
 - (b) to be on the premises for a period not exceeding six months;
 - (c) the entire installation must comply with SABS 0131: Part 1 or SABS 0131: Part 2 whichever is applicable, and
 - (d) written application together with a plan must be forwarded to the controlling authority at least 14 days prior to the erection of the tank and prior written permission must be obtained from the Council for the erection of the tank.

- (2) Notwithstanding section 28(1), if a larger capacity above ground storage tank is required or the tank is to be a permanent installation, an acceptable rational design based on a relevant national or international code or standard must be submitted to the Council for approval in terms of the National Building Regulations (T1).
- (3) The design requirements and construction of a permanent tank must be in accordance with relevant national or international recognised codes.
- (4) The rated capacity of a permanent or temporary tank must provide sufficient ullage to permit expansion of the product contained therein by reason of the rise in temperature during storage.
- (5) A permanent or temporary tank must be erected at least 3,5 metres from boundaries, buildings and other flammable substances or combustible materials.
- (6) A permanent or temporary tank must be located on firm level ground and the ground must be of adequate strength to support the mass of the tank and contents.
- (7) A permanent or temporary tank must have a bund wall.
- (8) Adequate precautions must be taken to prevent spillage during the filling of a tank.
- (9) Sufficient fire extinguishers, as determined by the Council, must be provided in weatherproof boxes in close proximity to a tank.
- (10) Symbolic safety signs depicting "No Smoking", "No Naked Lights" and "Danger" must be provided adjacent to a tank, and the signs must comply with SABS 1186: Part 1.
- (11) The flammable liquid in the tank must be clearly identified, using the Hazchem placards listed in SABS 0232: Part 1.
- (12) An electrical or an internal combustion-driven pump must be equipped and so positioned as to eliminate the danger of the flammable liquid being ignited.
- (13) The electrical installation associated with the above ground storage tank must comply with SABS 0108 and SABS 089: Part 2.

Underground storage tank for a flammable liquid

26. The installation of underground storage tanks, pumps, dispensers and pipework at service stations and consumer installations must be in accordance with National Building Regulations (T1) read in conjunction with SABS 0400, SABS 089: Part 3 and SABS 0131: Part 3.

Bulk storage depot for flammable substances

27. The handling, storage and distribution of flammable substances at bulk depots must be in accordance with the National Building Regulations (T1), read in conjunction with SABS 089: Part 1.

Small installations for liquefied petroleum gas

28. Liquefied petroleum gas installations involving gas storage containers of individual water capacity not exceeding 500 litres and a combined water capacity not exceeding 3 000 litres per installation must be installed and handled in accordance with SABS 087: Part 1.

Liquid petroleum gas installation in mobile units and small non-permanent buildings

29. A liquid petroleum gas installation in mobile units and small non-permanent buildings shall be in accordance with SABS 087: Part 2.

The fuelling of forklift trucks and other LP gas operated vehicles

30. The fuelling of forklift trucks and other LP gas operated vehicles shall be in accordance with SABS 087: Part 8.

The storage and filling of refillable liquid petroleum gas containers

31. Storage and filling sites used for refillable liquid petroleum gas containers of capacity not exceeding 9kg must be in accordance with SABS 087: Part 7.

Bulk storage vessel for liquid petroleum gas

32. The layout, design and operation of installations for the storage of a bulk liquid petroleum vessel and allied facilities must be in accordance with the National Building Regulations (T1), read in conjunction with SABS 087: Part 3.

Termination of the storage and use of flammable substances

33. (1) If an above ground or underground tank installation, liquid petroleum gas installation or associated pipework is no longer required for the storage or use of a flammable substance, the owner or person in charge of the premises on which the installation was erected must:
- (a) within seven days of the cessation, notify the Council in writing thereof;
 - (b) within 30 days of the cessation, remove the flammable substance from the installation and render it safe;
 - (c) within six months of the cessation, remove the installation including any associated pipework, from the premises entirely, unless the controlling authority otherwise instructs, and
 - (d) restore a public footpath or roadway, which has been disturbed by the removal to the satisfaction of the Council within a period of seven days of the completion of the removal of the installation.
- (2) If the removal of an underground tank installation detrimentally affects the stability of the premises, the owner or person in charge of the installation must apply in writing to the Council to fill the tank with liquid cement slurry.

Reporting accidents

34. If an accident occurs which involves a flammable substance and results in a fire, an explosion, spillage or loss of a flammable substance, as well as personal injury or death, the owner or person in charge of the premises must immediately notify the Council.

Flammable stores

35. (1) The construction of a flammable store must be in accordance with the National Building Regulations (T1) read in conjunction with SABS 0400.
- (2) The floor must be of concrete construction or other impermeable material and must be recessed below the door level or incorporate a sill.
 - (3) The recess or sill must be of such a depth or height that in the case of spillage it will be capable of containing the quantity of flammable liquid, as indicated on the flammable substance certificate and an additional 10% of the

quantity mentioned on the certificate.

- (4) Notwithstanding the National Building Regulations (T1) read in conjunction with SABS 0400:
- (a) the roof assembly of a flammable store must be constructed of a concrete slab capable of providing a two-hour fire resistance when it forms part of another building;
 - (b) the ventilation of a flammable store must be achieved by the use of bricks located in the external walls at the ratio of one air brick nominally above the sill level and one air brick located in the top third of the wall per 5 m² of wall area or part thereof, so that vapour cannot accumulate inside the store;
 - (c) the air bricks must be covered both internally and externally with closely-woven, non-corrodible wire gauze of at least 1 100 meshes per metre, and
 - (d) the wire gauze must be held in position by metal straps, a metal frame or cement.
- (5) When required by the Council, the flammable store must be ventilated by a mechanical ventilation system approved by the Council and must comply with the following requirements:
- (a) the ventilation system is to be intrinsically safe, provide 30 air changes per hour and must operate continuously;
 - (b) the fan extraction point must be nominally above sill level and must discharge through a vertical metal duct terminating at least 1 metre above roof height or at least 3,6 metres above ground level, whichever is the greater;
 - (c) ducting material that is external to the store, but communicates with the remainder of the building, must be fitted with a fire damper of two-hour fire resistance at the point of exit from a flammable store, and
 - (d) the ducting must be as short as possible and must not have sharp bends.
- (6) Notwithstanding the National Building Regulations (T1) read in conjunction with SABS 0400, a flammable store door must be constructed of material with a fire resistance of two hours, provided that all relevant safety distances are

complied with, and the door must open outwards.

- (7) When required by the Council, a flammable store door must be a D-class fire door, which complies with SABS 1253.
- (8) Notwithstanding the National Building Regulations (T1) read in conjunction with SABS 0400, artificial lighting in the flammable store must be by electric light having vapour-proof fittings wired through seamless steel conduit and the switches operating the lights must be located outside the store.
- (9) No other electrical apparatus may be installed in the flammable store.
- (10) A flammable store must be provided with a foam inlet consisting of a 65 millimetre male instantaneous coupling and mild steel pipework leading to the inside thereof and the foam inlet must be identified by means of a sign displaying the words "Foam Inlet" in 100 millimetre block letters.
- (11) Racking or shelving erected in the flammable store must be of non-combustible material.
- (12) The flammable store must be identified by the words, "Flammable Store-Bewaarplek vir Vlambare Vloeistowwe-Isitoro Indawo Yokucina Izixhobo Ezithatha Lula Umlilo", and the permissible quantity allowed within the flammable store, indicated in 100 millimetre block letters on both the inside and outside of all doors communicating directly with the store.
- (13) The owner or person in charge of a flammable store must ensure that the flammable store doors are kept locked when the store is not in use.
- (14) A person shall not enter a flammable store or cause or permit it to be entered without the permission of the owner or person in charge of the premises.
- (15) Sufficient fire extinguishers, as determined by the Council, must be mounted on the external wall of the flammable store in a conspicuous and easily accessible position.
- (16) Any hand tool used in the flammable store must be intrinsically safe.
- (17) A person may not use or permit a flammable store to be used for any purpose other than that indicated on the flammable substance certificate, unless the store is not in use as a flammable store and the Council has been notified in terms of the following procedure:
 - (a) within seven days of the cessation, notify the Council in writing

thereof;

- (b) within 30 days of the cessation, remove the flammable substance from the flammable store and render it safe, and
 - (c) within 30 days of the cessation, remove all signage.
- (18) Subject to the provisions in this section, the Council may call for additional requirements to improve the fire safety of a flammable store.

Container handling and storage

36. (1) All flammable substance containers must be kept closed when not in use.
- (2) A person may not extract flammable liquids from a container of a capacity exceeding 20 litres, unless the container is fitted with an adequately sealed pump or tap.
 - (3) Flammable liquid containers must be labelled and marked with words and decals, which indicate the flammable liquids contained therein as well as the hazard of the liquids.
 - (4) Flammable substance containers must be declared gas or vapour-free by a competent person before any modification or repairs are undertaken.
 - (5) All flammable substance containers must be manufactured and maintained in such a condition as to be reasonably safe from damage and to prevent leakage of flammable substances or vapours therefrom.
 - (6) An empty flammable liquid container must be placed in a flammable store.
 - (7) Where a flammable store is not available for the storage of empty flammable liquid containers, the Council may permit such storage in the open, provided that:
 - (a) the storage area must be in a position and of sufficient size which in the opinion of the Council, will not cause a fire hazard or other threatening danger;
 - (b) the storage area is well ventilated and enclosed by a wire mesh fence and:
 - (i) the fence supports are of steel or reinforced concrete;

- (ii) has an outward opening gate that is kept locked when not in use, and
 - (iii) when the floor area exceeds 10 m² an additional escape gate is installed, fitted with a sliding bolt or other similar locking device that can be opened from the inside without the use of a key;
 - (c) the storage area is free of vegetation and has a non-combustible firm level base;
 - (d) a two metre distance around the perimeter of the fenced area is clear of grass, weeds and similar combustible materials;
 - (e) when the storage area has a roof, the construction of the roof and supporting structure must be of non-combustible material;
 - (f) open flames, welding, cutting operations and smoking is prohibited in or near the storage area and signage is prominently displayed on the fence and complies with SABS 1186: Part 1, and
 - (g) fire-fighting equipment is installed as determined by the Council.
- (8) An empty flammable liquid container must be securely closed with a bung or other suitable stopper.

Spray rooms and booths

37. A spray room, booth or area designated for the application of a flammable liquid must be constructed and equipped in such a manner as to comply with the General Safety Regulations promulgated in terms of the Occupational Health and Safety Act.

Liquid petroleum gas containers

38. (1) A liquid petroleum gas container must be manufactured, maintained and tested in accordance with SABS 087: Part 1 and SABS 019.
- (2) A liquid petroleum gas container must be used and stored in such a manner as to prevent damage or leakage of liquid or vapour therefrom.
- (3) A liquid petroleum gas container of a capacity not exceeding nine kilogram must be filled and stored in accordance with SABS 087: Part 7.

CHAPTER 8

GENERAL PROVISIONS

Indemnity

39. The Council is not liable for damage or loss as a result of, but not limited to, bodily injury, loss of life or loss of or damage to property or financial loss, or consequential loss, which is caused by or arises out of or in connection with anything done or performed or omitted in good faith in the exercise or performance of a power, function or duty conferred or imposed in terms of this by-law.

Offences and penalties

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

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding R15 000 or imprisonment for a period not exceeding 6 months or both.

Enforcement provisions

41. Any authorized official of the Council may –
- (1) enter any premises at any reasonable time to inspect the premises for compliance with this by-law;
 - (2) summarily abate any condition on any premises which is in violation of any provision of this by-law and which presents an immediate fire hazard or other threatening danger and to this end may-
 - (a) call for the immediate evacuation of the premises;

- (b) order the closure of the premises until such time as the violation has been rectified;
- (c) order the cessation of any activity, and
- (d) order the removal of the immediate threat.

Authority to investigate

42. The Council has the authority to investigate the cause, origin and circumstances of any fire or other threatening danger.

Failure to comply with provisions

43. (1) When the Council finds that there is non-compliance with the provisions of this by-law a written notice must be issued and include the following:

- (a) confirmation of the findings;
- (b) provisions of this by-law that are being contravened;
- (c) the remedial action required, and
- (d) set forth a time for compliance.

- (2) Nothing in this by-law prevents the Council or any authorized official from taking immediate action to take immediate corrective action in respect of any fire or other threatening danger found on any premises and to recover any costs incurred from the owner.

Repeal of existing By-laws

44. All Council's existing Fire Prevention by-laws are hereby repealed and replaced by this by-law..

Short title and commencement

45. This by-law shall be called the Fire Prevention By-law, and shall come into operation on the date of publication in the KwaZulu Natal Provincial Gazette.

NUISANCE BY-LAW

Be it enacted by the Council of the Mkhambathini Municipality, in terms of section 156 of the Constitution of the Republic of South Africa Act, 1996 (Act No. 108 of 1996), read with section 11 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), as follows:

CHAPTER 1**1. DEFINITIONS**

In this by-law, unless the context indicates otherwise –

“**Council**” means the Council of the Mkhambathini Municipality;

“**council property**” means any property, including but not limited to public roads –

- (a) which is owned by the Council;
- (b) over which the Council has control over; or
- (c) in respect of which a servitude or other property right has been registered in favour of the Council;

“**nuisance**” means any act, condition which is offensive, which is injurious or dangerous to health, which materially interferes with the ordinary comfort, convenience, peace, or quiet of the public or which adversely affect one’s peace.

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

- (a) the verge of any such road, street or thoroughfare;
- (b) any bridge, ferry or drift traversed by any such road, street or thoroughfare; and

any other work or object forming part of or connected with or belonging to such road, street or thoroughfare.

“Offensive material” means any material that obstructs the safe movement of persons

“Permit” means a periodic authority by the Council to carry out an activity

2. Disturbance of Peace

- 2.1 No person may disturb public peace in any public place by making unseemly noises or shouting, wrangling or quarrelling or by hooting or playing loud music or by collecting a crowd or by fighting or challenging to fight or by striking with or bandishing or using in a threatening manner any stick or weapon or any other riotous, violent or unseemly behaviour at any time of the day or night.
- 2.2 Subject to obtaining prior approval of the Council, no person shall advertise any wares in or services in any public place by means of any megaphone loudspeakers or other similar device or ringing of bells in such a manner to constitute a public nuisance in the neighbourhood.
- 2.3 No person being in or any private premises, shall disrupt the public peace in the neighbourhood of such premises by making any unseemly noise, shouting, singing or playing continuous musical instruments, radios or the like or by the continuous or over loud use of loud speakers or the like.
- 2.4 No one shall discharge fireworks or light any bonfire in any public space without prior written permission of the Council.
- 2.5 No person shall, without lawful cause, discharge any firearm or airgun within the Municipality, provided that this by-law shall not apply to any person engaged in authorised target practice in places set aside for that purpose or to any person to whom written permission to do so has been given by the Council.
- 2.6 No person shall carry any knife, dagger or other dangerous weapon or any other lethal weapon in any public place, provided that this by-law shall not apply to the following:

- (a) Any person in the Military or Police service when on duty.
 - (b) Any security officer or police officer
 - (c) Any person who shall have obtained from police a written exemption from the operation of this by-law, which exemption the police are hereby authorised to grant.
- 2.8 No persons armed with lethal weapons shall be permitted to congregate in any part of the Municipality for any purpose or in any manner liable or calculated to cause a breach of peace.
- 2.9 No person shall, in any public place, use any abusive language or threatening language or commit any act which is liable or calculated to cause a breach of peace.
- 2.10 No person who shall erect or authorize the erection of any barbed wire alongside a street without the prior written consent of the Council.
- 2.11 Any person who shall keep within the Municipality any animal or poultry which causes a nuisance to any of the residents in the neighborhoods shall be guilty of an offence.

3 ROADS AND STREETS

3. (1) Where in the opinion of the Council any hedge tree or other growth hedges and is so placed or in such condition as:-
- Trees (a) to be a danger to any person or vehicle using a street; or
- (b) to interfere with
 - (i) the view along any street or from one street into another; or
 - (ii) the use of the street by pedestrian or vehicular traffic;
- the Council may serve a notice on the owner or occupier of the land on which such hedge tree or other growth is situated requiring him, within such period of time, not being less than fourteen days as shall be specified in such notice to cause the hedge, tree or other growth to be chopped, trimmed or removed.

- (2) Any person who fails to comply with the requirements of a notice served in accordance with paragraph (1) of this by-law shall be guilty of an offence.
- (3) Without prejudice to any prosecution which may be instituted under paragraph (2) of this by-law, the Council may on expiry of the period of time specified in a notice served execute any of the work specified in the said notice and any expenses incurred by the council in so doing shall be recoverable from the said person as a civil debt.
- (4) Any person who shall without statutory authority or the consent of the Municipality given in writing erect or permit the erection of any structure in such a position that it is sited in or protrudes over a street shall be guilty of an offence.
- (5) For the purpose of this by-law "structure" includes a machine, pump, post, billboards or other object, capable of causing an obstruction to a passenger or a vehicle in a street;
- (6) The provisions of this by-law shall not apply to any structure approved by the Council under any by-law of the council for the time being in force;
- (7) No person shall attach, hang, erect or permit the erection of any object from or alongside any street in such a manner as it protrudes over or into a street without a permit so to do from the Council or otherwise than in accordance with any condition attached to any such permit;
- (8) Any person who contravenes or fails to comply with the provisions of this by-law or any conditions attached to a permit issued there under or a notice served under the provisions of paragraph (4) of this by-law shall be guilty of an offence.
- (9) Any person who shall, without lawful authority, deface any buildings building by writing, signs or other marks thereon shall be guilty of an offence.
- (10) Any person who, without statutory authority, shall break up or authorize the breaking up of the surface of a public road, without the permission of the Municipality, shall be guilty of an offence.

- (11) Any person who contravenes or fails to comply with any condition attached to a permit granted under this by-law shall be guilty of an offence.
- (12) Any person who shall place or leave or allow or cause to be placed or left any vehicle or article or material in a street in such a manner that it causes or is likely to cause an obstruction to persons or vehicles using the street shall be guilty of an offence.
- (13) The council may remove any vehicle or article or material which has been placed or left in a street in contravention of this bylaw and impound the same.
- (14) The owner of a vehicle, article or material removed from a street in pursuance of this by-law shall not be entitled to recover the same until he has paid to the council the amount to be determined by the council, within 24 hours.

Provided that if such owner does not pay the fees and expenses due within a period of sixty days from the date the vehicle, article or material was impounded the council may sell or otherwise dispose of the same and the proceeds of such sale or disposal, if any, shall be set off against the outstanding fees and expenses, if any, incurred by the council in removing or disposing of the vehicle or article or material.

- (15) A person shall not deposit or cause to be deposited or have materials or harbor or store on any land, any building material, road Materials, earth, stones or soil other than for the purpose of erection of approved buildings thereon;

4. Repeal of existing By-laws

- 4.1 The Council's existing by-laws are relating to nuisance hereby repealed and replaced by this by-law.

5. Short title and commencement

- 5.1. This by-law shall be called the Nuisance by-law, and shall come into operation on date of publication in the KwaZulu Natal Provincial Gazette.

PARKING GROUNDS BY-LAW

Be it enacted by the Council of the Mkhambathini Municipality, in terms of section 156 of the Constitution of the Republic of South Africa Act, 1996 (Act No. 108 of 1996), read with section 11 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), as follows:

1. Definitions

In this by-law, unless the context indicates otherwise:-

“Council” means the Council of the Mkhambathini Municipality;

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

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

“Charge” includes fees;

“Clamp” means a metallic instrument used to lock the wheels of a vehicle;

“Council motor vehicle” means a vehicle owned by the Municipal council of Mkhambathini and registered in the council numbers;

“Government motor vehicle” means a vehicle owned by the Government of South Africa and registered as a Government of South Africa vehicle;

“Inspector” means an officer of the Council authorized by the Municipality to control and supervise the designated parking places and includes any authorized assistant;

“**Owner**” means the person in whose name a vehicle is registered under part II of the Traffic Act, and in relation to a vehicle which is subject of a hire purchase agreement or hiring agreement, includes the person in possession of the vehicle under that agreement;

“**Parking space**” means a space in a parking place, which is provided for parking of a single vehicle;

“**Parking permit**” means a permit issued by the Council authorizing the owner of a vehicle to use a designated parking place;

“**vehicle**” includes any motor vehicle, motor cycle, tractor, trailer, wagon or cart;

2. Number and situation of parking spaces

2.1 The number and situation of parking places shall be such as are determined by the Council;

2.2 Marking of parking spaces. The limits of each parking place and the limits of each parking space in it shall be marked on the road, by line studs or other indication in such manner as the Council may determine;

2.3 Duration of parking place payments. No vehicle shall park in a designated parking place for a duration exceeding the time stipulated or paid for.

2.4 No reserved parking. No person shall put a signpost or any other sign in a parking space stating that the parking is reserved without the prior consent of the Council and payment of the fees to be determined by the council.

2.5 Manner of parking. No person shall park in, or drive into or drive out of a designated parking place, a vehicle in such a manner that the vehicle stands in, or passes over part of one parking space and part of another, or any line, stud or other indication making the limits of a parking space.

- 2.6 Charges of parking. No vehicle shall be driven into or parked within the limits of a parking place without the owner or the driver first paying to the Council in advance the charges prescribed in the second schedule to these By-laws.
- 2.7 Charges for clamping. Where a vehicle is parked in a place or space where it is not permissible to do so, a Council officer shall clamp the vehicle after which the motor vehicle shall be towed by the enforcement officer or a Police Officer for safe custody;
- 2.8 Where a vehicle has been clamped or removed in pursuance of this By-law the owner of such vehicle shall pay, or cause to be paid to the Council the fee to be determined by the Council.
- 2.9 Where the owner of a vehicle which has been removed according to the provisions of this By-law does not pay the fees and expenses due within a period of sixty days from the day on which the vehicle was removed, the Council may sell or otherwise dispose of such vehicle by public auction;
- 2.10 Notice of the intended auction shall be placed in the print media, and the proceeds of such sale or disposal, if any, be used to recover the cost incurred by the Council in removing, storage and disposing of the vehicle.
- 2.11 Permit for Parking Business. Any person having a commercial private parking place within the City shall obtain a permit from the Council to carry on such business under the provisions of the single business permit.
- 2.12 Any person who contravenes the provisions of these By-laws commits an offence and shall on conviction be liable to a fine to be determined by the Council
- 2.13 Obstruction. Any person who willfully obstructs, hinders, or otherwise interferes with any officer of the Council in the execution of his/her duties under this by-law shall be guilty of an offence.
- 2.14 Where a vehicle has been removed in pursuance of this By-law the owner of such vehicle shall pay, or cause to be paid to the Council, pounding charges, together with

the towing fees in respect of the expenses incurred by the Council in removing and keeping such vehicle in safe custody before he can recover the vehicle.

- 2.15 Damage or loss. Where a vehicle has been clamped or has been removed in pursuance of this by-law, the Council shall not be held responsible for any damage or loss, which may occur during the clamping or removal of such vehicle.
- 2.16 Changes in this by-law. The council shall from time to time determine the charges for parking, clamping and towing charges and fines for offences under this by-law by giving a notice not exceeding 30 days in the local newspapers by way of advertisement.

3. Repeal of existing By-laws

- 3.1 The Council's existing by-laws are hereby repealed and replaced by this by-law.

4. Short title and commencement

- 4.1 This by-law shall be called the Parking Grounds By-law, and shall come into operation on date of publication in the KwaZulu Natal Provincial Gazette.

PARKS AND OPEN PUBLIC SPACES BY-LAW

Be it enacted by the Council of the Mkhambathini Municipality, in terms of section 156 of the Constitution of the Republic of South Africa Act, 1996 (Act No. 108 of 1996), read with section 11 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), as follows:

1. Definitions

In this by-law, unless the context indicates otherwise:-

“Council” means the Council of the Mkhambathini Municipality;

“parks” means any open space managed by the council for recreation purposes;

“open space” means a street, road, pathway, open ground;

“management board” means the Board at that time managing any of the parks on behalf of the Council;

2. Parks

2.1 For the purpose of this by-law, parks will include any open spaces that is managed by the council for recreational purposes any open space managed by the council of recreation purposes.

3 Opening

3.1 The parks shall be opened daily at and closed to the public at the time determined by the Council. Provided that this By-law shall not be deemed to require the parks to be opened and closed at the hours heretofore prescribed on any day when in pursuance of any statutory or other provision in that behalf the council may close such park to the public.

3. Prohibition

3.2 A person other than an officer of the council or a person or a servant of a person employed by the council in or about any work in connection with the opening time or laying out, planting, improvement or maintenance of the park shall not on any or after closing time day on which the park may be open to the public enter the park before to time hereinbefore appointed for the opening thereof, or enter the park or remain therein after the time hereinbefore appointed for the closing thereof.

4. Entry or exit

4.1 A person shall not enter or exit the park otherwise than through any one of through appointed the gates, wickets, passages or openings appointed by the gates, wickets gates passages or openings appointed by the council as the authorised means of entrance to or egress from the park.

5. Interference

5.1 A person shall not wilfully or improperly remove or displace any board, plate with notices, or tablet used or constructed or adapted to be used for the exhibition of any signs or boards etc By-law or notice and fixed or set up by the council in any part of the parks or in or on any building or structure therein or at or near to any of the appointed means of entrance to or egress for the park or in or on any wall or fence enclosing the park.

6. Defacing

6.1 . A person shall not carelessly or negligently deface, injure or destroy any part destroying or of any wall or fence in or enclosing the park, or any part of any building, damaging within the barrier or fitting, or of any fixed or movable seat, or of any other structure or park erection in the park.

7. Removal

7.1 A person shall not wilfully, carelessly or negligently remove or displace any displacement barrier, failing of post, or any fixed or movable seat or any part of any

building, structure or erection, or any appliance or article provided for use of used or adapted to be used or in the care, cultivation or protection of any tree, shrub under wood or other plant in the parks.

8. Riding

8.1 A person, other than an officer of the council or person or a servant of a driving of breast person employed by the council in or about any work in connection with the briden prohibited laying out, planting, improvement or maintenance of the park shall not at any time ride, drive or cause or permit to be ridden, driven or brought into the park any beast of draught or burden.

9. Restriction

9.1 A person shall not drive or bring, or cause or permit to be driven or brought domestic into the park any bull, ox, cow, heifer, steer, calf, sheep, lamb, hog, sow, goat animals or any other animal. Provided that this By-law shall not be deemed to prohibit any person from taking a dog in the parks provided such dog be on a lead and continue to be under proper control.

10. Management

10.1 The council may enter into an agreement with a person, association or of the parks company for the purpose of management of the parks.

10.2 The person association or company may form a management board to oversee the day to day running of the parks.

11. Trading

11.1 The council may authorise, in any park, not more than 5 persons to engage in soft drinks & trade of soft drinks and cakes provided:

(a) the authorised person pays to the council a permit fee to be determined by council

(b) the authorised person ensures the area of trade is free of litter

(c) the authorised person does not engage in any offensive trade

(d) the authorised person operates only on the areas designated by the council

12. Fixing of bills

12.1 A person, other than an officer of the council or a person acting in placards, notices etc pursuant of their directions in that behalf shall not affix or post any bill, placard or notice to or upon any or fence in or enclosing the parks or to or upon any tree, wall or other plant or to or upon any part of any building, barrier or railing, or of any fixed or movable seat or any other structure or erection in the park.

13. Destruction

13.1 A person shall not injure or deface any tree or shrub or grass or remove vegetation any tree shrub, plant or flowers, or pluck any bud, blossom, flower of leaf of any tree, sapling, shrub, under wood or other plant.

14. Depositing

14.1 A person shall not wilfully, carelessly or negligently throw or deposit any litter filth, rubbish, paper bottles or other refuse of any kind in any part of the parks or defile any wall or fence in or enclosing the park, or any buildings, barrier or railing or of any other structure or erection in the park.

15. Fire

15.1 A person shall not kindle a fire or smoke in the parks.

16. Climbing

16.1 A person shall not climb any wall, fence or enclosed in the park, or any tree, or any barrier, railing, post or other erection in the park.

17. Harming birds

17.1 A person shall not in any part of the park take, injure, or destroy any bird or or butterflies butterfly or spread or use any net or set or use any snare, instrument or any other means for the taking, injuring or destruction of any bird or butterfly.

18. Interference

18.1 A person shall not in any part of the park wilfully displace or disturb in there or with birds destroy any birds nest, or take injure or destroy any birds.

18.2 A person shall not except under the authority of the council interfere with switches with any fixture, fitting, lamp switch or meter in the parks and meters

18.3 A person shall not create any disturbance or disorderly or be guilty of any disorderly or quarrelsome, violent or indecent behaviour in the parks.

19. Driving

19.1 A person shall not drive or take within the park any tractor or trailer, motor hire lorry or any vehicle which is used for plying for hire and is licensed to carry seven or more passengers or freight cart drawn by oxen or mules, except he shall have obtained the written authority of the town clerk to do so.

20. Residence

20.1 No person other than an officer of the council or a person or a servant of a person employed by the council to work in the parks shall dwell in the parks or be in the parks beyond the specified times.

21. Penalty

21.1 Any person who contravenes the provisions of this by-law shall be guilty of an offence and liable on conviction.

22. Repeal of existing By-laws

- 22.1 The Council's existing by-laws are hereby repealed and replaced by this by-law.

23. Short title and commencement

- 23.1 This by-law shall be called the Parks and Public Open Spaces By-law, and shall come into operation on date of publication in the KwaZulu Natal Provincial Gazette.

POLLUTION CONTROL BY-LAW

Be it enacted by the Council of the Mkhambathini Municipality, in terms of Section 156 of the Republic of South Africa Act No. 108 of 1996, read with section 11 of the Local Government: Municipal Systems Act No. 32 of 2000, as follows:

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CHAPTER 1: DEFINITIONS

Definition

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

"adverse effect" means any actual or potential impact on the environment that impairs or could impair human health or well-being or the environment to an extent that is more than trivial or insignificant;

"air pollutant" means any substance that causes or may cause air pollution including, without limiting the generality of the foregoing, dust, smoke, fumes and gas;

"air pollution" means any change in the environment caused by any air pollutant where that change has an adverse effect on human health or well-being or on the composition, resilience and productivity of any natural or managed ecosystem, or on materials useful to people, or will have such an effect in the future;

"air pollution control zone" means the geographical area to which section 9 of these by-laws is declared to apply;

"ambient sound level" means the reading of an integrating impulse sound level meter measured at the end of a total period of at least 10 minutes after such integrating sound level meter has been put into operation, during which period a noise alleged to be a disturbing noise is absent;

"atmosphere" means air that is not enclosed by a building, machine, chimney or other such structure;

"authorised official" means a person authorised by the Council to perform the functions of an authorised official in terms of these by-laws;

"chimney" means any structure or opening of any kind from or through which air pollutants may be emitted;

"compressed ignition powered vehicle" means a vehicle powered by an internal combustion, compression ignition, diesel or similar fuel engine;

"Council" means the Council of the Mkhambathini Municipality;

"dark smoke" means dark smoke as defined in the Atmospheric Pollution Prevention Act No. 45 of 1965;

“disturbing noise” means the a noise level which exceeds the ambient sound level by 7dB(A) or more, and “disturbing” in relation to a noise shall have a corresponding meaning;

"dust" means any solid matter in a fine or disintegrated form which is capable of being dispersed or suspended in the atmosphere;

"dwelling" means any building or other structure, or part of a building or structure, used for residential purposes, and any outbuildings ancillary to it;

"fuel-burning equipment" means any furnace, boiler, incinerator, or other equipment, including a chimney-

- (a) designed to burn, or capable of burning, liquid, gas or solid fuel;
- (b) used to dispose of any material or waste by burning; or
- (c) used to subject liquid, gas or solid fuel to any process involving the application of heat;

"light absorption meter" means a measuring device that uses a light-sensitive cell or detector to determine the amount of light absorbed by an air pollutant;

"littering" means the discarding or leaving behind of any object or matter whether gaseous, liquid or solid by the person in whose control or possession it was;

"municipal manager" means the person appointed as such by the Council in terms of section 82 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);

“noise level” means the reading on an integrating sound level meter taken at the measuring point at the end of a reasonable period after the integrating sound meter has been put into operation during which period the noise level alleged to be disturbing noise is present, to which reading 5dB(A) is added if the disturbing noise contains a pure tone component or is of an impulsive nature;

"obscuration" means the ratio of visible light attenuated by suspended air pollutants to incident visible light, expressed as a percentage;

"open burning" means the combustion of material by burning without a chimney to vent the emitted products of combustion to the atmosphere, and "burning in the open" has a corresponding meaning;

"operator" means a person who owns or manages an undertaking, or who controls an operation or process, which emits air pollutants;

"person" includes a natural person, company, closed corporation, trust, association and partnership;

"premises" means any building or other structure together with the land on which it is situated and any adjoining land occupied or used in connection with any activities carried on in that building or structure, and includes any land without any buildings or other structures and any locomotive, ship, boat or other vessel which operates or is present within the area under the jurisdiction of the Council;

"proclaimed township" means any land unit zoned and utilized for residential purposes;

"public road" means a road which the public has the right to use;

"smoke" means the gases, particulate matter and products of combustion emitted into the atmosphere when material is burned or subjected to heat and includes the soot, grit and gritty particles emitted in smoke;

"vehicle" means any motor car, motor cycle, bus, truck or other conveyance propelled wholly or partly by any volatile spirit, steam, gas or oil, or by any means other than human or animal power;

"water course" includes-

- (a) a spring;

- (b) a natural channel in which water flows regularly or intermittently; and
- (c) a wetland, lake or dam into which, or from which, water flows; and

and a reference to a water course includes, where relevant, its bed, banks and mouth.

CHAPTER 2: NOISE POLLUTION

Control of noise

2. No person shall on any premises or land make, produce cause or permit to be made or produced by any person, machine, animal, device or apparatus or combination of these, a noise which is a disturbing noise.

Notices

- 3.(1) The Municipality may by written notice instruct the person causing or responsible for a disturbing noise or the owner of such building or premises on which a disturbing noise is caused or both of them, within a period specified in such notice, immediately to stop such noise or have it stopped or take the necessary steps to reduce the disturbing noise level to a level below that of a disturbing noise; provided that if the Municipality is satisfied that the disturbing noise is due to or caused by-
 - (a) the working of:
 - (i) a machine or apparatus which is necessary for the maintenance or repair of property, or the protection of life, property or public services;
 - (ii) garden equipment;
 - (iii) a machine or device,

the noise level of which has in the opinion of the Municipality been reduced or muffled according to the best practicable methods;

- (b) a sports meeting; or
- (c) circumstances or activities beyond the control of the person responsible for causing the disturbing noise,

the Municipality may, whether generally or specifically, permit the working of such machine or apparatus, or such sports meeting or circumstances or activities to continue, subject to such conditions as the Municipality may deem fit.

CHAPTER 3: POLLUTION OF A WATER COURSE

Pollution of a water course

4. Except with the permission of the Council or in terms of the provisions of the Sea-Short Act, 1935 (Act No. 21 of 1935), a person may not cause –
 - (a) waste water;
 - (b) any toxic or harmful substance; or
 - (c) any litter or waste,

to run into or be dumped in a water course.

Boats on water courses

5. No person may operate a boat on a water course while it is leaking oil, petrol or any toxic or noxious substance.

Equipment on craft

6. A person may not use a motor-driven boat on a water course unless it is equipped with an effective silencer affixed to the exhaust pipe of the motor.

CHAPTER 4: LITTERING AND DUMPING

Littering

7. No person shall discard or leave any litter on any land or water surface, street, road or any site in or on any place to which the public has access, except in a container or at a place which has been specifically indicated as having been provided or set aside for such purpose.

Dumping

- 8.(1) No person may dump, or cause or permit to be dumped, on any land or premises any waste.
- (2) If the provisions of subsection (1) are contravened, Council may direct, by way of a written notice, that -
 - (a) any person who committed, or who directly or indirectly caused or permitted, the contravention;
 - (b) the owner of the land or premises where the contravention took place;
 - (c) the person in control of, or any person who has or had at the time of the contravention a right to use, the land or premises where the contravention took place; or
 - (d) any person who negligently failed to prevent the contravention from taking place,

cease the contravention in a specified time, take steps to prevent a further contravention or the continuation of the contravention, and/or

take whatever steps Council considers necessary to clean up or remove the waste, to lawfully dispose of the waste and to rehabilitate the affected area.

- (3) If a person fails to comply with subsection (1), or if a person fails to comply with directions given in a notice issued under subsection (2), Council may itself take whatever steps it considers necessary to clean up or remove the litter, to rehabilitate the affected area and to ensure that the waste, and any contaminated material which cannot be cleaned or rehabilitated, is disposed of lawfully. Council may then recover the reasonable costs of taking these steps from any of the persons listed in subsection (2), who shall be jointly and severally liable therefor.

CHAPTER 5: AIR POLLUTION CONTROL

Air pollution control zones

- 9.(1) The whole area within the jurisdiction of the Council is hereby declared an air pollution control zone.
- (2) Within the air pollution control zone, the Council may from time to time by resolution-
- (a) prohibit or restrict the emission of one or more air pollutants from all premises or certain premises;
 - (b) prohibit or restrict the combustion of certain types of fuel;
 - (c) declare smokeless zones, in which smoke with an obscuration of more than 10% may not be emitted; or
 - (d) prescribe different requirements in an air pollution control zone relating to air quality in respect of:
 - (i) different geographical areas;
 - (ii) specified premises;

- (iii) classes of premises; or
 - (iv) premises used for specified purposes.
- (3) The Council may in writing exempt certain premises, classes of premises or premises used for specified purposes from the provisions of this by-law.

Smokeless zones

- 10.(1) Council may by resolution declare certain areas to be smokeless zones from a date indicated in that resolution.
- (2) No owner or occupier of any premises within a smokeless zone shall cause or permit the emission from such premises of smoke of such a density or content as will obscure light to an extent greater than 10 per cent.
- (3) If, on the written application of any person, the Council is satisfied that there are adequate reasons for the temporary exemption of any premises from the provisions of this section, the Council may, by notice in writing to the applicant, grant such exemption for a period specified in such notice.

CHAPTER 6: SMOKE EMISSIONS FROM PREMISES OTHER THAN DWELLINGS

Prohibition

- 11.(1) Subject to subsection (2), dark smoke must not be emitted from any premises for an aggregate period exceeding three minutes during any continuous period of thirty minutes.
- (2) This section does not apply to dark smoke which is emitted from fuel-burning equipment which occurs while the equipment is being started or while the equipment is being overhauled or repaired, or awaiting overhaul or repair, unless such emission could have been prevented using the best practicable means available.

Installation of fuel-burning equipment

- 12.(1) No person shall install, alter, extend or replace any fuel-burning equipment on any premises without the prior written authorization of the Council, which may only be given after consideration of the relevant plans and specifications.
- (2) Where fuel-burning equipment has been installed, altered, extended or replaced on premises in contravention of subsection (1):
- (a) the owner or occupier of the premises and the installer of the fuel-burning equipment shall be guilty of an offence; and
 - (b) the Council may, on written notice to the owner or occupier of the premises, order the removal of the fuel-burning equipment from the premises at the expense of the owner or operator within a period stated in the notice.

Operation of fuel-burning equipment

- 13.(1) No person shall use or operate any fuel-burning equipment on any premises contrary to an authorisation referred to in section 12.
- (2) Where fuel-burning equipment has been used or operated in contravention of subsection (1):
- (a) the owner and occupier of the premises concerned and the operator of the fuel-burning equipment shall each be guilty of an offence;
 - (b) the Council may on written notice to the owner and occupier of the premises:
 - (i) revoke its authorization under section 12; and
 - (ii) order the removal of the fuel-burning equipment from the premises at the expense of the owner and operator and within the period stated in the notice.

Installation and operation of obscuration measuring equipment

- 14.(1) The Council may give notice to any operator of fuel-burning equipment or any owner or occupier of premises on which fuel-burning equipment is used or operated, or intended to be used or operated, to install, maintain and operate obscuration measuring equipment at his or her own cost, if:
- (a) unauthorised and unlawful emissions of dark smoke from the relevant premises have occurred consistently and regularly over a period of at least two days;
 - (b) unauthorised and unlawful emissions of dark smoke from the relevant premises have occurred intermittently over a period of at least fourteen days;
 - (c) fuel-burning equipment has been or is intended to be installed on the relevant premises which are reasonably likely in the opinion of an authorised official to emit dark smoke;
 - (d) the Council considers that the nature of the air pollutants emitted from the relevant premises are reasonably likely to create a hazard to human health or the environment.
- (2) A notice referred to in subsection (1) must inform the person to whom it is addressed of:
- (a) that person's right to make written representations and to appear in person to present and dispute information and arguments regarding the notice, and must stipulate a reasonable period within which this must be done;
 - (b) that person's right of appeal under section 28;
 - (c) that person's right to request written reasons for the issuing of the notice; and
 - (d) the measures that must be taken and the potential consequences if the notice is not complied with.

Monitoring and sampling

- 15.(1) An occupier or owner of premises, and the operator of any fuel-burning equipment, who is required to install obscuration measuring equipment in terms of section 16(1) must:
- (a) record all monitoring and sampling results and maintain a copy of this record for at least four years after obtaining the results;
 - (b) if requested to do so by an authorised official, produce the record of the monitoring and sampling results for inspection; and
 - (c) if requested to do so by an authorised official, provide a written report (in a form and by a date specified by the authorised official) of part or all of the information in the record of the monitoring and sampling results.

CHAPTER 7: SMOKE EMISSIONS FROM DWELLINGS

- 16.(1) No person shall emit or permit the emission of dark smoke from any dwelling for an aggregate period exceeding three minutes during any continuous period of thirty minutes.
- (2) Any person who emits or permits the emission of dark smoke in contravention of subsection (1) commits an offence.

CHAPTER 8: EMISSIONS CAUSED BY OPEN BURNING

- 17.(1) Subject to subsection (4), any person who carries out open burning of any material on any land or premises is guilty of an offence, unless the prior written authorization of the Council, which may include the imposition of further conditions with which the person requesting authorization must comply, has been obtained.

- (2) The Council may not authorize open burning under subsection (1) unless -
- (a) the material will be open burned on the land from which it originated;
 - (b) that person has investigated and assessed every reasonable alternative for reducing, reusing, recycling or removing the material in order to minimize the amount of material to be open burned, to the satisfaction of the Council;
 - (c) that person has investigated and assessed the impact that the open burning will have on the environment, to the satisfaction of the Council;
 - (d) a warning under section 10(1)(b) of the National Veld and Forest Fire Act, 1998 (Act 101 of 1998) has not been published for the region;
 - (e) the land on which that person intends to open burn the material is not land within a proclaimed township;
 - (g) the open burning is conducted at least 100 metres from any buildings or structures;
 - (h) the open burning will not pose a potential hazard to human health or safety, private property or the environment;
 - (i) that person has notified in writing the owners and occupiers of all adjacent properties of-
 - (i) all known details of the proposed open burning; and
 - (ii) the right of owners and occupiers of adjacent properties to lodge written objections to the proposed open burning with the Council within 7 days of being notified; and
 - (j) the prescribed fee has been paid to the Council.

- (3) Any person who undertakes or permits to be undertaken open burning in contravention of subsection (1) commits an offence.
- (4) The provisions of this section shall not apply to:
 - (a) recreational outdoor barbecue or braai activities on private premises; or
 - (b) small controlled fires in informal settlements for the purposes of cooking, heating water and other domestic purposes.

CHAPTER 9: EMISSIONS FROM COMPRESSED IGNITION POWERED VEHICLES

Prohibition

- 18.(1) No person may on a public road drive or use, or cause to be driven or used, a compressed ignition powered vehicle that emits dark smoke.
- (2) If dark smoke is emitted in contravention of subsection (1) the owner and driver of the vehicle shall each be guilty of an offence.

Stopping of vehicles for inspection and testing

- 19.(1) In order to enable an authorised official to enforce the provisions of these by-laws, the owner of a vehicle must comply with any reasonable direction given by an authorised official-
 - (a) to stop the vehicle; and
 - (b) to facilitate the inspection or testing of the vehicle.
- (2) Failure to comply with a direction given under subsection (1) is an offence.
- (3) When a vehicle has stopped in compliance with a direction given under subsection (1), the authorised official may:
 - (a) inspect and test the vehicle at the roadside, in which case

inspection and testing must be carried out:

- (i) at or as near as practicable to the place where the direction to stop the vehicle is given; and
 - (ii) as soon as practicable, and in any case within one hour, after the vehicle is stopped in accordance with the direction; or
- (b) conduct a visual inspection of the vehicle and, if the authorised official reasonably believes that an offence has been committed under section 18, instruct the owner or driver of the vehicle in writing to take the vehicle to a testing station, within a specified period of time, for inspection and testing in accordance with section 20.

Testing procedure

- 20.(1) An authorised official must use the free acceleration test method in order to determine whether a compressed ignition powered vehicle is being driven or used in contravention of section 18.
- (2) The following procedure must be adhered to in order to conduct a free acceleration test:
- (a) when instructed to do so by the authorised official, the owner or driver must start the vehicle, place it in neutral gear and engage the clutch;
 - (b) while the vehicle is idling; the authorised official must conduct a visual inspection of the emission system of the vehicle;
 - (c) when instructed to do so by the authorised official, the owner or driver of the vehicle must in less than one second smoothly and completely depress the accelerator throttle pedal of the vehicle; provided that the authorised official may do so him/herself or herself if the owner or driver fails or refuses to comply with the authorised official's reasonable instructions;

- (d) while the throttle pedal is depressed, the authorised official must measure the smoke emitted from the vehicle's emission system in order to determine whether or not it is dark smoke; and
 - (e) the owner or driver of the vehicle may only release the throttle pedal of the vehicle when the engine reaches cut-off speed, or when directed to do so by the authorised official.
- (3) If, having conducted the free acceleration test, the authorised official is satisfied that the vehicle-
- (a) is not emitting dark smoke, then the authorised official must furnish the owner of the vehicle with a certificate indicating that the vehicle is not being driven or used in contravention of section 18; or
 - (b) is emitting dark smoke, the authorised official must issue the owner of the vehicle with a repair notice in accordance with section 21.

Repair notice

- 21.(1) A repair notice must direct the owner of the vehicle to repair the vehicle within a specified period of time, and to take the vehicle to a place identified in the notice for re-testing before the expiry of that period.
- (2) The repair notice must contain *inter alia* the following information:
- (a) the make, model and registration number of the vehicle;
 - (b) the name, address and identity number of the driver of the vehicle; and
 - (c) if the driver is not the owner, the name and address of the vehicle owner.
- (3) A person commits an offence if that person fails to comply with the notice referred to in subsection (1).

CHAPTER 10: GENERAL PROVISIONS

Offences

22. Any person who contravenes any provision of these by-laws shall be guilty of an offence and shall be liable on conviction to a fine not exceeding R20 000 or imprisonment for a period not exceeding 2 years.

Appeals

- 23.(1) Any person may appeal against a decision taken by an authorised official under this by-law by giving written notice of the appeal, in which the reasons for the appeal are stated, to the municipal manager within 30 days of the date on which that person receives notification of the decision.
- (2) Pending confirmation, variation or revocation of the decision in terms of subsection (4), any person appealing a decision in terms of subsection (1), unless the Council provides otherwise:
- (a) must nonetheless substantively comply with any obligations that may have been imposed as a result of the decision that is the subject of the appeal; and
 - (b) may not exercise any rights that may have accrued as a result of the decision that is the subject of the appeal application, provided that no other person may exercise any right that may accrue either.
- (3) Within 14 days of receipt of the notice of appeal, the Municipal Manager must:
- (a) submit the appeal to the appropriate appeal authority mentioned in subsection (5);
 - (b) take all reasonable measures to ensure that all persons whose

rights may be significantly detrimentally affected by the granting of the appeal application are notified in writing of the appeal application and advised of their right to:

- (i) obtain a copy of the appeal application;
 - (ii) submit written objections to the application to the municipal manager within 30 days of date of notification.
- (4) After the expiry of the 30-day period referred to in subsection (3)(b)(ii), the appeal authority must consider the appeal and any objections raised to it, and confirm, vary or revoke the decision.
- (5) When the appeal is against a decision taken by-
- (a) an authorised official other than the municipal manager, then the municipal manager is the appeal authority; or
 - (b) the municipal manager, then the Council or such committee as it may delegate is the appeal authority.
- (6) An appeal authority must commence with an appeal within 60 days of receiving notification and must decide the appeal within a reasonable period.

Repeal of existing By-laws

24. All Council's existing Pollution Control by-laws are hereby repealed and replaced by this by-law.

Short title and commencement

25. This by-law shall be called the Pollution Control By-law, and shall come into operation on date of publication in KwaZulu Natal Provincial Gazette.

No. 73**8 June 2011****PUBLIC AMENITIES BYLAWS**

Be it enacted by the Council of the Mkhambathini Municipality, in terms of Section 156 of the Republic of South Africa Act No. 108 of 1996, read with section 11 of the Local Government: Municipal Systems Act No. 32 of 2000, as follows:

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CHAPTER 1 DEFINITIONS

Definitions

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

"authorised official" means an official of the Council who is authorised to manage or assist in the management of a public amenity;

"Council" means the Municipal Council of the Municipality;

"motor vehicle" includes a motor cycle, motor quadracycle, motor tricycle and a trailer;

"notice" means an official notice of the Council displayed at entrances to or at conspicuous places in a public amenity;

"public amenity" means any outdoor or indoor amenity which is vested in or controlled by the Council and to which the public have access, and includes, without limiting the generality of this definition –

- (a) a park, botanical or zoological garden, pleasure resort, nature reserve, hiking trail, sports ground or swimming pool; and
- (b) any building situated within a public amenity; and

"the Municipality" means the Municipality.

CHAPTER 2 ENTRANCE TO PUBLIC AMENITIES

Opening times

- 2.(1) A public amenity shall be open to the public during times determined by the Council and indicated by notice.
- (2) No person shall enter or be present in a public amenity other than during the opening times determined by the Council in terms of subsection (1).

Entrance fees

3. Council may determine entrance fees to a public amenity
 - (1) No person shall enter a public amenity unless he or she has paid the entrance fee determined by the Council in terms of subsection (1).
 - (2) The Council may suspend the payment of entrance fees on any specific day or days as it deems fit.

Entrance and exit

4. No person shall enter or leave a public amenity except through the gates provided for that purpose.

Maximum number of visitors

5. The Council may determine, and display by notice, the maximum number of visitors who may be admitted to or be present in any public amenity during specific times or on specific days.

Closing of public amenities

6. The Council may –
- (1) for any special purpose by notice close a public amenity or part thereof for such time as it may from time to time consider necessary or expedient; and
 - (2) for any purpose related to the operation and maintenance of the public amenity by notice close any part of public amenity to the public.

**CHAPTER 3
PROHIBITED CONDUCT**

Personal behavior

7. No person in a public amenity shall:
- (1) do anything which endangers or is likely to endanger another person;
 - (2) do anything which constitutes a nuisance or interferes with another person in the proper enjoyment of the public amenity;
 - (3) use profane, indecent or improper language;
 - (4) consume alcohol or any other intoxicating substance, or be intoxicated;
 - (5) use, intrude upon or attempt to intrude upon any toilet, urinal or other place of convenience provided for the opposite sex;
 - (6) enter any part of a public amenity determined by council and indicated by notice to be closed to the public;
 - (7) pollute, through the washing of clothes or otherwise, any stream, river, lake, dam, pond, fountain or ornamental water feature;

- (8) swim in any stream, river, lake, dam, pond, fountain or ornamental water feature unless a notice specifically permits swimming in that place; or
- (9) launch a boat, canoe, raft or any other floating object on any stream, river, lake, dam, pond, fountain or ornamental water feature except with the written consent of the Council.

Damage

8. No person in a public amenity shall-
 - (1) place or leave any placards or notices;
 - (2) damage or remove any vegetation, including any grassed area;
 - (3) light any fire, except at designated braai facilities;
 - (4) litter;
 - (5) erect any structure or tent of any kind without the consent of Council in writing; and
 - (6) damage any building or other structure erected by or with the consent of the Council.

Animals

- 9.(1) No person in a public amenity shall -
 - (a) take a dog or any other animal into a public amenity in contravention of a notice;
 - (b) bathe or wash a dog or any other animal, or allow a dog or any other animal to swim, in any stream, river, lake, dam, pond, fountain or ornamental water feature; and

- (c) interfere with or harm any bird or wild animal.
- (2) In any public amenity where dogs are allowed, the owner or person having custody of a dog shall ensure that –
- (a) the dog is kept on a leash;
 - (b) the dog does not attack, terrify or interfere with any person, animal or bird; and
 - (c) any faeces left by the dog are removed.
- (3) The Council may impound any dog or other animal which is found in a public amenity and which appears not to be in the custody of a person.

Fishing

10. No person shall-
- (1) fish without a permit issued by the Council; or
 - (2) fish in contravention of any notice or conditions of permit.

Vehicles

11. No person in a public amenity shall –
- (1) drive or park a motor vehicle in contravention of a notice;
 - (2) clean, maintain or carry out repairs on any motor vehicle; or
 - (3) ride a bicycle, skateboard, roller skates or other similar device in contravention of a notice.

Games and play areas

12. No person in a public amenity shall-

- (1) play soccer, cricket or rugby or any other similar game, except in the allocated places and at times determined by the Council; and
- (2) enter play areas, or use play apparatus, designated by notice as being for the use of children under a particular age.

CHAPTER 4 GENERAL PROVISIONS

Authorised officials

13. An authorised official may-

- (1) require any person to produce proof of payment of any applicable entrance fee; and
- (2) instruct any person to comply with the provisions of these bylaws or a notice.

Directives

14. The Council may –

- (1) set aside areas within a public amenity for specified activities and prohibit other specified activities within those areas;
- (2) issue directives regarding any aspect of the use of a public amenity.

Penalties

15. Any person who –

- (1) contravenes or fails to comply with any provision of these by-laws
- (2) fails to comply with any notice issued in terms of these by-laws; or

- (3) fails to comply with any lawful instruction given in terms of these by-laws; or
- (4) who obstructs or hinders any authorised official or employee of the Council in the execution of his or her duties under these by-laws,

is guilty of an offence and liable on conviction to a fine not exceeding R1000,00 or in default of payment to imprisonment for a period not exceeding 3 months.

Repeal of existing By-laws

16. The Council's existing Public Amenities by-laws are hereby repealed.

Short title and commencement

17. These by-laws shall be called the Public Amenities By-laws, and shall come into operation on date of publication in the KwaZulu Natal Provincial Gazette.

No. 74**8 June 2011****PUBLIC MEETINGS AND GATHERINGS BY-LAW**

Be it enacted by the Council of the Mkhambathini Municipality, in terms of section 156 of the Constitution of the Republic of South Africa Act, 1996 (Act No. 108 of 1996), read with section 11 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), as follows:

1. Definitions

In this by-law, unless the context indicates otherwise:-

“**Council**” means the Council of the Mkhambathini Municipality and its successors in law, and includes the Executive Committee;

“**Municipality**” means Mkhambathini Municipality

2. Permission Required

2.1 No person shall hold or organise or cause to be convened or organised any public meeting, public gathering, procession, exhibition, performance or public address in any public street or public place or deliver or cause to be delivered any public address in any public street or public place unless-

2.1 (a) the Council has under the hand of the Municipal Manager granted its permission in writing for holding or delivery thereof; and

(b) it is held or delivered in compliance with any condition, requirements or restriction imposed by the Council; and

(c) it complies with all the laws in force in the Republic of South Africa

3. Application for Permission

- 3.1.1 Any person wishing to obtain the Council's permission as in subsection (2) required shall deliver to the Council not less than seven days or such lesser period as the Council may in its discretion permit before the day on which the public meeting or gathering or procession or exhibition or public address concerned is to be held or delivered, a written application specifying-
- (a) the nature thereof;
 - (b) the full names, addresses, and telephone numbers of every holder, convenor and of every person intending to deliver an address;
 - (c) the date on which, the time at which, and place at, or route along which it is to be held or delivered;
 - (d) the expected maximum duration thereof;
 - (e) in case of a procession the expected number of persons expected to take part; and
 - (f) particulars regarding any hand, musical instruments, device for the application of sound, vehicle or temporary structure to be used in conjunction therewith.

The Council may require such person any additional information which it may consider necessary for the purpose of dealing with such application.

4. Grant or Refusal of Permission

- 4.1 The Council may grant permission if all information required has been supplied in full if it is satisfied at the holding or delivery of the public meeting or gathering or procession or exhibition or public address concerned is not likely to-
- (a) Endanger, obstruct or interfere with-
 - i. Pedestrian or vehicular traffic

- ii. Any public market, auction or fair; and
- iii. Any other public meeting, gathering, procession, exhibition or public address or
- iv. Lawful use by the public of any street or public place; or

(b) Endanger or be injurious to the public health.

4.2 The Council may when granting its permission for the holding of any public meeting, gathering, procession, exhibition or performance or the delivery of any public address under this chapter, impose such conditions, the requirements and restrictions as it may deem necessary in the public interests and may, without derogating from the generality of the foregoing in particular, limit the holding or delivery thereof to specified times or periods and to specify places or routes and prohibit or restrict the use of any band, musical instrument, device for the application of sound, vehicle or temporary structure in conjunction therewith.

5. Exemption

5.1 The provisions of this chapter shall not apply to any funeral, wedding, military or police procession.

6. Offences

6.1 Any person who-

- (a) Contravenes or fail to comply with any provisions of this by-law or notice or order Imposed or issued in terms thereof;
- (b) Resists, hinders, obstructs, molests or interferes with any officer or employee of the Council in the performance of his/her duties or the execution of his/her powers under this by-law; or
- (c) Causes or permit any other person to commit any of the aforesaid-

Shall be guilty of an offence and shall be liable for prosecution.

7. Damages

- 7.1 Notwithstanding the stipulations contained in (6) above, the Council shall hold any person or organiser of a public meeting and gathering or participant in such a gathering procession for any damage to any property of the Council and shall claim the cost to repair such damage from such a person or organiser.

8. Repeal of existing By-laws

- 8.1 The Council's existing by-laws that relate to public meetings and gatherings are hereby repealed and replaced by this by-law.

9. Short title and commencement

- 9.1 This by-law shall be called the Public Meetings and Gatherings By-law, and shall come into operation on date of publication in the KwaZulu Natal Provincial Gazette.

No. 75

8 June 2011

PUBLIC ROADS BY-LAW

Be it enacted by the Council of the Mkhambathini Municipality, in terms of Section 156 of the Republic of South Africa Act No. 108 of 1996, read with section 11 of the Local Government: Municipal Systems Act No. 32 of 2000, as follows:

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CHAPTER 1 : Definitions

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

"authorised official" means a person authorised by the Council to perform the functions of an authorised official in terms of this by-law;

"Council" means the Council of the Mkhambathini Municipality;

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

"prescribed fee" means a fee determined by the Council by resolution; and

"public road" shall mean a public road as described under Section 1 of the Road Traffic Act, 1996 (Act No. 93 of 1996).

CHAPTER 2: OBSTRUCTIONS

Obstruction of public roads

2. No person may cause any obstruction of any public road.

Removal of obstructions

- 3.(1) If any person causes an obstruction on any public road, an authorised officer, may order such person to refrain from causing or to remove the obstruction.
- (2) Where the person causing an obstruction cannot be found, or fails to remove or to cease causing such obstruction, an authorised officer may take such steps as may be necessary to remove the obstruction and the Council may recover the cost of the removal of the obstruction from that person.

CHAPTER 3: ENCROACHMENTS

Excavations

- 4.(1) No person may make or cause to be made any hole, trench, pit, tunnel or other excavation on or under any public road or remove any soil, tar, stone or other materials from any public road without the prior written consent of the Council.
- (2) Any person who requires the consent referred to in subsection (1) must -
- (a) comply with any requirements prescribed by the Council; and
 - (b) pay the prescribed fee.

Hoardings

- 5.(1) Any person who erects, removes, alters, repairs or paints any building or structure or carries out any excavation within 2 m of a public road must, before commencing any such work, enclose or cause to be enclosed a space in front of such part of the building or structure.
- (2) If the enclosure referred to in subsection (1) will project onto any portion of a public road, the person must –
- (a) obtain prior approval from the Council;
 - (b) pay the prescribed fee; and
 - (c) if the person making the application is not the owner of the building or land on which the work is done or is to be done, the owner must countersign the application.
- (3) The Council may grant a permit in writing specifying -
- (a) the area and position at which the enclosure is permitted; and
 - (b) the period for which the enclosure is permitted.

CHAPTER 4: DANGEROUS FENCING

Barbed wire, dangerous and electrical fencing

6. No owner or occupier of land -

- (1) other than an owner or occupier of agricultural land, may along any public road erect or cause or permit to be erected, any barbed-wire fence or any railing, paling, wall or other barrier which, by reason of spikes or other sharp or pointed protrusions or otherwise by reason of the nature of its construction or design, is or may become a danger to any member of the public using such public road; and
- (2) including an owner or occupier of an agricultural holding or farm land, may along any public road erect or cause or permit to be erected along such public road any electrified fence, railing or other electrified barrier unless –
 - (a) the fence, railing or other barrier is erected on top of a wall built of brick, cement, concrete or similar material, which wall may not be less than two meters high; or
 - (b) the fence, railing, or other barrier is separated from the public road by another, non-electrified fence.

CHAPTER 5: PROTECTION AND CLEANLINESS OF PUBLIC ROADS

Protection of public road

7. No person may place upon or off-load on a public road any materials or goods which are likely to cause damage to the road.

Cleanliness of public roads

- 8.(1) No person may spill, drop or place or permit to be spilled, dropped or placed, on any public road any matter or substance that may interfere with the cleanliness of the public road, or cause or is likely to cause annoyance, danger or accident to persons, animals, vehicles or other traffic using such public road, without removing it or causing it to be removed from such public road immediately.
- (2) If the person mentioned in subsection (1) fails to remove the matter or substance, the Council may remove such matter or substance and recover the cost of removal from the person.