



LOCAL GOVERNMENT NOTICE

BY-LAW RELATING TO THE PREVENTION OF NUISANCE

The Municipal Manager hereby publishes, in terms of Section 13 of the Local Government : Municipal Systems Act, 2000 [Act No. 32 of 2000], read with Section 162 of the Constitution of the Republic of South Africa Act [Act No. 108 of 1996], the By-law Relating to the Prevention of Nuisances.

Purpose of By-law

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

CHAPTER 1

DEFINITIONS

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

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

'authorised official' means –

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

'**municipality**' means the Municipality of _____, established in terms of Section 12 of the Local Government : Municipal Structures Act, 1998 [Act No. 117 of 1998] and includes any political structure, political office bearer, Councillor, duly authorised agent thereof or any employee thereof

acting in connection with this by-law by virtue of a power vested in the municipality and delegated to such political structure, political office bearer, councillor, agent or employee;

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

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

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

'owner' in relation to any private property means -

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

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

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

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

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

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

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

CHAPTER 2

PUBLIC PLACES

2. Breaches of the peace

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

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

3. Indecent behaviour

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

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

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

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

4. **Obscene or offensive language**

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

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

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

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

6. **Loitering**

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

7. Dangerous acts

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

8. Littering

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

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

9. **Cleaning of sidewalks and verges**

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

10. **Obstructions**

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

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

11. Disposal of property found in a public place

- (1) When anything has been left in a public place in contravention of section 10, an authorised official may remove it to a store established by the municipality for this purpose, provided that if such a thing, in the reasonable opinion of the authorised official, has no commercial value then he may dispose of same in such manner as he deems fit and the person who has committed the offence shall be liable to the municipality for the cost of such disposal as determined by such authorised official.
- (2) Items which have been removed to a store in terms of section 11(1) shall be released to any person who, within 7 (seven) days after such removal or within such longer period as may be allowed by the authorised official in charge of such store, has demonstrated that he is its owner or entitled to its possession, after payment of the cost of removal and storage as determined

by such authorised official in accordance with a prescribed tariff of charges.

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

12. **Obstructions caused by plants**

- (1) If a tree, shrub or other plant growing on any private property which abuts on a public place or any portion of such plant-
 - (a) obstructs the view of the driver of any vehicle in such public place;
 - (b) obstructs or causes a nuisance to persons using such public place; or

(c) obscures a road traffic sign,

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

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

13. **Camping and sleeping**

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

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

14. **Gatherings, meetings and processions**

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

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

to leave the scene of the event or to cease participation therein when required to do so, shall be guilty of an offence.

15. Amplification devices and equipment

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

16. Games

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

17. General offences

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

CHAPTER 3

PRIVATE PROPERTY

18. Use of private property

- (1) A person commits an offence if on any private property he -

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

19. **Burglar alarms**

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

section 19(1) if it can be proved that an automatic cut-off mechanism fitted to such device has failed to operate for reasons beyond the control of the occupier and without negligence on his part.

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

20. **Airconditioning appliances**

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

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

21. **Nuisances arising from the use of private property**

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

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

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

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

22. Lighting of fires

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

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

23. Disposal of carcasses

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

24. Removal of weeds, undergrowth and bush

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

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

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

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

26. Keeping or management of a brothel

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

CHAPTER 4

MUNICIPAL PROPERTY AND PROPERTY UNDER THE CONTROL OF THE MUNICIPALITY

27. General offences

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

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

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

CHAPTER 5

PRESUMPTIONS, OFFENCES AND PENALTIES

28. Presumptions

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

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

29. Offences and penalties

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

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

shall be guilty of an offence.

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

30. Regulations

(1) The municipality may make regulations regarding –

(a) the granting of written permission and accompanying conditions for –

(i) the performance of a dangerous act, as contemplated in terms of section 7(1)(e); and

(ii) the discharge of fireworks in terms of section 7(2);

(b) the disposal of litter by an occupier of premises in or on which there is carried on any business, occupation, trade or manufacturing, as contemplated in terms of section 9(2);

(c) the granting of written consent and accompanying conditions and restrictions for the hanging or suspension of anything from or above a public place or so as to cause an obstruction, as contemplated in terms of section 10(5);

(d) the disposal of property found in a public place, including-

(i) the municipality's identification and designation of a store for property removed in terms of section 11(1);

(ii) guidelines for the determination of the commercial value of property so removed;

(iii) a tariff of charges for the removal and storage of items, as contemplated in terms of section 11(2);

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

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

(vi) the contents and service of a notice for the control of vermin, procedures for effecting control by the municipality itself and a tariff of charges therefor, as contemplated in terms of sections 25(2) and (3);

(j) a tariff of charges or schedule of costs for the remedying of any loss or damage suffered by the municipality as a result of the commission of an offence in terms of section 30(1);

(k) (i) the prescription of penalties for the offences contemplated in terms of section 29; and

(ii) the amendment of such penalties from time to time;

(l) any matter which may be prescribed in terms of this by-law and any matter which may facilitate the application of this by-law.

(2) [a] The municipality shall, not less than 1 (one) month before promulgating a regulation in terms of sub-section 1, cause a draft of the regulation to be communicated to the local community and to be made public in terms of sections 21 and 21A of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000], together with a notice declaring the intention of the municipality to issue such a regulation and inviting comments or representations.

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

31. Repeal of by-laws

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

32. Short title

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