

**Defacing, marking or painting public roads**

9. No person may in any way deface, mark or paint any public road or part of the public road without the prior written consent of the Council.

**CHAPTER 6: RACES, SPORTS EVENTS AND GAMES****Races and sports events**

- 10.(1) An application for consent to hold a race or sports event on any public road must be submitted in writing to the Council on the prescribed form at least 60 days prior to the event.
- (2) The applicant must pay the prescribed fee and deposit to the Council at the time of making application for consent.

**Games on public roads**

11. No person may –
- (1) play cricket, football or any other game; or
  - (2) by any means discharge any missile;
- upon, over or across any public road.

**CHAPTER 7: GENERAL****Offences**

12. 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 R5 000 or imprisonment for a period not exceeding 3 months or both.

**Repeal of existing By-laws**

- 13 All Council's existing Public Roads by-laws are hereby repealed and replaced by this by-law.

**Short title and commencement**

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

**MKHAMBATHINI MUNICIPALITY  
STANDING RULES AND ORDERS OF THE COUNCIL AND ITS COMMITTEES**

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## CHAPTER 1

### DEFINITIONS

#### Definitions

1. In these Standing Rules, any word or expression shall have the meaning assigned thereto in the relevant legislation, unless the context indicates otherwise—

**"Chairperson"** means the Speaker in relation to any meeting of Council, the Mayor in relation to the Executive Committee and the elected chairperson in relation to any meeting of any committee of the Council;

**"Council"** means the Council of the Mkhambathini Municipality;

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

**"Executive Committee"** means the Council's executive committee established in terms of section 42 of the Structures Act;

**"Mayor"** means the councillor of the Executive Committee elected by the Council as the Mayor;

**"meeting"** means a meeting of the Council or any one of its Committees;

**"Councillor"** means a councillor of the Council;

**"Municipal Manager"** the person appointed as administrative head of the Municipality or a person acting in such a capacity;

**"notice of motion"** means the instrument by which councillors may bring items on to the agenda of a Council meeting in terms of rule 20 of these Standing Rules and Orders;

**"explanation"** means the clarification of some material part of a councillor's former speech which may have been misunderstood;

**"point of order"** means the pointing out any deviation from, or anything contrary to, in

the conducting of proceedings or any other irregularity in the proceedings; and

**"Speaker"** means the chairperson of the Council elected in terms of section 36 of the Structures Act;

**"the Structures Act"** means the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998); and

**"the Systems Act"** means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000).

## CHAPTER 2

### FREQUENCY AND NOTICE OF MEETINGS

#### **Council meetings**

2. The Council shall hold an ordinary meeting of the Council not less than once in every two months. The council meetings shall be open to the public, (who will only have an observer status) provided that this section shall not apply when it is reasonable to do so having regard to the nature of the business being transacted as provided for in section 20 of the Municipal Systems Act, No 32 of 2000.

#### **Special meetings**

3. (1) The Speaker may at any time and shall, at the request of a majority of the councillors of the Municipality, call a special meeting of the Council.  
  
(2) A request for the calling of a special meeting, as contemplated in sub-rule (1), shall—
  - (a) be signed by no less than 50% (fifty *per centum*) plus one of all councillors of the municipality; and
  - (b) be accompanied by—
    - (i) a duly signed notice of motion; and
    - (ii) a statement giving reasons as to why the intended business of the special meeting is urgent and cannot wait for an ordinary meeting of the Council.

**Notice to attend a Council meeting**

4.(1) The Speaker convenes the meetings of the Council through a duly signed "Notice of Council Meeting", stating the date, place and time of the meeting and accompanied by or containing the agenda of the proposed meeting.

(2) Notice to attend a meeting in terms of sub-rule (1) shall be given at least seven days prior to an ordinary meeting.

**Service of notices**

5.(1) A notice to attend a meeting, specifying the business proposed to be transacted thereat and signed by the speaker shall be delivered at a place of abode of every member of the Council or at such place which is reasonably accessible as such councillor may designate.

(2) In addition, the notice to attend a meeting shall be displayed on the public notice board at the municipality's head office.

**Non-receipt of notice**

6. Non-receipt (unintentional) of a notice to attend a meeting shall not affect the validity of any meeting or proceedings of council or any of its committees.

**CHAPTER 3****QUORUM****Quorum**

7. A majority of the councillors must be present at a meeting of the Council before a vote may be taken on any matter.

**Adjournment in absence of quorum**

8.(1) No meeting shall take place, if there is no quorum at the expiry of ten minutes after the time at which a meeting is due to commence, unless it is unanimously agreed by the councillors present to allow further time not exceeding ten minutes for a quorum to be there.

- (2) If during any meeting of Council or any of its committees the attention of the chairperson is called to the number of councillors present, he or she shall—
- (a) count the councillors present; and
  - (b) if it is found that there is no quorum present, the Chairperson shall allow an interval of ten minutes and if there is still no quorum, the Chairperson shall forthwith adjourn the meeting, unless it is decided with a unanimous consent of the members present to allow further time not exceeding an additional ten minutes in order to enable a quorum to assemble .
- (3) When a meeting is adjourned as a result of no quorum, the meeting shall be convened as a continuation meeting in terms of rule 5 of these Standing Rules and Orders.

#### **CHAPTER 4 ATTENDANCE**

##### **Attendance register**

9. Each councillor attending any meeting of the Council or a committee of the Council shall sign an attendance register provided for that purpose.

##### **Leave of absence**

- 10.(1) If a councillor—

- (a) is unable to attend a meeting of which notice had been given; or
  - (b) is unable to remain in attendance at a meeting;
  - (c) will arrive after the stipulated time for a meeting,
- he or she shall, at least forty-eight hours before the commencement of the meeting, lodge with the municipal manager a written application for leave of absence from the whole or any part of the meeting concerned.

- (2) The municipal manager must as soon as possible inform the chairperson of the meeting concerned of any application for leave of absence received in terms of sub-rule (1).
- (3) The chairperson of the meeting concerned must as soon as possible consider an application for leave of absence and either grant or reject the application with reasons.
- (4) The municipal manager must as soon as possible inform a councillor who has applied for



leave of absence of the chairperson's decision.

- (5) A councillor shall be deemed absent without leave from the meeting concerned where an application for leave of absence has not been granted and he or she—
- (a) failed to attend a meeting; or
  - (b) failed to remain in attendance at a meeting.

### **Sanctions for non-attendance**

11.(1) Subject to compliance with the procedure set out in sub-rule (2), a councillor who is absent from a meeting, of which notice has been given, without good cause shall be disciplined accordingly.

(2) Where a councillor has been absent without leave from a meeting—

- (a) the chairperson of the meeting concerned shall invite the councillor to provide a written explanation of his or her absence;
- (b) the chairperson shall consider the explanation and decide whether or not the councillor was absent with good cause, providing appropriate reasons for the decision;
- (c) the councillor may appeal in writing within seven days of receipt of the chairperson's decision to—
  - (i) the council, in respect of his or her absence from a council or executive committee meeting; and
  - (ii) the executive committee, in respect of his or her absence from any other meeting; and
- (d) the council or executive committee, as the case may be, shall—
  - (i) consider the councillor's appeal, together with any comments from the chairperson of the meeting concerned;
  - (ii) allow the councillor an opportunity to make representations; and
  - (iii) make a finding as to whether the councillor was absent with good cause.

(3) The municipal manager shall keep a record of all incidents in respect of which councillors have been found to be absent without leave and without good cause and shall submit a written report thereon to the speaker at least once during every three month period.

(4) Whenever a report submitted to the speaker in terms of sub-rule (3) identifies a councillor

as having been absent from three or more consecutive meetings which the councillor was required to attend, the speaker must–

- (a) submit the report to council;
  - (b) allow the councillor an opportunity to make any representations; and
  - (c) recommend to council that the Member of the Executive Council responsible for local government whether or not the councillor should be removed from the council.
- (5) The councillor ceases to be a councillor on the date that the Member of the Executive Council informs the municipal manager that the councillor had been removed from office.

## CHAPTER 5

### ADJOURNMENT

#### **Adjourned meetings**

12. A Council meeting or a meeting of any committee of Council may be adjourned to any day or hour.

#### **Continuation meeting**

13.(1) When a meeting is adjourned, notice of the continuation meeting shall be served in terms of rule 2 of these Standing Rules.

(2) No business shall be transacted at a continuation meeting except such as is specified in the notice of the meeting which was adjourned.

## CHAPTER 6

### PROCEEDINGS

#### **Chairperson of meetings**

14.(1) At every meeting of the Council, the Speaker, or if he or she be not present, an Acting Speaker, shall be Chairperson.

(2) Meetings of the Executive Committee shall be chaired by the Mayor and if he/she is not

present, the Deputy Mayor.

### **Minutes**

15. Minutes of the proceedings of every meeting shall be recorded and be duly kept by the Manager: Corporate Services. He or she shall be responsible for the correctness of the same.

### **Order of business**

16. The order of business at every ordinary meeting of the Council or its Executive Committee is as follows:

- (a) notice of meeting;
- (b) applications for leave of absence;
- (c) confirmation of minutes of previous meeting;
- (d) announcements by the chairperson;
- (e) deputations;
- (f) reports;
- (g) notices of motion;
- (h) questions of which notice has been given; and
- (i) general matters of an urgent nature.

### **Confirmation of minutes of previous meeting**

17.(1) The minutes of every meeting shall be confirmed at the next ordinary meeting and shall be signed by the Chairperson.

(2) No motion or discussion shall be allowed upon the minutes of a previous meeting, other than relating to the accuracy of those minutes.

### **Deputations**

18.(1) A deputation wishing to address the Council or a committee of Council shall submit a memorandum to the Municipal Manager in which is set out the representations it wishes to make.

(2) The Municipal Manager shall submit the memorandum contemplated in sub-rule (1) to the committee, which may receive the deputation, if it is authorised to do so.

(3) Any matter requiring consideration arising from a deputation, shall not be further considered by the committee until the deputation has withdrawn.

**Reports**

19.(1) A report of the Executive Committee or any other committee shall, with the exception of a report accepted by the Chairperson as a matter of urgency, be served in the manner provided in rule 17 of these Standing Rules and Orders.

(2) The chairperson of a committee shall move the recommendations contained in the report, expressing if appropriate, his or her disagreement therewith.

**Motions**

20.(1) No subject shall be brought before Council or a committee of Council by a councillor except by way of notice of motion.

(2) Every notice of motion must be—

(a) in writing; and

(b) signed by the councillor submitting it and by another councillor acting as seconder.

(3) A notice of motion shall be lodged with the Municipal Manager before 12:00 seven days prior to the next meeting, failing which the notice will be considered at the next ensuing meeting.

(4) The Municipal Manager shall—

(a) date and number each notice of motion;

(b) enter each notice of motion lodged in a register, which shall be open to inspection by any councillor and the public; and

(c) enter each notice of motion on the agenda in the order received.

(5) The chairperson shall—

(a) read out the number of every motion and the name of the mover and seconder;

(b) ascertain which motions are unopposed and these shall be passed without debate; and

(c) call the movers of the opposed motions in the order they appear on the agenda.

(6) A councillor submitting a motion shall move such motion and shall have the right of reply.

(7) A motion shall lapse if the councillor and seconder who submitted it is not present at the meeting when such motion is being debated.

- (8) A councillor shall be allowed not more than three notices of motion on the same agenda.
- (9) The Speaker or Chairperson shall reject a motion which, in his or her opinion—
- (a) relates to a matter over which Council has no jurisdiction;
  - (b) has no bearing on the administration of or conditions in the municipality; and
  - (c) will lead to discussion of a matter already dealt with in the agenda.

### **Questions**

21. A councillor may, at a meeting, put a question—

- (a) on a matter arising out of or connected with any item of any report serving before the Council or a committee of Council, as the case may be, when such item has been called or during discussion thereon;
- (b) concerning any matter not arising out of or connected with any item of the report of the Executive Committee: Provided that—
  - (i) such question shall only be put if at least seven days' written notice has first been lodged with the Municipal Manager; and
  - (ii) the Municipal Manager shall forthwith furnish a copy thereof to the Speaker and the Chairperson of the Executive Committee; and
- (c) concerning any matter which, in the opinion of the chairperson, is urgent and cannot wait for the lodging of a question in terms of sub-rule (2).

### **General matters of an urgent nature**

22. General items of an urgent nature may be placed on the agenda by the Municipal Manager with the prior consent of the chairperson.

### **Order of business**

23. The chairperson may, in his or her discretion, at any stage bring forward any business that is on the agenda paper.

### **Interpretation**

24. An interpreter will be used in meetings of the Council and the Executive Committee, unless the majority of councillors present decide otherwise.

## CHAPTER 7

### VOTING

#### Decisions by voting

25. All matters shall be decided by a vote which—

- (a) vote of a majority of councilors.
- (b) Council shall have power to rescind any resolutions taken if it is in best interest of the Municipality to do as such.

#### Method of voting

26.(1) Voting shall be by a show of hands, unless a councillor requests a secret, written ballot.

(2) The Municipal Manager or his or her nominee, shall count the votes cast and shall record the result of voting, but the Speaker shall announce the result.

#### Casting vote

27. The Chairperson shall have a second or casting vote in cases of an equality of votes.

#### Dissenting votes

28. A councillor may request that his or her dissenting vote be minuted as evidence of how he or she voted on the motion.

## CHAPTER 8

### DEBATE

#### Opportunity to speak

29.(1) A councillor can only speak when so directed by the chairperson.

(2) A councillor may indicate a desire to speak by raising his or her hand and await the direction of the chairperson.

(3) Councillors and officials shall stand or remain seated when speaking and shall direct their address to the chairperson.

**Relevance**

30. Every speaker must restrict him or herself strictly to the matter under consideration.

**Length of speeches**

31. Other than the delivery of the mayoral report or the presentation of the estimates of income and expenditure, no speech shall exceed ten minutes in length without the consent of the meeting.

**Councillors to speak only once**

32. A councillor may not speak more than once on any motion or proposal unless permission to do so is granted by the chairperson.

**Precedence of the Chairperson**

33. Whenever the Chairperson rises during a debate, any councillor then speaking or offering to speak shall seat himself and the councillor shall be silent, so that the Chairperson may be heard without interruption.

**Points of order**

34.(1) Any councillor may raise a point of order at any time by standing to draw the attention of the chairperson.

(2) The point of order takes precedence over everything else in the meeting and the chairperson must grant immediate hearing to the councillor raising the point of order and rule accordingly.

(3) The ruling of the Chairperson on a point of order or on the shall be final and shall not be open to discussion.

**Explanation**

35. Any councillor may speak in explanation, provided that such explanation is confined to such explanation shall be confined to some material part of the discussion which may have been misunderstood.

## CHAPTER 9

### CONDUCT

#### General conduct

#### 36. Councillors and officials–

- (a) must conduct the business of the Council in the highest decorum and integrity that the occasion deserves;
- (b) must be dressed appropriately for the dignity of the meeting of the Council;
- (c) must not use an offensive or objectionable language, use a cellphone during, or bring a firearm into, a meeting of Council or any of its committees.

#### Misconduct

37.(1) If a councillor commits misconduct during a meeting of Council or any of its committees, the Chairperson shall direct the councillor to conduct himself properly and, if speaking, to stop speaking and take his or her seat.

(2) In the event of persistent disregard of the directions of the Chairperson, the Chairperson shall direct such councillor to retire from the meeting until the item under discussion has been finalised and, if necessary, shall cause him or her to be ejected therefrom.

(3) Any misconduct by a councillor may be dealt with in terms of Council's Code of Conduct and the Code of Conduct attached as Schedule 1 to the Systems Act.

## CHAPTER 10

### COMMITTEES

#### Rules

38. The Council shall appoint Committees that are required by law and determine where required the terms of reference. The Council's Standing Rules and Orders shall apply *mutatis mutandis* to all committees.

#### The Chairperson

39.(1) The chairperson of a committee shall–



- (a) preside at every meeting of the committee at which he or she is present; and  
(b) be entitled to vote in the first instance and in the case of an equality of votes, shall give a second or casting vote.

- (2) In his or her absence, the Acting or Deputy Chairperson shall have the same powers and rights of voting as those possessed by the Chairperson.

## CHAPTER 11

### PECUNIARY INTEREST

#### **Declaration of pecuniary interest**

40. A councillor wishing to declare a pecuniary interest in respect of any item before Council or any committee of Council, shall do so forthwith after the item or motion in respect of which such interest exists, has been called.

#### **Debate of pecuniary interest**

41. No councillor shall speak for more than five minutes on the question of whether his pecuniary interest as contemplated in section 40, is so small or remote as to render a clash of interests unlikely, unless the Speaker or Chairperson allows the councillor to continue his or her speech for a further five minutes.

## CHAPTER 12

### GENERAL PROVISIONS

#### **Repeal of existing Standing Rules and Orders**

42. The Council's existing Standing Rules and Orders are hereby repealed and replaced by these Standing Rules and Orders .

**Commencement**

- 43.** These Standing Rules shall come into operation on the date of publication in the KwaZulu Natal Provincial Gazette.

## STORMWATER MANAGEMENT BY-LAWS

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:

### INDEX

#### CHAPTER 1: DEFINITIONS

##### Definitions

1. In this bylaw, unless the context indicates otherwise—

**"Council"** means the Council of the Mkhambathini Municipality;

**"non-stormwater discharge"** means any discharge into the stormwater system which is not composed entirely of stormwater;

**"occupier"**, in relation to any premises, means any person –

(a) occupying the premises;

(b) leasing the premises; or

(c) who is not occupying the premises but is entitled to do so;

**"owner"**, in relation to any premises, means –

(a) the person in whose name the title to the premises is registered; or

(b) if the person referred to in (a) is dead, insolvent, mentally ill, a minor or under any legal disability, the executor, guardian or other person who is legally responsible for administering that person's estate;

"**premises**" means any privately-owned land or land on which buildings or other structures are situated;

"**stormwater**" means any storm water runoff, surface water runoff, sub-soil or spring water;

"**stormwater drain**" means any closed or open drain used or intended to be used for carrying stormwater within any premises to the stormwater system; and

"**stormwater system**" means the system of conduits, the ownership of which is vested in the Council, and which is used or intended to be used for collecting and carrying stormwater, including without limiting the generality of the foregoing, any road with a drainage system and any gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, drainage channel, reservoir or other drainage structure.

## CHAPTER 2

### PROHIBITED ACTIVITIES

#### Unauthorised discharge

2.(1) Subject to subsection (2), no person shall, without the prior written consent of the Council, which consent may be conditional or unconditional, directly or indirectly lead or discharge any non-stormwater discharge into the stormwater system without the prior authority of the Council.

(2) Nothing prevents the discharge into the stormwater system of flow from -

- (a) potable water sources;
- (b) natural springs or wetlands;
- (c) diverted streams;

- (d) rising groundwater;
- (e) fire fighting activities;
- (f) individual residential car washing;
- (g) swimming pools, provided that the water has been allowed to stand for one week prior to draining and the pool is drained in such a way as not to cause a nuisance; and
- (h) street sweeping.

#### **Unauthorised connection**

3. No person shall construct, use, allow, maintain or continue any unauthorized drain or conveyance which allows discharge into the stormwater sewer.

#### **Obstruction of flow**

4. No person shall obstruct or interfere with the normal flow of stormwater into, through or out of the stormwater sewer without the prior written approval of the Council.

### **CHAPTER 3**

#### **SUSPENSION OF ACCESS AND NOTIFICATION**

##### **Suspension of access**

5.(1) The Council may issue a notice suspending access to the stormwater system when such suspension is necessary to stop an actual or threatened discharge of any pollutants that presents imminent risk of harm to the public health, safety, welfare or the environment.

(2) In the event that any owner or occupier fails to comply with a suspension notice, the Council may, at the cost of the owner or occupier of the premises, as the case may be, take all reasonable steps required to prevent or minimize harm to the public health, safety or the environment.

### **Notification of spills**

6. As soon as the owner or occupier of any premises becomes aware of any discharge of any pollutants into the stormwater system, the owner or occupier shall -

- (1) take all immediate steps necessary to ensure containment and cleanup of the discharge;
- (2) notify the Council as soon as reasonably possible of the discharge.

## **CHAPTER 4**

### **CONSTRUCTION AND MAINTENANCE**

#### **Construction and maintenance of stormwater drains and connections**

7. The owner or occupier, as the case may be, of any premises shall be responsible for the construction and maintenance, at his or her expense of any stormwater drains on the premises and any connection between such drains and the stormwater system.

## **CHAPTER 5**

### **GENERAL PROVISIONS**

#### **Offences**

8. 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 R5 000 or imprisonment for a period not exceeding 3 months or both.

#### **Repeal of existing by-laws**

9. All Council's existing by-laws that relate to stormwater management are hereby repealed and replaced by this by-law.

#### **Short title and commencement**

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

## STREET TRADING BY-LAWS

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. Definitions**

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

"approval" means approval by an authorized official and "approve" has a corresponding meaning;

"authorised official" means an official of the Council to whom it has delegated a duty, function or power under this bylaw, in relation to the exercise or performance of that duty, function or power and includes any employee acting under the control and direction of such official;

"Council" means the Council of the ..... Municipality and in relations to the exercise of a power, the performance of a duty or the carrying out of a function includes any committee or official of the Council to whom such power, duty or function has been delegated;

"demarcated stand" means stand demarcated by Council for the purposes of street trading in terms of section 6(A)(3)(b) of the Act;

"goods" means any movable property used in connection with street trading and, without limiting the generality of the foregoing, includes products for sale, display tables, stands, receptacles, vehicles, structures or animals;

"public place" means a public place as defined in section 1 of the Local Authorities Ordinance No. 25 of 1974;

"public road" means a public road as defined in section 1 of the National Road Traffic Act No. 93 of 1996;

"roadway" means a roadway as defined in section 1 of the National Road Traffic Act No. 93 of 1996 but excludes a public place;

"sidewalk" means a sidewalk as defined in section 1 of the National Road Traffic Act No. 93 of 1996;

"street trader" means a person who sells, barter, exchanges, hires out, displays, exposes, offers or prepares for sale, barter, exchange or hire any goods or who provides or offers any service for reward as a street vendor, hawker or pedlar in a public road or in a public place, but does not include any person who sells newspapers only;

"the Act" means the Businesses Act No. 71 of 1991 and includes the regulations made there under; and

"verge" means a verge as defined in section 1 of the Road National Traffic Act No. 93 of 1996.

## **CHAPTER 2: PROHIBITIONS**

### **2. Prohibition**

No street trader shall carry on or undertake street trading –

- (1) on a verge contiguous to -
  - (i) a building belonging to or occupied solely by the state or the Council;
  - (ii) a church or other place of worship, or
  - (iii) a building declared to be a national monument in terms of the National Monuments Act No. 28 of 1969;

- (2) on any verge contiguous to a building in which business is being carried on by any person who sells goods of the same nature as, or of similar nature to, goods being sold by the street trader or who offers services of the same nature as, or of a similar nature to, a service offered by the street trader concerned without the consent of such person;
- (3) on that half of a public road contiguous to a building used for residential purposes, if the owner or person in control or any occupier of the building objects thereto;
- (4) at any place where the carrying on of such business causes an obstruction to-
  - (a) the entrance to or exit from a building, or
  - (b) a fire hydrant;
- (5) in any declared area identified as such in terms of section 6A (2) of the Act in respect of which the carrying on of the business of street trader has been –
  - (a) prohibited by the Council, or
  - (b) restricted by the Council, unless such business is carried on in accordance with such restrictions;
- (6) at any place which has been set apart and demarcated as stands or areas by the Council in terms of section 6A (3) (b) of the Act for the purposes of the carrying on of the business of street trader, unless such business is carried on in accordance with -
  - (a) an agreement with the Council, or
  - (b) the allocation by the Council to the street trader of any area or stand;  
and
- (7) in any public garden or park except with prior written consent of the Council.

## CHAPTER 3: RESTRICTIONS

### 3. Restrictions

No person engaging in street trading shall -

- (1) sleep overnight at the business site;
- (2) erect any permanent structure in a public place or public road for the purpose of providing shelter, or
- (3) place or store any goods in such a manner or position as to constitute a danger to any person;
- (4) carry on such business in such a manner as to-
  - (a) create a nuisance;
  - (b) damage or deface any public road or public place or any public or private property; or
  - (c) create a traffic hazard;
- (5) obstruct access to a service or to service works of the Council or of the State or any statutory body;
- (6) interfere with the ability of persons using a sidewalk to view the goods displayed behind a shop display window or obscure such goods from view;
- (7) obstruct access to a pedestrian arcade or shopping centre;
- (8) carry on such business in a place or area in contravention of any restriction imposed by Council resolution in terms of section 6A(2)(a) of the Act;

- (9) place or store his or her goods on or in a building, without the consent of the owner, lawful occupier, or person in control of such building or property;
- (10) attach any of his or her goods by any means to the building structure, pavement, tree, parking meter, lamp, pole, electricity pole, telephone booth, post box, traffic sign, bench or any other street furniture in or a public road or public place;
- (11) make an open fire on a public road or public place;
- (12) interfere with the ability of a person using a sidewalk to view the goods displayed behind a shop displayed window, or obscure such goods from view;
- (13) obstruct access to a pedestrian crossing, a parking or loading bay or other facility for vehicular or pedestrian traffic; and
- (14) obstruct or inhibit the use of street furniture and any other facility designed for the use of the general public.

#### **CHAPTER 4: GENERAL DUTIES OF STREET TRADERS**

##### **4. Cleanliness**

Every street trader shall-

- (1) keep the area used by him or her for the purposes of street trading, as well as any goods used by him or her, in a clean and sanitary condition;
- (2) at the request of any authorised official of the Council, move or remove his or her goods so as to permit the cleansing of the area where he or she is trading, or for the purpose of effecting Council services;
- (3) if his or her activities involve the cooking or other preparation of food, take steps to ensure that no fat, oil or other substance drops or overflows onto the surface of a sidewalk or splashes against a building or other structure; and

- (4) not dispose of litter in a manhole, storm water drain or other place not intended for the disposal of litter.

#### **5. Display of goods**

A street trader shall ensure that any structure, container, surface or other object used by him or her for the preparation, display, storage or transportation of goods-

- (1) is maintained in a good state of repair and in a clean and sanitary condition;  
and
- (2) is not so placed or stored so as to constitute a danger to any person.

### **CHAPTER 5: REMOVAL AND IMPOUNDMENT**

#### **6. Removal and impoundment**

- (1) An inspector may remove and impound any goods -
  - (a) which he reasonably suspects are being used or intended to be used or have been used in or connection with the carrying on of the business of a street trader, and
  - (b) which he finds at a place where the carrying on of such business is prohibited or restricted in terms of these bylaws,

whether or not such goods are in the possessions or under the control of any person at the time of such removal and impoundment.

- (2) An inspector removing and impounding any goods shall -
  - (a) except in the case of goods which appear to have been abandoned or in respect of which the owner or person having control thereof cannot be found, issue to the owner or person having control of such goods a receipt for the removal and impoundment thereof and stating-

- (i) the place where the goods shall be kept;
  - (ii) the amount payable in respect of expenses incurred by the Council in impounding and removing the goods; and
  - (iii) the date on or after which the goods will be sold or destroyed unless claimed; and
- (b) forthwith place such goods in safe custody.
- (3) Neither the Council nor any inspector, officer or employee of the Council shall be liable for any loss or theft of or damage to any goods removed and impounded in terms of these bylaws

#### **7. Disposal of impounded goods**

- (1) Any goods impounded in terms of these by-laws shall be dealt with as follows -
- (a) if the goods are claimed, the street trader shall pay the expenses incurred by the Council for impoundment; and
  - (b) if the goods are not claimed within the period specified on the receipt issued in terms of these by-laws, the goods shall be sold to defray expenses incurred by Council in impounding and removing the goods.
- (2) In the event that the goods-
- (a) are not capable of being sold, they shall be destroyed after the proper specification on the receipt issued in terms of these by-laws;
  - (b) any perishable goods may be sold or destroyed as soon as may be necessary.
- (3) If the proceeds contemplated by this section are insufficient to pay expenses incurred by Council, the owner shall be liable for any excess.

## CHAPTER 6: GENERAL OFFENCES AND PENALTIES

### 8. General offences and penalties

(1) Any person who-

- (a) contravenes any provision of these by-laws;
- (b) ignores, disregards or disobeys any notice, sign or marking displayed or erected for the purposes of these by-laws;
- (c) for the purposes of these by-laws, makes a false statement knowing it to be false or deliberately furnishes false or misleading information to an authorised official; or
- (d) threatens, resists, interferes with or obstructs an authorised official, officer or employee of the Council in the performance of his or her powers, duties or functions under these by-laws,

shall be liable on conviction to a fine not exceeding R 1000-00 or imprisonment for a period not exceeding three months.

## CHAPTER 5

### GENERAL PROVISIONS

#### Repeal of existing By-laws

9. The Council's existing by-laws are hereby repealed.

#### Short title and commencement

10. These by-laws shall be called Street Trading By-Laws. They shall come into operation on the date of publication in the KwaZulu Natal Provincial Gazette.



**No. 79****8 June 2011****PUBLIC TRANSPORT 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, National Road Act No 93 of 1996 , as amended, read with section 11 of the Local Government: Municipal Systems Act No. 32 2000, as follows :

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**CHAPTER 1****DEFINITIONS****Definitions**

1. (1) In this by-law, unless the context indicates otherwise, any word or expression defined in the Act shall bear the meaning so given to it .

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

"bus rank" means any place designated or any area demarcated for the exclusive parking of busses;

"Bus stop " means any place or area designated or demarcated as a bus stop, by a road traffic sign, for the purposes of loading and off loading passengers;

"Chief Traffic Officer " means the person appointed as such by Council, or during his or her absence, the officer acting in that capacity and includes any employee of the Council acting under control of the Chief Traffic Officer;

"Council" means Council of Mkhambathini Municipality;

"Lift club "means any club of which every member shall, for no direct or indirect reward, have a turn to convey or cause to be conveyed by means of a motor car, the members of such a club or the other persons designated by such members , to or from specified places for a specified purpose;

"Medical Officer of Health" means a person appointed as such under section 22 or 25 of the Health Act No 63 of 1977;

"notice" means an adequate notice in words or in sign, erected or posted in a prominent position;

"Parking bay" means any portion of a public demarcated as a parking bay or parking place for the by a road traffic sign or marking;

"Prescribe fee" means a fee determined by the Council by resolution in terms of section 10 G (7) (a) (ii) of the Local Council Government Transition Act No. 209 of 1993 or any applicable legislation.;

"Prescribe tariff " means the fares and charges prescribed by in any journey undertaken in a taxi or a bus;

"Public car park" means any land reserved as a park as indicated in the town planning maps of the Municipality

"Public road" means a public road a defined in the National Road Traffic Act No.93 of 1996 as amended;

"road carrier permit " means a public road permit issued in terms of the Road Traffic Transportation Act no 74 of 1977;

"Road Traffic Act " means the National Road Traffic Act No 93 of 1996 ( as Amended);

"Taxi" means a public motor vehicle (other than a public bus) used for the conveyance of passengers or of passengers and goods;

"Taxi meter cab" means a motor vehicle licensed to transport passengers in return for payment of a fare;

"Taximeter" means a devise used in taxis that automatically records the distance traveled and the fare payable;

"taxi rank" means any place designated or area demarcated as a taxi rank or for the exclusive parking of taxis by a road traffic sign;

"Traffic offer" means the same as the meaning in the Road Traffic Act ;

## CHAPTER 2

### TAXI METER CAB

#### Driver to take shortest route

2. (1) A driver of any taxi meter cab must, while the taxi meter cab is hired, drive to the passenger's destination along the shortest route, unless another route is agreed on or directed by the passenger;
- (2) A taxi meter cab driver must have a current map of the municipal area in his or her possession, which must be made available by the driver to a passenger on request.

**Driver to keep engagement**

3. (1) A driver of any taxi meter cab must convey a passenger and his or her personal effects to the destination agreed upon between the passenger and the driver;
- (2) Should the driver of a taxi meter cab for any reason whatsoever, be unable to convey the passenger and the passenger's personal effects to the agreed destination, such driver must take all reasonable steps to arrange another taxi meter cab, or let the passenger arrange for the transport to get to his or her destination.

**Operation of taxi meter cab**

4. (1) The driver of a meter taxi cab fitted with the taximeter must, as soon as the driver arrives at the point where his or her hiring commences and not sooner, set the taxi meter in motion, and must upon the termination of hiring immediately stop the taximeter from recoding;
- (2) Upon the occurrence of any stoppage not caused by traffic congestion or by the action or request of any passenger, the said driver must for the duration of such stoppage stop the taxi meter from recording..

**CHAPTER 3****BUSES****Stopping places**

5. No driver of a bus, as defined in the National Land Transition Act No. 22 of 2000, may stop the bus for the purpose of picking up or setting down any passenger, except at a stopping place designated by the Council.

**Entering and alighting from a bus**

6. A prospective passenger of a bus, as defined in the National Transport Land Transition Act No. 22 of 2000, may only enter or alight from a bus at a stopping place designated by the Council.

**Driver to stop at stopping places**

7. The driver of a motor vehicle engaged in a public passenger road transport service, which at the time is not carrying the maximum number of passengers the vehicle is lawfully entitled to carry, must stop at any designated stopping place if a prospective passenger is waiting at such stopping place.

**CHAPTER 4****RANK PERMIT FOR BUSES, TAXI METER, TAXIS**

**Permits**

8. (1) Bus, taxi, taxi meter shall hold a rank permit which shall be obtained from the offices of Chief Traffic Officer within its jurisdiction;
- (2) Any person wishing to obtain a rank permit shall submit an application to the Chief of Traffic Officer on the prescribed form obtainable from the offices of Chief Traffic Officer within his/her jurisdiction;
- (3) The Chief Traffic Officer may grant the rank permit if he or she is satisfied-
- (a) that the motor vehicle concerned -
- (i) complies with the provisions of this chapter and any law applicable to the testing of motor vehicles prescribe by the Road Traffic Act No 93 of 1996 as amended;
- (ii) that the taxi meter cab has been fitted with the taximeter;
- (b) that it is permitted to operate as a motor vehicle use for hire;
- (c) that the taxi rank fee or fees determined by Council from time to time , have been paid; and
- (d) that the applicant is in possession of a valid certificate from the Local Road Transportation Board to operate the said motor vehicle in the area of jurisdiction of the Council.
- (4) the Council may when granting rank permit, impose conditions, restrictions and requirements in respect of the motor vehicle concerned, its equipage and the use of the taxis and buses rank ;
- (5) the Council shall, with every rank permit issued , issue a token specifying-
- (a) the year for which such permit has been granted;
- (b) the registration mark allocate to the motor vehicle;
- (c) the make of such motor vehicle;
- (d) the area, taxi or bus rank from which the motor vehicle may ply for hire; and
- (e) the number of the taxi, taxi meter cab and bus approved for use by such motor vehicle;
- (6) the owner of the taxi, taxi meter cab and bus in respect of which a rank permit has been issued under this by-law , shall advise the Chief Traffic Officer-
- (a) of any change of his or her residential and or postal address during the validity of such permit; or

- (b) when disposing of or otherwise ceasing to be the owner of motor vehicle during the said year, the name and address of the person to whom the motor vehicle is being disposed to or other cause of his or her ceasing to be the owner, within 31 days of the event.

#### **Period of validity of rank permit and token**

- 9. A rank permit and token shall be valid from the date of issue until the date agreed upon in terms of the applicable law.

#### **Suspension of rank permit**

- 10. (1) The Chief Traffic Officer may by notice in writing suspend the operation of the current rank permit issue in respect of any motor vehicle if it fails to comply with the requirements or restriction imposed under this by-law;
- (2) The owner shall within 7(seven) days, upon receipt of such notice , deliver the token to the Chief Traffic Officer within his or her jurisdiction;
- (3) The suspension shall be withdrawn by the Chief Traffic Officer on condition that the owner has complied with provisions of these by-laws within 7 (seven) days and the Chief Traffic Officer is satisfied with same.

#### **Restrictions relating to rank permit and token**

- 11.(1) No person shall-
  - (a) affix a token to any other motor vehicle other than the motor vehicle the token was issued for;
  - (b) operate the motor vehicle -
    - (i) unless the token of that taxi, taxi meter cab and bus is affixed on the left hand side of the windscreen thereof so that its face is clearly visible from the outside;
    - (ii) while any token has ceased to be valid is affixed to such motor vehicle;
    - (iii) while the operation of the rank permit in respect of such motor vehicle issued is suspended under section 10 above

### **CHAPTER 5**

#### **GENERAL**

#### **Parking of taxi meter cab, taxi, bus**

- 12. No person may park a taxi meter cab, taxi, bus on any public road or any property for the purpose of providing a transport service, except in an exclusive parking bay, marked by a road traffic sign as prescribed in terms of the National Road Traffic Act No. 93 of 1996 as amended , for that motor vehicle.

**Entering and alighting from the taxi meter cab, taxi, bus**

13. A prospective passenger of a taxi meter cab, taxi, bus, as defined in the National Land Transport Transition Act No 22 of 2000, may only enter or alight from a bus, taxi meter cab and taxi, at a stopping place designated by the Council.

**Stopping places**

14. (1) No driver of a public motor vehicle, as defined in the National Land Transport Transition Act No 22 of 2000 may stop it for the purpose of picking up or settling down any passenger, except at a stopping place designated by the Council;
- (2) The driver of a public motor vehicle engaged in a public passenger road service, which at the time is not carrying the maximum number of passenger the motor vehicle is lawfully entitled to carry, must stop at any designate place if a prospective passenger is waiting at such stopping place.

**Engagement of passengers**

15. (1) No driver of taxi meter cab, taxi, bus, may by using force or threat, or any other offensive manner prevent or seek to prevent any person from hiring any other taxi meter cab, taxi or seek to prevent the driver of such other taxi meter cab, taxi, bus from obtaining or conveying a passenger or a load;
- (2) No person may use force, a threat or any clandestine or other method, to prevent or attempt to prevent any person from participating in a lift club;

**Conveyance of filthy or diseased persons**

16. (1) A driver of a motor vehicle engaged in a public passenger road transport may refuse to convey or carry-
- (a) any person who is obviously in a state of filth or obviously suffering from any contagious disease; or
- (b) any dead animal except animal or poultry intended for human consumption if the animal or poultry is properly wrapped
- (2) No person who has another person in his or her care, who to his knowledge has been exposed to, or contaminated with, any contagious disease, may place such person in any taxi meter cab, taxi, bus;
- (3) No person who is obviously in a state of filth or obviously suffering from any contagiously disease may enter any taxi meter cab, taxi, bus or having entered, remain upon such motor vehicle after being requested by the driver or conductor thereof to leave the motor vehicle;
- (4) The owner, driver, conductor or any person in charge of a motor vehicle in a public passenger road transport service must immediately take steps as soon as it comes to his or her knowledge that-
- (a) any person scuffing from a contagious disease; or

- (b) the body of person who has died of such disease; or
- (c) anything which has been exposed to or contaminate with such disease;

has been conveyed in or upon such public motor vehicle engaged in a public passenger road transport service to report the matter to the Medical Officer of Health;

- (2) The owner, driver , conductor or other person must carry out the instructions issued by the Medical Officer of Health with regard to the disinfection of such motor vehicle engaged in a public passenger road transport services.

#### **Property left in taxi meter cab, taxi, bus**

17. (1) If any property is left in a public motor vehicle engaged in a public road transport service is not claimed within 24 hours after it has been discovered in such public motor vehicle , the driver or conductor of the public motor vehicle must-

- (a) if he or she belongs to a taxi association, take such property to the nearest office of such association;
- (b) if he or she uses a bus depot for the purposes of the business in which he or she is engaged, take such property to such depot; or
- (c) if he or she does not belong to a taxi association or use a bus depot for the purpose of the business concerned, take such property to the referent South African Police Station which have jurisdiction,

and obtained a receipt from the person with whom the property is deposited, or the officer on duty at the referent South African Police Services which has jurisdiction, as the case may be;

- (2) if the property referred to is not claimed within seven (7) days of its receipt in the office of the offices of the referent taxi association or bus depot, the person with whom it was deposited must take it to the South African Police Services.

#### **Queue marshal**

- 18. (1) A queue marshal at any rank must be clearly identifiable and must display his or her name in a conspicuous manner on his or her clothing bellow left shoulder;
- (2) A queue marshal must discharge his or her duties in a courteous and polite manner and show respect to every passenger;
- (3) Where a queue marshal is controlling the entry onto taxi meter cab, taxi, bus , he or she must not allow more than the number of passengers permitted by law, to enter such taxi meter cab, taxi, bus.

#### **Rank managers**

- 19.(1) The Taxi Association may appoint rank manager/s to ensure passengers alight to taxis and there is no shortage of taxis in taxi ranks;



- (2) The rank manager/s may also assist in any manner which ensures a smooth operation of taxis in their areas which shall be stipulated by the Taxi Association;
- (3) A remuneration shall be paid by the Taxi Association to the rank managers for their assistance at the tax rank;
- (4) The rank managers shall be clearly identifiable and will take upon any grievance from the passengers about a complaint about a certain taxi or queue marshal.

### **Offences and penalties**

20. Any person who-

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

is guilty of an offence and liable to a fine of R1000.00 and or imprisonment for a period not exceeding one year

## **CHAPTER 6**

### **GENERAL PROVISIONS**

#### **Repeal of existing By-laws**

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

#### **Short title and commencement**

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

## WASTE MANAGEMENT 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;

“Bulk waste” includes large appliances, machines, furniture, and other solid waste (other than construction or demolition debris or dead animals with weights or volumes greater than those allowed for bundle waste or dustbins);

“bundle waste” includes tree plants, shrubs, bush trimmings, newspapers, magazines, cartons or solid waste securely tied as a package not exceeding one meter in length or 15 kilograms in weight;

“clinical waste” includes any waste which consists wholly or partly of human or animal tissue, blood or other body fluids, excretions, drugs or other pharmaceutical products, swabs or dressings or syringes, needles or other sharp instruments and any other waste arising from medical, nursing, dental, veterinary, pharmaceutical or similar practice or the collection of blood for transfusion being waste which may prove hazardous to any person coming into contact with it;

“council” means Municipal Council of Mkhambathini

“Domestic waste” means normal household waste produced in a residential building used wholly as a private dwelling. If any trade is carried on in a residential building or any part thereof the whole of the waste arising there- from shall be considered as trade waste;

“hazardous waste” means waste which is toxic, flammable, corrosive, radioactive, explosive or otherwise dangerous, and shall also include motor oil, diesel fuel gasoline (petrol), paint, solvents, dry cells and vehicle batteries, pesticides, and infectious or medical wastes from hospitals and clinics, metallic and / or oily sludge’s or solvents from commercial and industrial establishments, asbestos materials, radioactive wastes, and any such like waste which possess characteristics that make them hazardous to human beings or to the environment.

“Hazardous waste audit” means verification of records of hazardous waste disposal by an authorized institution or authority;

“Municipal waste” means waste which is the responsibility of the Council whether under these By-Laws or under any other law to collect, treat and otherwise dispose of.

“Occupier” includes any person in actual occupation of premises or residential dwelling subdivided and let to lodgers or various tenants each lodger or tenant thereof,

“Owner” means title holder and includes any person lawfully claiming title under him or his agent or any person receiving rent or proceeds on his behalf.

“Person” means a natural person but also includes a corporation whether aggregated or sole.

“premises” includes land, building, vehicles, railway carriage or other conveyances and tents, vans, structures of any kind, drains, or places open, covered or enclosed, whether maintained or not under statutory authority, of any place within the limits of the Municipal Council of Mkhambathini;

“Residential dwelling” means building, flat or any structure used as a private dwelling and includes undeveloped or partially developed land allotted for residential purposes;

“Solid waste” means municipal waste material generated by domestic households, institutions, commercial establishments, and industries, and all litter and clandestine piles of such wastes;

“street” includes any street, road, highways, path, sanitary lane, sand lane, thoroughfare or public space to which the public have access and includes a bridge over which a roadway runs;

“trade waste” means all commercial and industrial waste arising from trading of industrial or industrial output or business or in the provision of services and includes all waste which is not domestic refuse within the meaning of these By-Laws;

“waste” includes any substance which constitutes a scrap material or an unwanted surplus substance arising from the application of any process and any substance or article which requires to be disposed of as being broken, worn out, contaminated or otherwise spoilt and for the purposes of these By-laws anything which is discarded or otherwise dealt with as if it were waste shall be presumed to be waste unless the contrary is proved.

“Waste management” includes cleansing, removal, collection, transport, separation, treatment and or disposal of waste in accordance with these By-laws;

“Waste operator” means an entity licensed by the Council to carry out waste management operations within the Municipality;

“Waste management services charge” means the charge determined by the Council from time to time either of its own motion or on a proposal from a Waste manager as a waste management services charge;

“Waste treatment” includes sorting, separation, recycling, bulking, or other activity formal or informal which changes the quantity and or composition of waste pending final disposal whether or not carried out with a view to extracting useable elements;

“Permit” means a document issued by the Council to an entity to conduct business within its jurisdiction.

## **2. Duty of care**

2.1 The Council has the primary duty to regulate waste and its management within the area of jurisdiction and for this purpose all waste generated or otherwise arising within the area of the Municipal shall be subjected to this By-Law and shall be regulated by the Council accordingly.

2.2 The Council shall prepare a waste management plan of its arrangements for managing waste arising within its area of jurisdiction.

2.3 The plan shall include information as to, among other things, the kinds and quantities of waste likely to be present within the area of the council during the plan period; the methods by, and arrangements under, which the waste should be treated or disposed of; the sites and equipment which the Council and other persons are providing or propose to provide for treating and disposing of the waste; and an investment plan for implementing the plan.

2.4 The Council shall establish and maintain schemes and/ or arrangements for the removal and destruction of, or otherwise dealing with, all kinds of waste generated or

otherwise arising within its area of jurisdiction however arising and may establish different schemes or arrangements for different parts or zones of its area of jurisdiction or for different categories of waste and, where such schemes or arrangements are established or otherwise exists, to compel the use of such schemes or arrangements by persons residing in or carrying on business and / or other activities within its area of jurisdiction.

2.5 It shall be the duty of any person who produces carries, keeps, treats, disposes of or otherwise handles waste or who otherwise has control of waste from his control or that of any other person and, on the transfer of waste, to ensure that the transfer is made only to an authorized person or to a person for authorized transport purposes and that there is transferred with the waste such a written description of the waste By-Law and also to enable other persons to comply with this duty as respects the escape of the waste.

2.6 The occupier or owner of any residential dwelling or trade premises within the area of jurisdiction of the Council shall deal with waste arising from the premises in accordance with directions issued by the Council either specifically or under the scheme or arrangement established by the Council under this By-law for the management of domestic and / or trade waste arising in the area where the particular occupier or owner resides or carries on business or other activities.

### **3. Waste Operators**

3.1 The Council shall issue permit to waste operators who satisfy such requirements as to technical and financial capability as it shall stipulate.

3.2 The Council shall determine categories of waste operation for which an application may be made and may from time to time alter such categories.

- 3.3 Any person who, in an application for a waste operator's permit makes any statement which he knows to be false or reckless in any material fact shall be guilty of an offence under this By-Law.
- 3.4 A waste operator's permit shall include such terms and conditions as the Council sees fit to specify in the permit including a description of the activities which may be undertaken under the permit; the duration of the permit; the supervision by the holder of the permit of activities to which the permit relates;
- 3.5 The Council shall from time to time review the performance of waste operators and may suspend or cancel a waste operator's permit if the permit holder has breached the terms and conditions of the permit or has been guilty of negligence in managing waste whose management is authorized by the permit; or if there is some other reason which, the council, seems to justify such action.
- 3.6 The council may on its own initiative, or on the application of the permit holder, modify the terms and conditions of the permit but any such modification shall be of no force and effect unless published in a local daily and representations from members of the public dealt with as if it were a new application.
- 3.7 Where it appears to the Council that the continuation of activities to which a waste operator's permit relates is causing or would cause pollution of the environment, danger to the public health or serious detriment to the amenity of the locality affected by the activities and the pollution, danger or detriment cannot be avoided by modifying the conditions of the permit the Council may revoke the permit with effect from a specified date after serving notice on the permit holder and hearing any representations that the permit holder may wish to make as to why the permit should not be revoked.

3.8 The holder of a permit may transfer the permit to another person but such a transfer shall be of no force and effect until the council has notified the holder that it does not object to the proposed transfer.

3.9 The holder of a permit may relinquish the permit by giving notice to the Council that he no longer requires the permit and delivering the permit to the Council.

Relinquishment shall be of no force and effect until the permit holder receives notification that the Council does not object to the relinquishment and in any case shall not absolve the permit holder from any liabilities or obligations whether civil or criminal incurred during the period when he held the permit.

#### **4. Transporters**

4.1 It shall be an offence for any person who is not a registered transporter of solid waste or a permit holder in the course of any business of his or otherwise with a view to profit to transport any solid waste within the area of jurisdiction of the Council unless he belongs to a category of transporters who have been exempt by the Council from registration.

4.2 The Council shall make provision for the registration of waste transporters.

Applicants shall provide information regarding their physical address and their financial and technical capability to transport waste.

4.3 The Council may require registered waste transporters to execute a bond as a condition for registration.

4.4 In determining whether it is desirable for any individual to be or to continue to be authorized to transport waste the Council shall have regard, in a case in which a person other than the individual has been convicted of an offence under these By-laws, to whether that individual has been party to the carrying on of business in a



manner involving the commission of an offence under these By-laws.

4.5 The Council may revoke the registration of a person who has been convicted of an offence under this By-law.

4.6 If it appears to a duly authorized officer of the Council that any waste is being or has been transported in contravention of this by-law he may, in the presence of a police officer, stop any person appearing to him to be or to have been engaged in transporting that waste and require that person to produce his authority or, as the case may be, his employer's authority, for transporting that waste and search any vehicle that appears to him to be a vehicle which is being or has been used for transporting waste.

4.7 For the purposes of 4.6 of this By-law a person's authority to transport waste is his certificate of registration as a transporter of waste or a certified copy thereof or evidence that he is not required to be registered as a waste transporter.

## 5. Registers

5.1 The Council shall maintain a register containing prescribed particulars of all waste operator's permits and registrations of transporters which are for the time being in force.

5.2 The Council shall ensure that the register is open for inspection at its principal office by members of the public free of charge at all reasonable hours.

5.3 The Council shall accord members of the public reasonable facilities for obtaining, on payment of reasonable charges, copies of entries in the register.

## 6. Collection

- 6.1 It shall be the duty of the Council to arrange for the collection, treatment and disposal of, or otherwise dealing with, all domestic waste and street and other litter generated or otherwise arising within its area of jurisdiction and to take all necessary and reasonably practicable measures to maintain all places falling within its area of jurisdiction in a clean and sanitary condition at all times.
- 6.2 For the purposes of carrying out its duty under 6.1 above the council may enter into such agreements with third parties as it deems appropriate including contracts, franchises, and concessions.
- 6.3 It shall be the duty of the person who generates trade waste or on whose premises trade waste otherwise arises to arrange for the collection, treatment and disposal of all trade waste generated by him and to take all necessary and reasonably practicable measures to ensure that the trade waste is not released into the environment so as to cause pollution thereof.
- 6.4 It shall be the duty of every occupier and every owner of premises wherein any hazardous waste or clinical waste is generated, to make suitable arrangements, including the separation of such waste from other non-hazardous waste or non-clinical waste, to the satisfaction of the Council, for the proper management of the waste and in doing so shall comply with any directions issued by the Council.
- 6.5 It shall be the duty of every occupier and every owner of premises wherein bulk waste is generated to make suitable arrangements for the disposal of such waste and in doing so shall comply with any directions of council.
- 6.6 Every occupier and / or tenant of any residential dwelling shall provide and maintain, to the satisfaction of the Council, a container for domestic waste of a sufficient size, and fitted with a good and effective lid and shall daily cause to be placed within such

container the domestic waste from the said residential dwelling in so far as the said container shall be sufficient to contain the same;

6.7 Every occupier and /or tenant of any trade premises shall provide and maintain to the satisfaction of the council a container for trade waste of a sufficient size, and fitted with a good and effective lid, and shall daily cause to be placed within such container the trade waste from the said premises in so far as the said container shall be sufficient to contain the same.

6.8 If it appears to the Council that there is likely to be situated on any premises in its area trade waste of a kind or in quantities which, if the waste is not stored in containers of a particular kind, is likely to cause a nuisance or to be detrimental to the amenity of the locality in which the premises are situated the Council may, by notice served on the occupier, require him to provide at the premises, containers for the storage of such waste which are of a kind and number reasonably specified in the notice.

6.9 Occupiers of domestic and trade premises shall separate waste which can be recycled and place them in a different container provided by the Council or the waste operator as the case may be for the purpose.

6.10 It shall be an offence against these By-Laws to burn, throw away, or otherwise dispose of domestic and trade waste other than by handing it to, or where there is an arrangement to that effect, leaving it at an appropriate place and in an appropriate container, for collection by a licensed waste manager or a registered waste transporter.

## **7. Disposal**

7.1 Waste shall be disposed of only in permitted disposal areas or at an approved disposal facility.

- 7.2 It shall be the duty of the council to provide places at which to deposit waste before its transfer to a place for its final disposal and places at which to dispose of waste and plant and equipment for processing it or otherwise disposing of it.
- 7.3 The Council may permit another person to use facilities provided by it with or without a charge as may be appropriate.
- 7.4 The person in charge of the waste disposal facility and the person delivering waste to the facility shall maintain a record of all waste loads disposed of at the facility. The record shall take the form of a delivery note signed by both parties at the time of disposal of each load. The records shall be kept for a period of five years and shall be availed to the council on request within that period.
- 7.5 Waste delivered to a permit holder shall be his responsibility to him to deal with under this By-Law.
- 7.6 No person shall sort over or disturb anything deposited at a place provided or approved by the Council for the deposit of waste or in containers for waste provided by the council or other person unless he is authorized to do so by the Council or unless she is a person entitled to the custody of the container or is authorized to do so by such a person or is a person having the function of emptying the container.
- 7.7 The Council shall make provision for small scale resource recovery activities to be undertaken by organized groups at designated sites before disposal of waste.
- 7.8 A permit holder may do such things as it considers appropriate for the purpose of enabling waste belonging to it to be used again or enabling substances to be reclaimed from such waste and it may use, sell, or otherwise dispose of waste belonging to it or anything produced from such waste.

## **8. Payments**

- 8.1 The council shall issue directions on waste collection charges. The directions shall specify the amount of charge or charges to be imposed for different categories of services or for services in different localities or zones within the area of jurisdiction of the Council; the mode of payment and receipt of the charges; and provisions as to the penalty or penalties for failure to pay the charges.
- 8.2 Directions on charges or waste management services may provide for the imposition of a levy to meet the costs of general cleansing but any such levy must be itemized separately on the waste bill or other invoice and must be placed by the collector in a dedicated fund.
- 8.3 Charges shall be collected by the person who provides the waste management services for which the charge is being levied.
- 8.4 There shall be paid by every person or entity to whom a waste management service is provided, a waste charge imposed in accordance with the directions issued by the Council.
- 8.5 The Council hereby imposes the waste charges which are annexed to this By-Law.

## **9. Enforcement**

- 9.1 The Council shall establish and implement a system of monitoring, inspections and enforcement of waste management activities and shall inform and keep the public informed of steps it is taking to implement and improve

waste management within the Municipality and the use to which the general cleansing levy is put in each year.

- 9.2 Any officer or agent of the Council duly authorized in that behalf, may at all reasonable times, enter any residential dwelling or trade premises within the area of jurisdiction of the Council for the purposes of conducting any inspection, inquiry or the execution of works under the provisions of this By-law.
- 9.3 In addition to such penalties for non-payment as may be stipulated in the directions issued by the Council for non-payment of charges for waste management services, any waste management charge payable under the By-laws shall be a debt due and owing to collector and may be recovered as a civil debt at the instance of the collector or any person authorized by the collector to collect on its behalf.
- 9.4 Any power or function conferred on the council under this By-law may be exercised or performed by a third party pursuant to an agreement between the council and the third party and will be deemed to have been exercised or performed under the authority of this By-law

## **10. Offences and Penalties**

- 10.1 Any person who refuses or fails to comply with any provision of this by law or gives false information in relation to any requirements of this by-law shall be guilty of an offence, and, in addition to any other penalty which may lawfully be available, shall be liable on conviction to a fine to be determined by the Council..

## **8. Repeal of existing By-laws**

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

**9. Short title and commencement**

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

