

AGENDA: PFC: COMMUNITY DEVELOPMENT: 03 MAY 2005
SUBSTITUTED ITEM

18. **REVISED BY-LAWS FOR DIRECTORATE: COMMUNITY DEVELOPMENT**

(Directorate: Community Development) (14492)(PM/cr)

1. **STRATEGIC THRUST**

To facilitate delivery of basic service

2. **PURPOSE OF REPORT**

The report serves to present to Council revised by-laws for Directorate: Community Development for adoption.

3. **EXECUTIVE SUMMARY**

The concept by-laws of SALGA where structured and where applicable amended in terms of new existing legislations.

Council must review the by-laws to determine whether they would be suitable for the community of Rustenburg.

4. **CONCLUSION**

After Council adoption these by-laws a draft and mission of guilt fines in terms of the Criminal Procedures Act 1977 (Act 51 of 1977) will be presented to Council to resolve on.

--- Attached are by-laws for the Directorate: Community Development.
(Annexure A)(Pages 12 – 142)

RECOMMENDED: (CC)

ACTION

1. That the report on revised by-laws for Directorate: Community DCD Development;
2. That Council adopt the amended by-laws for Directorate DCD Community Development;
3. That Directorate: Corporate Support Services (Legal Unit) DCD publish the amended by-laws in the North West Provincial Gazette.

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LOCAL AUTHORITY NOTICE**OF RUSTENBURG LOCAL MUNICIPALITY****BY-LAWS RELATING TO ACCOMMODATION ESTABLISHMENTS**

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

[1] Definitions

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

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

"authorised official" means:

- [a]** an official of the Council; or
- [b]** an official of another municipality; or
- [c]** an official of another organ of state; or
- [d]** a person contracted by the Council; and

with whom the Council has concluded an agreement either directly or on an agency basis for the rendering of services in terms of these by-laws and/or to which or whom the Council has delegated a duty, function or power under these by-laws, provided that the official or person concerned shall be a duly registered environmental health officer or health practitioner;

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

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

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

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

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“municipality” means the Local municipality of Rustenburg and includes the Council thereof and should the context so require also the authorised official;

“prohibition notice” means a notice issued in terms of section 7;

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

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

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

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

[2] Requirements for premises

Except under authority of permit issued by the Council in terms of these by-laws, no person may operate an accommodation establishment on premises that do not comply with the following requirements:

- [a] No room wholly or partly used by persons for sleeping in may be occupied by a greater number of persons than will allow:

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- [i]** less than 11,3 m³ of free air space and 3,7 m² of floor space for each person over the age of 10 years; or
 - [ii]** less than 5,7 m³ of free air space and 1,9 m² of floor space for each person under the age of 10 years.
- [b]** No latrine, passage, staircase, landing, bathroom, cupboard, outbuilding, garage, stable, tent, storeroom, lean-to, shed, cellar or loft may be used as sleeping accommodation.
- [c]** If a dormitory is provided on the premises -
 - [i]** a single bed, manufactured of metal or some other durable material and equipped with a mattress, must be provided for every person housed in the dormitory;
 - [ii]** a separate locker must be provided for every person making use of the dormitory for safeguarding the person's personal clothing and other possessions;
 - [iii]** every bed in a dormitory must be placed such that its sides are at least one metre away from any part of any other bed.
- [d]** An accommodation establishment must be provided with -
 - [i]** an area for the preparation and cooking of food, adequate for the use of and easily accessible to any occupier residing in the premises;
 - [ii]** adequate separate wash-up facilities; and
 - [iii]** where meals are provided to persons housed on the premises, a dining-room or adequate dining area with tables and chairs or benches and unobstructed floor area [including the area occupied by tables, chairs and benches] of at least 1,2 m² for every seat provided for dining purposes.
- [e]**
 - [i]** An accommodation establishment must be provided with one or

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more showers, each suitably placed in a separate compartment, easily accessible to all occupiers of the premises, and fitted with waste pipes which comply with the provisions of the National Building Regulations and Building Standards Act, 1977 [Act No. 103 of 1977], as amended.

- [ii] A bath fitted with a waste pipe may be substituted for each shower referred to in subsection [i] hereof.
- [iii] The facilities referred to in subsections [i] and [ii] hereof must be designated for the different sexes.
- [f] An accommodation establishment must be provided with sanitary facilities as prescribed in the National Building Regulations and Building Standards Act, 1977 [Act No. 103 of 1977] and such fixtures must be designated for the different sexes.
- [g] An accommodation establishment must be provided with an adequate supply of hot and cold running potable water.
- [h] All rooms must be provided with adequate ventilation and lighting as prescribed in the National Building Regulations and Building Standards Act, 1977 [Act No. 103 of 1977], as amended.
- [i] Openings such as doors, windows or fanlights may not be obstructed in a manner that interferes with the lighting or cross ventilation they provide.
- [j]
 - [i] A separate room with metal bins or canvas laundry bags must be provided for the storage of dirty articles used in connection with the accommodation establishment, pending removal to be laundered; and
 - [ii] If articles used in connection with the accommodation establishment are laundered on the premises, a separate approved washing, drying and ironing area equipped with the necessary facilities for this purpose must be provided.
- [k] A store-room for the storage of furniture and equipment and a separate linen room with cupboards or shelves for the storage of clean bed and other linen,

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towels, blankets, pillows and other articles used in connection with the accommodation establishment, must be provided.

- [i] [i] All walls and ceilings must have a smooth finish and be painted with a light-coloured washable paint, or have some other approved finish;
- [ii] The floor surface of every kitchen, scullery, laundry, bathroom, shower, ablution room, toilet and sluice room must be constructed of concrete or some other durable, impervious material brought to a smooth finish; and
- [iii] The floor surface of every habitable room must be constructed of an approved material.
- [m] The following facilities must be provided for people who are employed and also reside on the premises:

 - [i] sleeping quarters equipped with a bed, mattress and locker that comply with the provisions of subsections [a], [b] and [c] for each employee; and
 - [ii] where employees are not provided with meals on the premises, food preparation and dining facilities that comply with the provisions of subsection [d].
- [n] Adequate changing facilities must be provided for non-resident employees.
- [o] Adequate ablution and sanitary facilities, which comply with the provisions of subsections [e] and [f] must be provided for resident and non-resident employees.
- [p] An adequate refuse holding area must be provided and an approved refuse removal system must be maintained.

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- [q]** All walls, floors and roofs must be constructed in a manner that prevents wind and rain entering the premises or dampness entering the interior surfaces of the walls and floors.
- [r]** All accesses to an accommodation establishment must have a door which when closed, prevents the wind or rain entering the premises; and
- [s]** All windows must be constructed in a manner that prevents rain entering the premises when the windows are closed.

[3] Duties of the operators of accommodation establishments

Every person who operates an accommodation establishment must –

- [a]** keep the premises and all furniture, fittings, appliances, equipment, containers, curtains, covers, hangings and other soft furnishings, table linen, bed linen, and other bedding, towels and cloths of whatever nature used in connection with the accommodation establishment in a clean, hygienic and good condition at all times;
- [b]** clean and wash any bed linen, towel, bath mat or face cloth after each use by a different person;
- [c]** take adequate measures to eradicate pests on the premises;
- [d]** provide a container made of a durable and impervious material, equipped with a close-fitting lid, in every toilet used by females;
- [e]** provide towel rails or hooks in every bathroom and in every room in which there is a wash-hand basin or shower;
- [f]** store all dirty linen, blankets, clothing, curtains and other articles used in connection with the accommodation establishment in the manner referred to in Section [2](j);

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- [g]** store all clean linen, towels, blankets, pillows and other articles used in connection with the accommodation establishment in the manner referred to in Section [2][k];
- [h]** keep all sanitary, ablution and water supply fittings in good working order;
- [i]** keep every wall, surface and ceiling, unless constructed of materials not intended to be painted, painted at the intervals to ensure that the area painted remains clean and in a good state of repair; and
- [j]** handle refuse in the manner referred to in Section [2][p].

[4] Permit to operate a accommodation establishment

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

[5] General terms applicable to permits

[1] A permit issued in terms of these by-laws –

[a] is not transferable from one person to another; and

[b] applies only to the premises specified in the permit.

[2] Every permit –

[a] must specify the address and other relevant details regarding the location of the premises concerned;

[b] must describe the premises concerned;

[c] must describe the authorised use or activity concerned;

[d] may specify terms and conditions; and

[e] must indicate when it expires.

[3] The Council may levy a fee for considering and granting a permit in terms of these by-laws.

[4] The Council may refuse to consider an application until it has been provided with the information that it reasonably requires to make an informed decision and until the prescribed fee [if any] has been paid.

[6] Compliance notice

[1] If an authorised official after inspecting premises on which an accommodation establishment is being conducted or operated, reasonably believes that a public health hazard or public health nuisance exists on such premises or that the premises are being used

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for a purpose in contravention of these by-laws, he may serve a compliance notice on one or more of the following persons:

- [a]** the owner of the premises;
- [b]** the occupier of the premises;
- [c]** any person apparently in charge of undertaking the aforesaid use on the premises.

[2] A compliance notice must state –

- [a]** why the authorised official believes that these by-laws are being contravened;
- [b]** the measures that must be taken –
 - [i]** to ensure compliance with these by-laws; or
 - [ii]** to eliminate or minimise any public health nuisance;
 - [iii]** the time period within which the measures must be taken;
- [c]** the possible consequences of failing to comply with the notice; and
- [d]** how to appeal against the notice.

[3] If a person fails to comply with a compliance notice that requires a particular action to be taken, the Council may –

- [a]** take the required action specified in the compliance notice; and
- [b]** recover, as a debt, from the person to whom the notice was given, the costs and expenses reasonably incurred in taking the required action; or

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

[7] Prohibition notice

- [1] An authorised official may, after inspecting premises apparently used for accommodation establishment purposes contrary to these by-laws, serve a prohibition notice on the owner, occupier or user of such premises prohibiting the premises from being so used and requiring measures to be taken to ensure that this occurs.
- [2] The authorised official must give the person on whom he intends serving a prohibition notice a reasonable opportunity to make representations before serving the notice unless he reasonably believes that the delay in doing so would significantly compromise public health, in which case the person on whom a prohibition notice is served must be given reasonable opportunity to make representations why it should be withdrawn.
- [3] A prohibition notice must state –
 - [a] the reasons for serving the notice;
 - [b] whether or not the Council will withdraw the notice if certain measures are taken, and if so, the measures that must be taken;
 - [c] the possible consequences of failing to comply with the notice; and
 - [d] how to appeal against the notice.

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- [4]** Unless a prohibition notice provides otherwise, it comes into effect when it is served under subsection [1] and remains in force until it is withdrawn.
- [5]** The authorised official must as soon as possible affix a copy of the notice in a conspicuous position on the premises.
- [6]** It is a defence for anyone charged with failing to comply with a prohibition notice to prove that –
 - [a]** he did not know of the existence of the prohibition order and could not reasonably be expected to have known of its existence; and
 - [b]** he had complied with the prohibition notice within 48 hours of the time that the notice was affixed to the premises in terms of subsection [5].

[8] Withdrawal of prohibition notice

- [1]** The authorised official must, within 48 hours of receiving a written request for the withdrawal of a prohibition contained in a prohibition notice, carry out an investigation of the premises.
- [2]** After completing the investigation, the authorised official must inform the person on whom the prohibition notice was served or that person's agent in writing, whether or not the prohibition has been removed or withdrawn.
- [3]** The Council may charge the owner or occupier of any premises where an investigation is carried out in terms of subsection [1], a fee for undertaking the investigation.

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[9] Suspension, cancellation and amendment of permits

[1] An authorised official may suspend or cancel a permit with immediate effect if—

[a] he reasonably believes that it is urgently necessary to do so to eliminate or to reduce a significant risk to public health posed by a public health hazard or a public health nuisance; and

[b] the holder of the permit fails to comply with a compliance notice that states that the permit may be suspended or cancelled without further notice if the holder fails to comply with such notice.

[2] An authorised official may suspend or cancel a permit after giving the holder a reasonable opportunity of making representations as to why the permit should not be suspended or cancelled if —

[a] he reasonably believes that it is desirable to do so to eliminate or reduce the risk to public health posed by a public health hazard or a public health nuisance; or

[b] the holder of the permit fails to comply with a compliance notice.

[3] An authorised official may amend a permit by endorsing the permit or by written notice to the holder, if he reasonably believes that it is necessary to do so to protect public health or to take account of changed circumstances since the permit was issued.

ANNEXURE A**[10] Appeals**

- [1]** A person whose rights are affected by a decision taken by any authorised official under these by-laws, may appeal against the decision by giving written notice of the appeal and reasons to the Municipal Manager of the Municipality within 21 days of the date of the notification of the decision.
- [2]** The Municipal Manager must promptly submit the appeal to the appropriate appeal authority referred to in Section 62 of the Municipal Systems Act 32 of 2000.
- [3]** The appeal authority must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.
- [4]** An appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable period.

[11] Offences and penalties

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 duties under these by-laws –

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is guilty of an offence and liable on conviction to a fine or in default of payment to imprisonment for a period not exceeding 6 months.

[12] Delivery of notices

[1] A notice, order or other document is to be regarded as having been properly served if -

- [a]** it has been delivered to that person personally;
- [b]** sent by registered post to the person to whom it is addressed at his/her/their last known address;
- [c]** it is served on a person apparently not less than 16 years of age and apparently in charge of the premises at the addressee's last known address;
- [d]** if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided for in subsections [a],[b] or [c]; or
- [e]** if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the premises to which it relates.

[2] A notice, order or other document that may in terms of these by-laws be served on the owner or occupier of premises -

- [a]** may be addressed to the owner or occupier of the specified premises and need not name the owner or occupier; and
- [b]** if the Council does not know the address of the owner or occupier of the premises and cannot easily obtain it, the notice, order or other document is to be regarded as having been

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properly served if it is posted up in some conspicuous place on the premises.

[13] Repeal

Any by-law relating to Accommodation Establishments or similar undertakings adopted by the Municipality or the Council of a Municipality now comprising an administrative unit of the Municipality are, from the date of promulgation of these by-laws hereby repealed.

**BY-LAWS PERTAINING TO PUBLIC HEALTH HAZARDS
AND NUISANCES**

LOCAL GOVERNMENT NOTICE

OF RUSTENBURG LOCAL MUNICIPALITY

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

[1] Definitions

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

“compliance notice” means a notice issued in terms of section 5 to comply with these by-laws.

“council” means the Council of the Local Municipality of Rustenburg or its successor in title, and any committee or person to which or whom an instruction has been given or any power has been delegated or sub-delegated in terms of, or as contemplated in, section 59 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000] as amended.

“environmental health officer” means an official appointed by the Council, and who is duly registered as an environmental health officer or environmental health practitioner with the Health Professions Council of South Africa;

“municipal area” means the proclaimed area of jurisdiction of the Council as envisaged in Section 2 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000] as amended.

“municipal manager” means the person appointed by the council in terms of Section 82 of the Local Government: Municipal Structures Act 1998 as amended and includes a person acting in this position.

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“occupier”, in relation to any premises, means any person -

- [a]** occupying the premises;
- [b]** leasing the premises;
- [c]** who is not occupying the premises but is entitled to do so; or
- [d]** who manages the premises or a business on the premises on behalf of a person referred to in [a], [b] or [c];

“owner” in relation to any premises, means -

- [a]** the person in whose name the title to the premises is registered, and includes the holder of a stand licence; 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;

“person” means a natural or a juristic person.,

“pest” means any animal that may create a public health hazard or public health nuisance if it is present in significant numbers and without limitation, includes rats, mice, flies, mosquitoes and cockroaches;

“premises” means -

- [a]** any land without any buildings or other structures on it;
- [b]** any building or other structure and the land on which it is situated; or
- [c]** any land that adjoins land referred to in [a] or [b] and any building or other structure on that land, if the land, building or structure is occupied or used in connection with any activity carried out on the premises referred to in [a] or [b];

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“prohibition notice” means a notice issued in terms of section 6;

“public health” means the mental and physical health and well-being of local community in the municipal area;

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

- [a] the circumstances referred to in section 3[3];
- [b] unsanitary conditions;
- [c] circumstances that make it easier for a communicable disease to spread;
- [d] circumstances that make food or drink [including water for domestic consumption] unhygienic or unsafe to eat or drink; and
- [e] circumstances that allow pests to infest any place where they may affect public health;

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

[2] Purpose

The purpose of these by-laws is to enable the Council to protect and promote the long term health and wellbeing of the local community in its municipal area.

[3] Prohibition on causing a public health hazard

- [1] No person may create a public health hazard anywhere in the municipal area.

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- [2] Every owner or occupier of premises must ensure that a public health hazard does not occur on his premises.
- [3] An owner or occupier of premises creates a public health hazard if –
- [a] his premises are infested with pests or if pests are breeding in large numbers on the premises;
 - [b] there are conditions on his premises that are conducive to the spread of a communicable disease;
 - [c] there are unsanitary conditions in any part of his premises; or
 - [d] any water supply for domestic consumption on his premises is unsafe for human consumption.
- [4] Any person that contravenes or fails to comply with subsections [1] or [2] commits an offence.
- [4] **Duty to report**
- [1] The owner or occupier of premises who knows of a public health hazard on the premises must within 24 hours of becoming aware of its existence –
- [a] eliminate the public health hazard; or
 - [b] if the owner or occupier is unable to comply with subsection [a], take reasonable steps to reduce the risk to public health and report the existence of the public health hazard to the Council.
- [2] An owner or occupier who does not comply with subsection [1] commits an offence
- [5] **Compliance notice**
- [1] If an environmental health officer, after inspecting premises, reasonably believes that a public health hazard or public health nuisance exists on such

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premises, the environmental health officer may serve a compliance notice on one or more of the following persons:

- [a]** the owner of the premises;
- [b]** the occupier of the premises;
- [c]** any person apparently responsible for the public health hazard or public health nuisance.

[2] A compliance notice must state –

- [a]** why the environmental health officer believes that these by-laws are being contravened;
- [b]** the measures that must be taken –
 - [i]** to ensure compliance with these by-laws; or
 - [ii]** to eliminate or minimise any public health nuisance;
 - [iii]** the time period within which the measures must be taken;
 - [iv]** the possible consequences of failing to comply with the notice; and
 - [v]** how to appeal against the notice.

[3] If a person fails to comply with a compliance notice that requires a particular action be taken, the Council may –

- [a]** take the required action specified in the compliance notice; and
- [b]** recover, as a debt, from the person to whom the notice was given, the costs and expenses reasonably incurred in taking the required action.

ANNEXURE A**[6] Prohibition notice**

- [1]** An environmental health officer may, after inspecting premises, serve a prohibition notice prohibiting the premises from being used for specified purposes and requiring measures to be taken to ensure that this occurs, on one or more of the following persons:
- [a]** the owner or occupier of the premises if the environmental health officer reasonably believes that the premises are being used for a purpose or in a manner that is causing a public health hazard or a public health nuisance;
 - [b]** any person who is carrying on an activity or using premises for a purpose or in a manner that the environmental health officer reasonably believes is causing a public health hazard or a public health nuisance; or
 - [c]** a person on whom a compliance notice was served if the environmental health officer reasonably believes that that person has not complied with the compliance notice;
 - [d]** the environmental health officer must give the person on whom he or she intends serving a prohibition notice a reasonable opportunity to make representations before serving the notice unless the environmental health officer reasonably believes that the delay in doing so would significantly compromise public health, in which case the person on whom a prohibition notice is served must be given reasonable opportunity to make representations why it should be withdrawn.
- [2]** A prohibition notice must state –
- [i]** the reasons for serving the notice;
 - [ii]** whether or not the Council will withdraw the notice if certain measures are taken, and if so, the measures that must be taken;

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- [ii] the possible consequences of failing to comply with the notice; and
 - [iv] how to appeal against the notice.
- [3] Unless a prohibition notice provides otherwise, it comes into effect when it is served under subsection [1] and remains in force until it is withdrawn.
- [4] The environmental health officer must as soon as possible affix a copy of the notice in a conspicuous position on the premises.
- [5] It is a defence for anyone charged with failing to comply with a prohibition notice to prove that –
 - [a] he or she did not know of the existence of the prohibition order and could not reasonably be expected to have known of its existence; and
 - [b] he or she had complied with the prohibition notice within 48 hours of the time that the notice was affixed to the premises in terms of subsection [4].
- [7] **Withdrawal of prohibition notice**
 - [1] An environmental health officer must, within 48 hours of receiving a written request for the withdrawal of a prohibition contained in a prohibition notice, carry out an investigation of the premises.
 - [2] After completing the investigation, the environmental health officer must inform the person on whom the prohibition notice was served or that person's agent in writing, whether or not the prohibition has been removed or the prohibition order withdrawn.
 - [3] The Council may charge the owner or occupier of any premises where an investigation is carried out in terms of subsection [1], a prescribed fee for undertaking the investigation.
- [8] **Demolition order**

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[1] If the Council believes that a public health hazard would be eliminated or a public health nuisance would be significantly reduced by demolishing a building or other structure, it may, subject to the provisions contained in any other law, apply to any court having jurisdiction for an order directing any person to demolish the building or structure or authorising the Council to do so and to recover the costs of doing so from the owner or the occupier of the premises, or from both.

[2] The Council may not apply to court in terms of subsection [1] unless it has given the owner and the occupier of the premises not less than fourteen day's notice in writing of its intention to make the application.

[9] Appeals

[1] A person whose rights are affected by a decision taken by any authorised official under these by-laws, may appeal against the decision by giving written notice of the appeal and reasons to the municipal manager within 21 days of the date of the notification of the decision.

[2] The municipal manager must promptly submit the appeal to the appropriate appeal authority referred to in Section 62 of the Local Government: Municipal Systems Act No. 32 of 2000 as amended.

[3] The appeal authority must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.

[4] An appeal authority must commence with an appeal within six weeks of its submission to the Municipal Manager and decide the appeal within a reasonable period.

[10] Offences and penalties

[1] 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;

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[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 –

is guilty of an offence and liable on conviction to a fine or in default of payment to imprisonment for a period not exceeding 6 months.

[11] Delivery of notices

[1] A notice, order or other document is to be regarded as having been properly served if –

[a] it has been delivered to that person personally;

[b] sent by registered post to the person to whom it is addressed at their last known address;

[c] it is served on a person apparently not less than 16 years of age and apparently in charge of the premises at the addressee's last known address;

[i] if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided for in subsection [a],[b] or [c]; or

[ii] if that person's address and agent or representative in the Republic is unknown, when it has been posted in a conspicuous place on the premises to which it relates.

[d] A notice, order or other document that may in terms of these by-laws be served on the owner or occupier of premises –

[i] may be addressed to the owner or occupier of the specified premises and need not name the owner or occupier; and

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- [ii] if the Council does not know the address of the owner or occupier of the premises and cannot easily obtain it, the notice, order or other document is to be regarded as having been properly served if it is posted up in some conspicuous place on the premises.

[12] Repeal

Any by-laws adopted by the municipality or the council of a municipality now comprising an administrative unit of the municipality and relating to public health hazards and nuisances or any similar matter referred to or regulated in these by-laws are, from the date of promulgation of these by-laws, repealed.

[14] Application to the State

These by-laws binds the State, including the municipality.

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LOCAL GOVERNMENT NOTICE**OF RUSTENBURG LOCAL MUNICIPALITY**

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

BY-LAW RELATING TO THE PREVENTION OF NUISANCES**Purpose of By-Law**

The purpose of these by-laws is to promote the achievement of a safe, peaceful and healthy environment for the benefit of residents within the area of jurisdiction of the municipality and to provide for procedures, methods and practices to regulate nuisances.

Definitions

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

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

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

"municipal area" means the municipal area of Rustenburg;

"municipality" means the Municipality of Rustenburg established in terms of Section 12 of the Municipal Structures Act, 117 of 1998;

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

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

“public place” means any square, building, park, recreation ground or open space which:-

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

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

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

Enforcement

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

Behaviour and conduct

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

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assemble any motor vehicle or other vehicle or apparatus on premises approved by the council;

- [b]** do work on any erf or use any building or land for purposes calculated, in the opinion of the council, to depreciate or to disfigure such erf or to interfere with the convenience or comfort of the neighbours thereof or to become a source of danger to any person;
- [c]** carry on any trade, business or profession on any erf in the municipal area which may in the opinion of the council be a source or become a source of discomfort or annoyance to the neighbourhood;
- [d]** deposit, leave, spill, drop or place any fruit or vegetable peels, broken bottles, glass, refuse or any objectionable material or thing which is offensive or likely to cause annoyance, danger or injury to persons in or upon any erf, street or public place;
- [e]** allow any erf to be overgrown with bush, weeds or grass or other vegetation except cultivated trees, shrubs and grass to such extent that, in the opinion of the council or any duly authorised employee of the council it may be used as a shelter by vagrants, wild animals or vermin or may threaten the public health or the safety of any member of the community or may promote the spread of fires;
- [f]** allow any erf to be dirty, neglected or infested with rodents, snakes, mosquitoes, flies, ticks, bugs or other insects harmful to health, or allow any offensive odours or gasses to emanate from such erf;
- [g]** allow the fencing of any erf to fall into a state of disrepair or to become unsightly or dilapidated;
- [h]** allow any building or structure or any portion thereof on any erf to fall into a dilapidated, neglected or unsightly state, or fail to maintain the roof-water disposal system, pipes, sewers, drains, water fittings, waste water fittings, water closet fittings and all other appurtenances forming part of or attached to any building or structure in good and sound repair, or fail to maintain the walls of any building or structure free from dampness;
- [i]** use or cause or permit to be used any stoep and/or verandah of any shop or business premises or vacant land adjoining such shop or business premises for the purpose of storing, stacking, dumping, disposing, displaying, keeping, selling or offering for sale any goods, articles or merchandise;

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- [j] use or cause or permit any shop or business premises or vacant land adjoining such shop or business premises or any portion thereof which is open or visible to the public for the purpose of storing, stacking, dumping, disposing, or keeping any waste material, refuse, cartons, crates, containers or other articles of a like nature;
- [k] enclose or cause or permit the enclosing of any stoep or verandah of any shop or business premises by means of movable or immovable structures, objections, articles or devices otherwise than by such means as the council may approve;
- [l] keep on his premises any animal or bird which creates a disturbance or a nuisance to the neighbours by making frequent and excessive noise;
- [m] deposit or keep or cause or suffer to be deposited or kept any night soil on any premises, except in a proper sanitary convenience approved by the council and in accordance with any by-law of the council;
- [n] keep or cause or suffer to be kept upon his premises any sanitary convenience of such nature that it is a nuisance or is offensive or injurious or dangerous to health;
- [o] befoul, misuse or damage any public convenience or any convenience provided in any public building or place of public entertainment;
- [p] carry or convey, or cause or permit to be carried or conveyed through or in any street or public place, any objectionable material or thing, liquid or solid, which is or may become offensive or dangerous or injurious to health, unless such objectionable material or thing is covered with a suitable material to prevent the creation of any nuisance;
- [q] bury or dispose of any dead body in any unauthorised place;
- [r] permit the carcass of any animal, being his property or of which he is in charge, and which has died on his premises or elsewhere in the municipal area, to remain unburied;
- [s] cause or permit any stream, pool, ditch, drain, gutter, water-course, sink, bath, cistern, water closet, privy or urinal on any land or premises owned or occupied by him or of which he is in charge to be or become so foul or in such a state or to be so situated or constructed as to be offensive or dangerous or injurious to health;

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- [t] cause or permit any foul or polluted water or any foul liquid or objectionable material to run or flow from any premises owned or occupied by him, whether occupied for trade, business, manufacturing, dwelling or any other purpose, into any street or on any land;
- [u] commit or cause or permit to be committed, any act which may pollute any water which inhabitants of the municipality have the right to use or which is provided or deserved for the use of such inhabitants;
- [v] bathe or wash himself or any animal or article or clothing or any other article or thing in any public stream, pool or water trough or at any public hydrant or fountain or at any place which has not been set aside by the council for any purpose;
- [w] disturb the public peace in any street or public place by making unseemly noises or by shouting, insistent hooting, wrangling or quarrelling, or by collecting a crowd or by organising any demonstration or by fighting or challenging to fight, or by striking with or brandishing or using in a threatening manner any stick or other weapon or by any other riotous, violent or unseemly behaviour at any time of the day or night, or by loitering in any street or public place or by gathering in crowds on pavements;
- [x] advertise wares or services in any street or public place by means of any megaphone, loudspeaker, or similar device or by insistent shouting, striking of gongs, blowing of horns or ringing of bells in such manner as to constitute a public nuisance in the neighbourhood;
- [y] in or upon any property or premises disturb the public peace in the neighbourhood of such premises by making therein or thereon any unseemly noises, or by shouting, wrangling, quarrelling and singing or by playing therein or thereon a musical instrument or use or permit to be used any musical instruments, radios, television sets or the like or any loudspeaker or other device for the reproduction or amplification of sound, in such manner or at such a time or in such circumstances that the sound thereof is audible beyond the boundaries of such property or premises and materially interferes with the ordinary comfort, convenience, peace or quiet of the occupiers of surrounding properties;
- [z] in any street or public place use any abusive or threatening language or commit any act which may or is calculated to cause a breach of the peace;

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- [za]** solicit alms in any street or public place or endeavour by the exposure of wounds, sores, injuries or deformities or the production of begging letters to obtain alms, or
- [zb]** cleanse or wash any vehicle or part in any street or public place.

Failure to comply with provisions

- [4] [1]** Where any material, article or thing of whatsoever nature has been accumulated, dumped, stored or deposited on any erf, or where there is an overgrowth of bush, weeds, grass or vegetation on any erf in contravention of section 3[a], [d] and [e] the council may serve a notice on -
 - [a]** the person directly or indirectly responsible for such accumulation, dumping, storing or depositing;
 - [b]** the owner of such material, article or thing, whether or not he is responsible for such accumulation, dumping, storage or depositing;
 - [c]** the owner of the erf on which such accumulation, dumping, storage or depositing takes place, whether or not he is responsible therefor, or
 - [d]** the owner of the erf on which there is an overgrowth of bush, weeds, grass or vegetation -

requiring such persons or owners to dispose of, destroy or remove such material, article or thing or to clear such overgrowth to the satisfaction of the council.
- [2]** Should any person or owner fail to comply with the requirements of a notice in terms of subsection [1] within the period stipulated by the council, the council may itself dispose of or destroy or remove such material, article or thing, or clear the overgrowth from any erf at the cost of any one or more of the persons or owners mentioned in subsection [1][a], [b], [c] and [d].
- [3]** Where on any erf there is a contravention of section 3[b], [f], [g], [h] and [i] the council may at its discretion serve a notice on either the owner or the occupier to abate the nuisance within a defined period to be stated in such notice.

Sanitary facilities at construction sites

- [4]** Every person engaged in building operations, road construction or construction work of any nature shall, when required to do so by the

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council, provide adequate sanitary accommodation for himself and his employees to the satisfaction of and in accordance with any requirements specified by the council.

Unlawful occupation

- [5] [1] No person shall, without the permission of the council, occupy or permit to be occupied for human habitation any caravan, tent or other similar shelter of any description except on an authorised camping or caravan site controlled by the council or any other camping or caravan site which conforms with the provisions of the by-laws relating to such caravan parks or camping sites.
- [2] The council may serve notice on any person who occupies a caravan, tent or shelter in contravention of subsection [1] to vacate such caravan, tent or shelter within 3 days after the service of such notice upon him, failing which, such person shall be guilty of an offence.

Penalties

- [6] Any person who contravenes or fails to comply with any provision of these by-laws or any notice served in terms thereof shall be guilty of an offence and be liable upon conviction to -
- [i] a fine or imprisonment for a period not exceeding six months or to such imprisonment without the option of a fine or to both such fine and such imprisonment and,
 - [ii] in the case of a continuing offence, to an additional fine or an additional period of imprisonment of 10 days or to such additional imprisonment without the option of a fine or to both such additional fine and imprisonment for each day on which such offence is continued and,
 - [iii] a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as a result of such contravention or failure.

Repeal of By-Laws

- [6] Any by-law relating to the prevention of nuisances adopted by the municipality or any municipality now comprising an administrative unit of the municipality is repealed from the date of promulgation of these by-laws.

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LOCAL GOVERNMENT NOTICE
OF RUSTENBURG LOCAL MUNICIPALITY

**BY-LAW RELATING TO THE DISPOSAL OF CONTAMINATED AND OR
INFECTIOUS WASTE**

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

[1] Definitions

In these by-laws unless the context indicates otherwise:

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

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

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

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

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

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

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

"Miscellaneous contaminated wastes" means wastes from surgery and autopsy

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

"Municipality" means the Rustenburg Local Municipality

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

[2] Storage of infectious waste

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

[3] Transport of Infectious waste

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

ANNEXURE A**[4] Removal and disposal of infectious waste**

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

[4] Infectious waste

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

[5] Penalties

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

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[6] Repeal of By-Laws

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

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LOCAL GOVERNMENT NOTICE**OF RUSTENBURG LOCAL MUNICIPALITY****BY-LAWS RELATING TO THE KEEPING OF ANIMALS AND POULTRY**

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

Purpose of By-Laws

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

Definitions

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

"animals" mean members of the equine family, cattle, sheep, goats, pigs, fowls, dogs, cats, or other domestic animals or reptile which is in captivity or under the control of any person;

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

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

"pets" means any dogs, cats, guinea pigs, hamsters, rabbits, chinchillas or birds not kept for breeding or business purposes;

"poultry" means fowls, ducks, muscovy ducks, geese, turkeys, pigeons, peacocks and domestic guinea-fowls;

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

Written permission

- [2] No person shall keep or permit to be kept on any premises or property any animals or poultry [excluding pets] without the written permission of the municipality, and such permission may be withdrawn if, at any time, a nuisance is caused or the requirements of these by-law are not complied with; provided that the provisions of this section shall not apply to premises or land which is zoned for agricultural purposes.

Number of animals

- [3] For the purpose of controlling and restricting the keeping of animals or poultry within townships, the municipality may from time to time determine the number, kind and sex of animals that may be kept and the areas within which such animals or poultry shall be prohibited.

Plans for structures and management

- [4] [1] An application for permission to keep animals or poultry shall be accompanied by a detailed site plan indicating all structures and fences, existing and proposed, on the premises.
- [2] Detailed plans and specifications shall be submitted to and be approved by the municipality in respect of all structures where animals or poultry are to be accommodated.
- [3] A detailed explanation of the number, kinds, sizes and sex of animals to be accommodated on premises shall accompany the plan.
- [4] Notwithstanding anything to the contrary contained in these by-laws the municipality may refuse to approve the application and plans if, in its opinion, the premises, owing to its location, siting or geographical features is unsuitable for the keeping of animals or poultry thereon.

Structures shall comply with requirements

- [5] [1] All structures housing animals or poultry shall be constructed in

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a workmanlike manner and of materials approved by the municipality.

- [2] No structure that accommodates animals shall be sited within a distance of 15 m from any dwelling and staff quarters or the boundary of a residential erf and 8 m from any road boundary. The municipality may however, depending on circumstances and in its sole discretion, allow a relaxation of the said distances.
- [3] No structure in which poultry or birds are kept shall be sited:
 - [a] Within 3m from any boundary of a residential erf; or from any dwelling or staff quarters.
 - [b] 10m from any door or window.
- [4] Every part of a structure in which animals or poultry will be housed shall be properly maintained and painted as often as the municipality may deem necessary.
- [5] No animals or poultry shall be kept in a structure or on land which is considered by the municipality to be undesirable or objectionable by reason of its locality, construction or manner of use.

Premises to be kept clean

- [6] [1] All manure from animals or poultry shall be stored in a manner approved by the municipality and disposed of on a regular basis at an approved place or disposal site so as to prevent any nuisance from being created.
- [2] All animals or poultry feed shall be stored in a rodent-proof receptacle approved by the municipality.
- [3] The premises in which animals or poultry are accommodated shall be kept in such condition as not to attract or provide shelter for rodents.

Animals, poultry and pets kept in an unsatisfactory manner

- [7] Whenever, in the opinion of the municipality, any animals, poultry or pets kept on any premises, whether or not such premises have been approved by the municipality under these by-laws, are a nuisance or danger to health, the municipality may by written notice require the owner or occupier of such premises, within a period to be stated in such notice but not being less than 24 hours after the date of such notice, to remove the cause of and to abate such nuisance or danger to health and to carry out such work or do such things as the municipality may deem necessary for the said purpose.

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Stray animals and pets

- [8] [1] The municipality may seize animals or pets found on any premises, land or a public road and which are not under supervision or control of any person and which are causing a nuisance or danger to the safety and health of persons.
- [2] Animals or pets seized in terms of sub-section [1] may be destroyed or caused to be destroyed by the municipality with such instruments or appliances and with such precautions and in such a manner as to inflict as little suffering as possible.

DOG KENNELS AND CATTERIES**Requirements for premises**

- [9] No person shall keep a kennel or cattery unless the requirements listed hereunder are complied with:
- [1] Every dog or cat shall be kept in an enclosure complying with the following requirements:
- [a] It shall be constructed of durable materials and the access thereto shall be adequate for cleaning purposes.
- [b] The floor shall be constructed of concrete or other durable and impervious material brought to a smooth finish and graded to a channel 100 mm wide, extending over the full width of the floor and situated within the enclosure, which channel shall be graded and shall drain into a gully connected to the municipality's sewer system by means of an earthenware pipe or a pipe of any other approved material with a minimum diameter of 100 mm, or to another approved disposal system.
- [c] A kerb 150 mm high shall be provided along the entire length of the channel referred to in sub-section [b] and on the side thereof adjacent to the surrounding outside area, to prevent storm water from such area from entering the channel.
- [2] Every enclosure referred to in sub-section [1] shall contain a roofed shelter for the accommodation of dogs and cats and such shelter shall comply with the following requirements:
- [a] Every wall shall be constructed of brick, stone, concrete or other durable material and shall have a smooth internal

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surface without cracks or open joints.

- [b] The floor shall be of concrete or other impervious and durable material brought to a smooth finish without cracks or open joints and the surface between the floor and the walls of a permanent structure shall be covered.
 - [c] Every shelter shall have adequate access thereto for the cleaning thereof and for extermination of vermin.
- [3] In the case of dogs, a dog kennel of moulded asbestos or other similar material, which is movable and placed on a base constructed of concrete or other durable material with an easily cleaned finish, without cracks or open joints, may be provided instead of a shelter contemplated in sub-section [2], and if the base of such kennel is not rendered waterproof, a sleeping board which will enable the dog to keep dry shall be provided in every such kennel.
- [4] A concrete apron at least 1 m wide shall be provided at the entrance of the enclosure over its full width and the apron shall be graded for the drainage of water away from the enclosure.
- [5] A supply of potable water, adequate for drinking and cleaning purposes, shall be provided in or adjacent to the enclosure.
- [6] All food shall be stored in a rodent-proof store-room, and all loose food shall be stored in rodent-proof receptacles with closefitting lids in such store-room.
- [7] At least 5 m of clear, unobstructed space shall be provided between any shelter or enclosure and the nearest point of any dwelling, other building or structure used for human habitation or any place where food is stored or prepared for human consumption.
- [8] Isolation facilities for sick dogs and cats shall be provided to the satisfaction of the municipality.
- [9] If cages are provided for the keeping of cats, such cages shall be of durable, impervious material and constructed so as to be easily cleaned.

PET SHOPS

Requirements for premises

- [10] No person shall conduct the business of a pet shop upon any premises unless the premises are constructed and equipped in accordance with

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the following requirements:

- [1] Every wall, including any partition of any premises shall be constructed of brick, concrete or other durable material, shall have a smooth internal surface and shall be painted with a light coloured washable paint or given some other approved finish.
- [2] The floor of any premises shall be constructed of concrete or other durable and impervious material brought to a smooth finish.
- [3] The ceiling of any premises shall be constructed of durable material, have a smooth finish, be dustproof and be painted with a light coloured washable paint.
- [4] Sanitary facilities shall be provided to the premises as required by the National Building Regulations.
- [5] A rodent-proof store-room shall be provided on the premises to the satisfaction of the municipality.
- [6] Facilities for the washing of cages, trays and other equipment shall be provided on the premises to the satisfaction of the municipality.
- [7] If required, change room or locker facilities shall be provided on the premises to the satisfaction of the municipality.
- [8] No door, window or other opening in any wall of premises shall be within 2 m of any other door, window or other opening to any other building in which food is prepared, stored or sold for human consumption or is consumed by humans.
- [9] There shall be no direct access from the premises from which a pet shop is conducted to any habitable room or any room in which clothing or food for human consumption is stored.

Business requirements

- [11] Every person who conducts the business of a pet shop shall:
 - [1] for the separate housing of animals, poultry or birds provide movable cages complying with the following requirements:
 - [a] The cages shall be constructed entirely of metal or other durable, impervious material and shall be fitted with a removable metal tray below the floor thereof to facilitate cleaning.

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- [b]** Every cage shall be free from any recess or cavity not readily accessible for cleaning and every tubular or hollow fitting used in connection therewith shall have its interior cavity sealed.
- [c]** If rabbits are kept in a cage, the metal tray referred to in sub-section [a] shall drain into a removable receptacle.
- [d]** Every cage shall be fitted with a drinking vessel kept filled with water and accessible to pets kept in the cage;
- [2]** provide rodent-proof receptacles of impervious material with close-fitting lids in the store-room of the pet shop in which all pet food shall be stored;
- [3]** maintain the premises and every cage, tray, container, receptacle, basket and all apparatus, equipment and appliances used in connection with the pet shop in a clean, sanitary condition, free from vermin and in good repair;
- [4]** take effective measures to prevent the harbouring or breeding of, and to destroy, flies, cockroaches, rodents and other vermin, and to prevent offensive odours arising from the keeping of pets on the premises;
- [5]** provide overalls or other protective clothing for use by persons employed in connection with the pet shop and ensure that such apparel is worn by every employee when on duty;
- [6]** at all times keep every pet in or on the premises unless otherwise approved by the Municipality;
- [7]** provide isolation facilities in which every pet which is or appears to be sick shall be kept whilst on the premises;
- [8]** ensure that there is a constant supply of potable water in the premises for drinking and cleaning purposes;
- [9]** ensure that the premises are at all times so ventilated as to ensure sufficient movement of air for the comfort and survival of the pets, and
- [10]** ensure that the number of pets per cage is not such that the free movement of such pets is impeded.

ANNEXURE A**PET SALONS****Requirements for premises**

- [12]** No person shall conduct the business of a pet salon in or upon any premises unless the premises are constructed and equipped in accordance with the following requirements:
- [1]** A room shall be provided with a minimum floor area of 6,5 m² for the washing, drying and clipping of dogs or cats.
 - [2]** The floor of such room shall be constructed of concrete or other durable, impervious material brought to a smooth finish and graded to a channel drained in terms of the National Building Regulations.
 - [3]** The surface between the floor and the wall of such room shall be coved and the covering shall have a minimum radius of 75 mm.
 - [4]** Every internal wall surface shall be smooth-plastered and be painted with a light-coloured washable paint.
 - [5]** The room shall be equipped with -
 - [a]** a bath or similar facility with a constant supply of hot and cold water drained in terms of the National Building Regulations;
 - [b]** an impervious-topped table, and
 - [c]** refuse receptacles of impervious, durable material with a close-fitting lid for the storage of cut hair pending removal.
 - [6]** If cages are provided for the keeping of cats and kennels for the keeping of dogs, such cages and kennels shall be of durable material and be so constructed as to be easily cleaned.

Business requirements

- [12]** Every person who conducts the business of a pet salon shall -
- [1]** ensure that every cage, including its base, is of metal construction and movable;
 - [2]** ensure that all pesticidal preparations and preparations used for the washing of dogs and cats and the cleaning of equipment and materials are stored in separate metal cupboards;

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- [3]** ensure that all tables used for the drying and grooming of dogs and cats are of metal with durable and impervious tops;
- [4]** maintain the premises and every cage, tray, receptacle, basket and all apparatus, equipment and appliances used in connection with the pet shop in a clean, sanitary condition, in good repair and free of vermin;
- [5]** at all times keep every dog or cat inside the building on the premises, unless otherwise approved by the municipality.
- [6]** provide portable storage receptacles of impervious material with close-fitting lids for the storage of dog and cat litter, and
- [7]** remove all litter and other waste matter from the enclosure and shelter at least once every 24 hours and place it in the receptacles referred to in sub-section [6].

Penalty

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

Repeal of by-laws

- [14]** Any by-laws relating to the keeping of animals adopted by the municipality or any municipality now comprising an administrative unit of the municipality is repealed from the date of promulgation of these by-laws.

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LOCAL GOVERNMENT NOTICE
OF RUSTENBURG LOCAL MUNICIPALITY
BY-LAWS RELATING TO CHILDCARE SERVICES

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

[1] Definitions

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

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

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

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

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

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

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

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

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

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

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

"Municipality" means the Rustenburg Local Municipality and includes the Council thereof;

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

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

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

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

[2] Application of by-laws

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

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

[3] A person who is, at the date of commencement of these by-laws, conducting a childcare service or a childminder service shall, within one month of that date, or within such extended period as Council may allow, on written application made prior to the expiry of the said period, apply for registration of such

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service in terms of section 3 of these by-laws. If any person conducting such a service fails to apply as aforesaid or his application is refused, he shall, if he continues to conduct such service after such period or after refusal of his application, be deemed to have contravened section 2[2] of these by-laws.

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

[3] Registration of Childcare Facilities and Childminder Facilities

- [1] Any person wishing to undertake the operation of a childcare or childminder service, must apply in writing, in a manner and form as near as possible to Form 1 of the Schedule, to the Council for such service to be registered for the intended purpose. If the applicant is not the owner of the premises, the written consent of the owner shall accompany the application.
- [2] The Council may, before or during the consideration of the application, request such further information relating to the application as it deems necessary.
- [3] The Council may approve an application and register the service if it is satisfied that the applicant is a fit and proper person to conduct the relevant facility, and that no circumstances exist which are likely to be prejudicial to the health, safety and welfare of the children who are to be cared for at the facility.
- [4] The Council may, at any time before or after approval of an application in terms of this section, require the applicant to submit to the Council a report at his own cost from a registered psychologist pertaining to the applicant's state of mental health as well as a social report on the qualifications and criminal background of such applicant.
- [5] The Council may approve an application and register the facility if it is satisfied that the premises comply with:-
- [a] the National Building Regulations;
 - [b] the Health Act;
 - [c] the Council's Town Planning Scheme or Town Planning Scheme in the course of preparation; and
 - [d] requirements relating to the premises on which the childcare or childminder service is to be conducted as contemplated in these by-laws.

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- [e]** as far as childcare facilities are concerned, registration with the Department of Social Development in accordance with the Childcare Act, 1983 [Act No 74 of 1983] as amended.
- [6]** When approving an application for registration, the Council may impose such further conditions and restrictions as it deems fit.
- [7]** Once an application for registration has been approved, the Council will issue a certificate which:-
 - [a]** states the name of the person to whom it is issued;
 - [b]** describes the premises in respect of which the application was approved;
 - [c]** specifies any conditions or restrictions imposed in terms of sub-section [6];
 - [d]** states the period for which the premises will be so registered.
- [8]** Neither registration nor the certificate is transferable to any other person, heir or successor-in-title to the certificate holder.
- [9]** If the Council does not approve an application for the registration of a childcare or childminder facility, the Council must within 14 [fourteen] days of the decision:-
 - [a]** inform the applicant of such a decision;
 - [b]** provide written reasons for such refusal if so requested by the applicant; and
 - [c]** may give the applicant an opportunity to comply, within a period determined by the Council, with the stated requirements of or any other conditions and/or requirements that the Council may stipulate.
- [10]** A certificate holder shall, at least 30 days before expiry of the period referred to in sub-section [7][d], re-submit an application for registration in terms of this section.
- [4] Cancellation of Registration**
 - [1]** The authorised official shall, by written notice to the certificate holder where possible, cancel registration of a childcare service if-

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

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

[5] Termination of Service

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

[6] Right of Entry and Inspection of Premises and Records

An authorised official may, in the enforcement of these by-laws, at any reasonable time and without prior notice, enter any premises upon which a childcare or childminder service is being conducted, or upon which such official has reasonable grounds for suspecting the existence of such service and conduct such examination, enquiry and inspection thereon as he may deem necessary.

[7] Requirements for Childcare Facility

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

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

- [a]** If more than 30 children are cared for on the premises, provision should be made for a separate office large enough to be divided into a sick bay to accommodate at least two children, as well as a staff room where staff can rest and safekeep their personal possessions.
- [b]** The office, staff room and sickbay referred to in paragraph [a] may be combined.

[2] Indoor Play Area:

- [a]** Provision should be made for an indoor play area covering a minimum floor space of 1,8m² per child to be used for play, meals and rest.
- [b]** Not more than one third of the compulsory floor space per child may consist of covered veranda.
- [c]** Cots and mattresses utilised for sleeping purposes by children must be arranged so that there shall be a minimum of 50cm space between the cots and or mattresses.

[3] Kitchen:

- [a]** The kitchen must comply with the following requirements:
 - [i]** adequate and suitable cooking and washing facilities must be provided;
 - [ii]** a smoothly finished floor of concrete or any other impervious material;
 - [iii]** adequate natural lighting and ventilation;
 - [iv]** wall surfaces should have a smooth finish and should be painted with a washable paint;
 - [v]** ceilings must be dust-proof;
 - [vi]** all working surfaces must be of stainless steel or other impervious material;

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- [vii] cooling facilities for the storage of perishable food must be provided;
- [viii] adequate storage space must be provided;
- [ix] adequate number of waste bins with tightly fitting lids;
- [x] adequate supply of potable as well as hot water and cleaning agents for the cleansing of equipment and eating utensils must be provided;
- [xi] the kitchen must be separate from the play area;
- [xii] the kitchen must not be accessible to the children;
- [xiii] all foodstuffs must be protected from contamination by dust, dirt, pests and any contaminating agent;
- [xv] kitchen staff must wear personal protective clothing which must be maintained in a clean and tidy condition at all times.

[4] Sanitary facilities:

- [a] Subject to sub-section [b], provision must be made for -
 - [i] one toilet and one hand washing facility for every 20 or less children under 5 years of age irrespective of sex; and
 - [ii] one toilet and hand washing facility for every 20 or less children above the age of 5 years, separate for each sex.
- [b] One urinal is to be regarded as equal to two toilets, provided that urinals should not replace more than 25% of the total toilet facilities.
- [c] Separate toilet facilities must be provided for the staff as contemplated in the National Building Regulations.
- [d] Walls and floors of the sanitary facilities must be of an impervious material rendered to a smooth surface.
- [e] The following additional toilet and wash facilities for children under the age of 2 years must be provided -

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- [i]** facilities for the hygienic handling of nappies and potties;
- [ii]** adequate containers for the storage of clean and soiled napkins;
- [iii]** ready access to a suitable washing facility;
- [iv]** suitable and adequate toilet and wash facilities for children who are not toilet trained;
- [v]** a supply of hot and cold running potable water at the wash-hand basins, or if no running water is available, a minimum of 25 litres of potable water, stored in a hygienically clean container.
- [f]** Chamber pots [potties] are to be emptied, cleaned and disinfected with a disinfectant immediately after being used and stored in a suitable place when not in use;
- [g]** All basins must be closely fitted to the walls at the rear of such basins which walls shall be smooth and washable.

[5] Outdoor play Area:

- [a]** An outdoor play area of at least 2 m² per child must be provided.
- [b]** The outdoor play area must -
 - [i]** comprise lawns, shady areas or other safe surfaces;
 - [ii]** be fenced/walled to a height of 1.8 m;
 - [iii]** have approved lockable or child-proof gates; and
 - [iv]** shall be free of excavations and dangerous steps and levels.

[8] Requirements for Child Minder Facility

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

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

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- [b] suitable floor covering for the area referred to in paragraph [a] if required by, and to the satisfaction of the authorised official;
- [c] a kitchen on the premises for the preparation of meals;
- [d] storage facilities for the personal belongings of each child;
- [e] a towel and face cloth for each child, which shall be kept or hung separately;
- [f] a plastic bucket with a close-fitting lid for each child for the storage of soiled napkins, which buckets must be marked to ensure individual use and must be stored in a bathroom or other suitable area, inaccessible to any child;
- [g] separate storage for clean napkins; and
- [h] adequate outdoor play area, comprising lawns or other safe surfaces which is fenced and has approved lockable or child-proof gates, provided that if such an area cannot be provided, the authorised official may, at his sole discretion, approve of the substitution of an indoor area additional to that provided in terms of paragraph [a] above.

[9] Equipment for children

The certificate holder shall, to the satisfaction of the authorised official, provide sufficient and suitable equipment in every childcare facility and, except where otherwise provided, such equipment shall comprise as least the under-mentioned items which items shall comply with the minimum requirements listed:

- [a] chairs must be lightweight, washable and of a suitable height, without splinters or rough surfaces;
- [b] tables should be sturdy, washable and without splinters;
- [c] beds and mats for sleeping and resting purposes must in no way be dangerous to the child. Mattresses must be covered with suitable waterproof material;
- [d] sheets, waterproof sheets and blankets must be provided;
- [e] sufficient, safe and adequate indoor as well as outdoor play apparatus and toys must be provided;
- [f] personal toiletries such as face cloth, toothbrush, a comb or brush and items such as soap, paper towels and toilet paper must be supplied. It should be ensured that enough soap, towels or paper towels are available at the washbasins at all times;

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- [g]** sufficient eating utensils must be provided;
- [h]** sand pits should be covered overnight, sprinkled with coarse salt every six weeks and the sand replaced at least once a year.

[10] General Requirements

Notwithstanding anything to the contrary contained in these by-laws, every childcare and childminder facility shall comply with the following general requirements:

- [1]** All interior walls must have a durable finish that can be cleaned with relative ease.
- [2]** All floors must be constructed of a smooth and impervious material that is durable and can be easily cleaned.
- [3]** If carpeting is used on the floors, it must be kept clean at all times.
- [4]** Any slats or rails forming part of an enclosure, security gate, play pen, bed, cot or any other object or structure whatsoever, must be a minimum of 75 mm apart, must be installed and maintained in a good state of repair, and if painted, only non-toxic paint must be used.
- [5]** All windows and doors accessible to children must be constructed of safety glass.
- [6]** A separate storage area must be provided for the storage of indoor and outdoor play materials, equipment, stretchers, sleeping mats, bedding and linen.
- [7]** Waste bins with tightly fitted lids must be provided.
- [8]** Apparatus and equipment used and any structures that may be on the premises must in no way present any danger to the children.
- [9]** Provision should be made for the storage of medicines, cleaning materials and other harmful agents in such a way that it is out of the reach of children and kept separate from food.
- [10]** Pets may not be kept on the premises without the prior permission of Council.
- [11]** All food, eating utensils and equipment used for the preparation, handling or serving of food must be properly protected against dust, dirt, insects or any contaminating agent.

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- [12] No children may have free access to living quarters of staff at any time. Adequate measures must be taken to keep such living quarters separate from the facility.
- [13] Insects and vermin must be efficiently combated.
- [14] Where a child stays with the childcare or childminder facility for longer than 4 [four] hours at a time, the person in charge of such facility must provide at least 2 [two] meals per day, which meals must be balanced and meet the child's daily nutritional requirements.
- [15] Children must at all times be under the direct supervision of an adult staff member.
- [16] Staff should be trained and skilled in First Aid and Basic Fire Fighting.
- [11] **Ratio of Staff to number of children**
- [1] The certificate holder shall ensure that the following staff-to-children ratio is adhered to at all times:
- Children from birth - 18 months old**
1 childcare worker for every 6 or less babies
- Children from 18 months to 3 years old**
1 childcare worker for every 12 or less babies
- Children from 3 to 4 years old**
1 childcare worker for every 20 or less children
- Children from 4 to 5 years old**
1 childcare worker for every 30 or less children
- School going children**
1 staff member for every 35 or less children
- [2] Administrative and domestic staff are not included in the ratio referred to in sub-section [1].
- [12] **Health register**
- [1] The certificate holder shall maintain a health register reflecting the following details of all children attending the facility:
- [a] The child's name and date of birth.

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- [b]** The name of the parents or guardian and their address and telephone number, both at home and at place of employment.
 - [c]** The name and address and telephone number of each child's medical practitioner and dentist, with written authority from the parents or guardian to consult them in emergencies.
 - [d]** Information concerning the child's general state of health and physical condition.
 - [e]** Details of operations which each child has undergone, and any illnesses or communicable diseases from which the child has suffered and the relevant dates.
 - [f]** Details of immunisations against polio, diphtheria, tetanus, whooping cough, measles, mumps, German measles and tuberculosis; and
 - [g]** Details of allergies and any medical treatment the child may be undergoing.
- [2]** The names of children who are allergic to certain substances or products should be posted prominently in the facility.
- [3]** A proper record of any medicine that is given to a child should be kept.

[13] Medical Care of Children

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

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medical practitioner, summon a medical practitioner of the certificate holder's choice;

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

[14] Health and Safety Measures

- [1]** The certificate holder shall, in the interest of the health and safety of the children -
 - [a]** take effective precautions for the protection of the children against fires, hot water installations, electrical fittings and appliances and any other object, condition or thing which may be dangerous or is likely to cause injury to any child;
 - [b]** fence and completely cover any swimming or paddling pool on the premises at all times when not in use. Any children utilising the pools must do so with the parents' consent and must be under adult supervision at all times;
 - [c]** ensure that all gates or doors of outdoor play areas are securely locked or otherwise closed at all times so as to prevent children from entering or leaving the confines of such areas or the premises of their own accord, and to prevent the entrance or presence of unauthorised people and domestic animals in the facility;

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- [d] equip and maintain first-aid equipment, to the satisfaction of the authorised official, and keep it readily available for use and out of reach of children;
 - [e] install fire fighting equipment on the premises in accordance with National Building Regulations SABS 0400 and submit an Emergency Procedure to the Fire Brigade Disaster Management Officer or other designated official of the municipality for approval.
 - [f] store medicines, corrosive and other harmful substances, including cleaning materials and alcoholic beverages, in a safe manner and in a place not accessible to the children;
 - [g] ensure that no noxious or poisonous plant or shrub grows on the premises;
 - [h] arrange for the medical examination of employees and other persons involved in the conduct of the childcare service or present on the premises when called upon by the authorised official to do so, and shall not allow any person who is found to be suffering from, or a carrier of, a communicable disease, to remain on the premises.
- [2] The provisions of the Regulations relating to Communicable Diseases and the Notification of Notifiable Medical Conditions published under Government Notice R. 2438 dated 30 October 1987, as amended, and or any other similar and applicable law shall, mutatis mutandis, apply to the services as if it falls within the scope of the expression "teaching institution" in Regulation 1 of those Regulations and-
- [a] a breach by a certificate holder of a duty placed upon a principal in terms of the Regulations shall be deemed to be a breach of these by-laws;
 - [b] the duties placed upon and the powers vested in a medical official of health under the Regulations shall be placed upon or vested in the authorised official for the purposes of these by-laws.

[15] Management responsibilities

- [1] The certificate holder shall ensure that -
 - [a] no refuse receptacle or any other potentially harmful or hazardous object or material is stored in the outdoor play area used by the children;
 - [b] children are under adult supervision at all times;

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- [c] each child uses his own sleeping equipment, towel and face cloth, clearly marked and kept separately;
- [d] prepared infant feeds are provided by the parents or guardians of babies, in bottles with covered teats;
- [e] the facility has access to a telephone at all times;
- [f] the premises is maintained in a clean, hygienic, safe, sound and pest-and-rodent-free condition at all times;
- [g] staff are clean, healthy and appropriately dressed at all times;
- [h] no person smoke or use any tobacco product in the presence of children.

[16] Transport

[1] The certificate holder shall ensure that -

- [a] if transport is provided for the children to and from the facility, the staff of the facility are held responsible for the child for the period that he is so transported until he is handed back to his parent or guardian or an authorized person;
- [b] in addition to the driver, at least one other adult should be in the vehicle with the children;
- [c] all doors are fitted with child locks and said locks are used at all times when transporting children;
- [d] the driver remains in the driving cabin of the vehicle at all times and may not assist in the handing-over of the children;
- [e] no children are transported in the driving cabin;
- [f] the driver of the vehicle is in possession of a special license to transport passengers;
- [g] babies in carrycots are not pushed in underneath the seats;
- [h] the sitting space for each child and the room for carrycots must comply with the prescribed requirements; and

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- [i]** any other prescribed legislation regulating the transportation of children is adhered to.

[17] Offences and Penalties**[1]** Any person who -

- [a]** contravenes or fails to comply with any provision of these by-laws;
- [b]** contravenes or fails to comply with any notice given or condition imposed in terms of these by-laws;
- [c]** for the purpose of these by-laws, makes a false statement knowing it to be false or deliberately furnishes false or misleading information to an authorized official or official; or
- [d]** threatens, resists, interferes with or obstructs an authorized official or employee of Council in the performance of his/her powers, duties or functions as contemplated in these by-laws, shall be guilty of an offence and upon conviction be liable to a fine or imprisonment for a period not exceeding six months or to both the fine and the imprisonment.

[18] Repeal of By-laws

- [1]** Any by-laws adopted by the Council or the Council of a Municipality now forming an administrative unit of the Council and relating Crèches and Crèches-Cum Nursery Schools or any facilities in respect to or with regard to any matter regulated in these by-laws are hereby repealed.
- [2]** Anything done under the provisions of the by-laws repealed by sub-section [1], shall be deemed to have been done under the corresponding provision of these by-laws and such repeal shall not affect the validity of any approval, authority, waiver or other act which at the commencement of these by-laws is valid under the by-laws so repealed.

[19] Date of commencement

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

SCHEDULE**FORM 1****APPLICATION FOR OPERATION OF A CHILDCARE FACILITY**

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To be completed by an applicant as contemplated in section 3 of these by-laws.

DETAILS OF APPLICANT FIRST NAMES :

SURNAME :

GENDER [tick applicable block]

MALE

FEMALE

NATIONALITY :

IDENTITY NUMBER [attach certified copy of ID document] :

RESIDENTIAL ADDRESS :

POSTAL ADDRESS :

TELEPHONE NUMBER :

DETAILS OF PREMISES INTENDED FOR CHILDCARE FACILITY

ADDRESS :

ERF NO [attach certified copy of title deed or owner's consent] :

QUALIFICATIONS HIGHEST STANDARD PASSED :

LIST ALL OTHER RELEVANT QUALIFICATIONS :

HAVE YOU EVER BEEN CONVICTED OF A CRIMINAL OFFENCE
[tick applicable block]

YES

NO

IF YES, PROVIDE DETAILS WITH REGARD TO OFFENCE, INCLUDING DATE OF COMMISSION :

SENTENCE, INCLUDING DATE OF CONVICTION :

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POLICE STATION WHERE OFFENCE WAS REPORTED INCLUDING CASE NUMBER :

MEDICAL HISTORY

DO YOU SUFFER FROM ANY CHRONIC ILLNESS FOR WHICH YOU ARE CURRENTLY RECEIVING MEDICAL TREATMENT. IF YES, STATE THE NATURE OF THE MEDICAL CONDITIONS AND TREATMENT BEING ADMINISTERED AND ATTACH A COPY OF A DOCTOR'S MEDICAL REPORT :

SIGNATURE OF APPLICANT
DATE

LOCAL AUTHORITY NOTICE
OF RUSTENBURG LOCAL MUNICIPALITY
'BY-LAWS REGARDING THE PREPARATION
OF FOOD AT REGISTERED PRIVATE KITCHENS

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

[1] Definitions

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

"authorised official" means:

- [a] an official of the Council; or
- [b] an official of another municipality; or
- [c] an official of another organ of state; or
- [d] a person contracted by the Council; and

with which or whom the Council has concluded an agreement for the rendering of services in terms of these by-laws and to which or whom the Council has delegated a duty, function or power under these by-laws, provided that the official or person concerned shall be a duly registered environmental health officer or health practitioner;

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

"municipality" means the Rustenburg Local Municipality and includes the Council thereof and should the context so require also the authorised official;

"registration certificate" means a certificate issued by the authorised official in respect of any registration in terms of these by-laws;

"require" means as required by the authorised official with due regard to the reasonable public health and other requirements in the particular context;

"foodstuffs", "approved", "premises", "handling", "Inspector",

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"dwelling" and "premises" shall have the meanings assigned thereto in the Health Act 1977, the Foodstuffs, Cosmetics and Disinfectants Act, 1972, any other national legislation applicable to the handling of food at private kitchens, any regulations framed thereunder, the applicable Town Planning Scheme and the National Building Regulations and Building Standards Act, 1977 [Act No. 103 of 1977], as amended from time to time provided that, for purposes of these by-laws, "premises" and "dwelling" shall have the same meaning;

Any other word or expression used in these by-laws, has the same meaning as that assigned to it in the Health Act 1977 [Act No. 63 of 1977], the Foodstuffs, Cosmetics and Disinfectants Act, 1972 [Act No. 54 of 1972], any other national legislation applicable to the handling of food and any regulations framed thereunder unless it is apparent from the context that another meaning is intended.

[2] Registration

- [1] No person shall use any part of a private dwelling within the jurisdiction of the Council for the preparation, storage or keeping of foodstuffs for the purpose of sale unless the dwelling is first registered with the Council.
- [2] An application to register a private dwelling for the purposes of these by-laws shall be made and a registration certificate shall thus be issued by the authorised official before any part of the dwelling is used for the preparation, keeping or storage of foodstuffs for the purpose of sale and such application shall be refused unless the premises concerned complies in all respects with the requirements of these by-laws.
- [3] An application for registration of a private dwelling shall be submitted to the Council in writing on the prescribed form and such application shall provide a description of the dwelling and supply particulars regarding the location thereof, as well as any other information that the authorised official deems necessary for the consideration of the application.
- [4] A registration certificate shall be renewed annually on or before the date of expiry thereof.
- [5] The registration of a private dwelling may be revoked at any time after due notice to the owner or occupier of the premises concerned if the requirements of these by-laws, the applicable town-planning scheme, the provisions of the Health Act 1977

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[Act 63 of 1997], the Food-stuffs, Cosmetics and Disinfectants Act, 1972 [Act No. 54 of 1972], as amended from time to time as well as any other applicable law, are not complied with.

- [6] A registration fee determined by resolution by the Council shall be payable on submission of an application for registration in terms of these by-laws, and shall thereafter be payable annually before a registration certificate is issued or renewed.

[3] Requirements for premises

Premises where foodstuffs are handled, processed, produced, manufactured, packaged, stored or prepared for the purpose of sale, shall comply with the following requirements:

- [a] the premises shall comply with the minimum requirements as contained in the applicable Town Planning Scheme and the National Building Regulations and Building Standards Act, 1977 [Act No. 103 of 1977], as amended from time to time;
- [b] a double washbasin with clean hot and cold running water shall be provided;
- [c] all working surfaces and equipment which come into direct contact with foodstuffs, shall be manufactured from stainless steel or from other smooth, rustproof, non-toxic and non absorbent material which is free of any open seams, ridges and cracks and which is easily cleaned;
- [d] only appliances, bowls, containers and equipment approved by the authorised official, may be used;
- [e] only packing-material approved by the authorised official, may be used.

[4] Requirements regarding foodstuffs

- [1] Only confectionery, sausage rolls, meat pies, tarts, canned or dried fruits and vegetables, sweets, jam, preserved fruit, fruit jelly or any other foodstuffs approved by the authorised official may be prepared, packaged or processed for sale in a private dwelling, provided that such preparation, packaging or processing shall only be conducted in the kitchen of a private dwelling.

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- [2] No foodstuffs which are prepared, packaged or processed in a private dwelling, shall be sold on premises other than a licensed food premises or other premises approved by the Council.
- [3] No milk shall be used as an ingredient in the preparation or processing of foodstuffs, unless it is pasteurised or sterilised beforehand in accordance with a method approved by the authorised official.
- [4] Meat which is used as an ingredient in the preparation or processing of foodstuffs, shall only originate from a slaughter-animal which was slaughtered at an approved abattoir or from an approved retail butchery and for purposes of this subsection approved shall mean approved in terms of applicable legislation including compliance with any registration requirements.
- [5] All foodstuffs which, according to the authorised official, require refrigeration or freezing in order to prevent spoilage, shall at all times during storage be maintained at a temperature of between 10 [degrees] C and -7 [degrees] C. Food which is kept warm shall be kept at a temperature of at least 65 [degrees] C.
- [6] All foodstuffs which are prepared, packaged or processed in the kitchen of a private dwelling, and are transported, or delivered to legal outlets, shall, as prescribed by the authorised official, be wrapped or otherwise packaged and the container shall be provided with a label on which the content, ingredients, date of manufacture and the name and address of the producer are clearly readable: Provided that the municipality may permit a suitable identification mark instead of the name and address of such producer.

[5] Transport of foodstuffs

All foodstuffs which are transported shall be protected against contamination by an effective method as prescribed from time to time by the authorised official.

[6] Inspection of premises

Any authorised official may examine premises where foodstuffs are manufactured, packed, prepared, stored, kept or dispatched, and may, if any transgression of these by-laws exists prohibit any or all of the following activities:

- [a] manufacturing;
- [b] packaging;
- [c] preparation;

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- [d] storage;
- [e] preserving;
- [f] dispatching; and
- [g] selling.

[7] Examination of foodstuffs and confiscation

The authorised official may confiscate foodstuffs which he suspects to be contaminated or otherwise unsuitable for human consumption, in order to examine such foodstuffs or to have them examined and, if found that the foodstuffs are contaminated or otherwise unfit for human consumption, he may destroy such foodstuffs or have them destroyed without the Council being held liable for damages or expenses to anybody, because of such action.

[8] Duties of person in control of kitchen

- [1] A person in control of a kitchen of a private dwelling where foodstuffs are handled, shall ensure that -
 - [a] measures are taken to exterminate flies, cockroaches and other insects and rodents;
 - [b] sufficient stock of liquid disinfectant soap, nailbrushes and clean disposable towels are provided at wash-hand basins;
 - [c] foodstuffs are not opened, kept or stored outside any approved area, facility or storeroom;
 - [d] no room where foodstuffs are handled, processed, produced, manufactured, packaged, prepared or stored shall be used for any other purpose;
 - [e] any container in which foodstuffs are packed, is clean and free of any poison or ingredient or constituent that may spoil or contaminate the foodstuffs;
 - [f] newspapers, magazines and other used paper or material are not used as packing material if they come into direct contact with any foodstuffs other than fresh fruit and vegetables;
 - [g] articles which are intended to be used once only, such as plastic or paper cups, plates, straws, spoons, forks,

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containers or any similar utensils are not used more than once;

- [h] sufficient dustproof containers are provided in which to keep or store such utensils as intended in subsection [g];
- [i] all food-handlers wear clean overalls which will ensure that foodstuffs which are handled by them, do not come into contact with any part of the body other than the hands;
- [j] clothing or other laundry is not washed or ironed in that part of the building where foodstuffs are handled;
- [k] no animal, reptile or bird is kept in any part of the premises where foodstuffs are prepared or handled, or allow that animals, reptiles or birds be brought therein;
- [l] all base ingredients which are used in the production or preparation of foodstuffs, are clean and free of all foreign, toxic or unhygienic material;
- [m] perishable foodstuffs are kept at a temperature below 10 [degrees] C.

Provided that this requirement shall not be applicable to-

- [i] foodstuffs which are kept at a heated temperature of at least 65 [degrees] C;
- [ii] foodstuffs which are cooled for a period at room temperature in order to prevent spoilage;
- [iii] fresh fruit and vegetables;
- [iv] all foodstuffs that are resistant to spoilage to such an extent that they need not be kept at a temperature of at least 10 [degrees] C at all times;
- [n] persons that handle foodstuffs do not smoke;
- [o] persons do not moisten fingers and blow bags open;
- [p] persons with open wounds or skin infections do not handle foodstuffs;
- [q] the Council is informed immediately of any case of an actual or suspected contaminatory or contagious disease

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which may be present with any person involved with the handling of foodstuffs on the premises.

[9] Medical Certificate for handlers

Medical certificates for handlers of foodstuffs shall be submitted simultaneously with an application for registration of a private residence or the renewal of such registration, and at any time on his request, to the Authorised official.

[10] Obstruction

Any person who, without reasonable or lawful cause, fails to give or refuses access to an authorised official who wishes to enter and inspect a private residence or premises for the purpose of ascertaining whether or not the provisions of these by-laws are being complied or who obstructs or hinders such an official in the execution of his duties in terms of these by-laws, or who fails or refuses to give information to such official, or who gives incorrect or misleading information to such official knowing such information to be incorrect or misleading shall be guilty of an offence.

[11] Conflict of laws

These by-laws are supplementary to the provisions of the Health Act, 1977, the Foodstuffs, Cosmetics and Disinfectants Act 1972 and the regulations promulgated thereunder, herein referred to as national legislation. In the event of conflict between the aforesaid national legislation and any provision of these by-laws, the national legislation shall prevail.

[12] Offence and penalties

Any person who contravenes or fails to comply with any provision of these by-laws shall be guilty of an offence and upon conviction be liable to a fine or imprisonment for a period not exceeding six months or to both the fine and the imprisonment.

[13] Repeal of By-Laws

Any by-laws adopted by the Council or the Council of a Municipality
now comprising an administrative unit of the Council and relating to the
preparation
of food at registered private kitchens are hereby repealed.

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BY-LAWS RELATING TO CARAVAN PARKS AND MOBILE HOMES**LOCAL GOVERNMENT NOTICE****OF RUSTENBURG LOCAL MUNICIPALITY**

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

[1] Definitions

In these by-laws, unless inconsistent with the context—

“caravan” means any vehicle permanently fitted out for use by persons for living and sleeping purposes, whether or not such a vehicle is a trailer;

“healthy” means not detrimental or liable to be detrimental to public health;

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

“mobile home” means a factory assembled structure approved by the Municipality with the necessary service connections made so as to be movable on site and designed to be used as a permanent dwelling;

“park” means any land used or intended to be used for the accommodation of caravans or mobile homes or caravans and mobile homes, and

“site” means the land set aside within a park for the accommodation of a mobile home or a caravan and its towing vehicle, if any.

[2] Application of By-laws

These by-laws shall be applicable to all parks, whether situated on private or public land.

[3] These by-laws shall not be applicable in respect of-

- [a]** property on which only one or two caravans or mobile homes are accommodated or are intended to be accommodated;

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- [b] agricultural land where caravans or mobile homes or caravans and mobile homes are permitted for bona fide agricultural purposes;
- [c] property on which more than two caravans or mobile homes are accommodated, where such caravans or mobile homes are occupied by persons for business reasons, and such sanitary and other arrangements affecting the public health as the municipality may consider necessary are provided and the caravans and mobile homes are accommodated only for such period and in such numbers as the municipality may consider desirable in view of the nature of the aforesaid arrangements, or
- [d] property on which more than two caravans are accommodated where such caravans are occupied by members of any duly constituted club and their guests for the purpose of participating in a meeting or excursion organised by such club and the caravans are not accommodated for a continuous period in excess of six days.

[4] Minimum requirements

Every owner of a park shall comply with sections 5 to 26.

- [5] Every owner of a park shall have a plan clearly indicating all the sites in the park, a copy of which shall be filed with the municipality, and each site shall be clearly demarcated on the ground and shall not be less than 112 square metres in extent.
- [6] Not more than 50 percent of any site shall be occupied by a caravan or mobile home and such site shall be of such a nature that a caravan or mobile home may be accommodated on any portion thereof.
- [7] No person shall occupy a caravan in any park, for a period of more than six months, whether continuous or otherwise, in any period of twelve months.
- [8] Notwithstanding section 7, 30 percent of the sites in a park or such other greater percentage as the municipality may, subject to such additional conditions as it may deem necessary, approve may be permanently occupied by caravans or mobile homes or caravans and mobile homes.
- [9] The number of people occupying any caravan or mobile home shall not exceed the number for which such caravan or mobile home was designed.
- [10] Any caravan or mobile home situated permanently on any site may, notwithstanding section 7, be occupied on a permanent basis.
- [11] No caravan or mobile home on any site shall be situated closer than 5 metres from a caravan or mobile home on any other site.

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- [12]** Access shall be provided to every site in such a manner that it will not be necessary to cross another site to obtain such access.
- [13]** A fireplace or fireplaces may be provided on each site or for adjoining sites and shall be so situated as not to constitute a fire hazard.
- [14]** **[1]** Fire-fighting appliances of any of the following types shall be provided:-
- [a]** a bucket of sand;
 - [b]** a bucket of water;
 - [c]** a foam extinguisher, or
 - [d]** any other type approved by the municipality.
- [2]** There shall be at least one appliance in respect of every two sites and such appliances shall be so situated that no site is more than 20 metres from the nearest appliance.
- [3]** The appliances referred to in paragraphs [a] and [b] of subsection [1] shall be kept filled with sand and water respectively and any other appliances shall be maintained in good working order.
- [15]** **[1]** There shall be provided a water supply which, after passing through the reticulation system-
- [i]** has a yield of at least 360 litres per site per day, provided that where flush sanitation is provided the yield shall be at least 540 litres per site per day;
 - [ii]** exerts a pressure at any standpipe sufficient to supply 13,5 litres per minute, and
 - [iii]** supplies water which in the opinion of the municipality is fit for human consumption.
- [2]** The water supply and reticulation system shall be approved by the municipality and shall comply with the requirements of subsection [1].
- [16]** Permanent water standpipes shall be provided in such a manner that no site is situated at a greater distance than 20 metres from the nearest standpipe.
- [17]** **[1]** Grease traps set in dished and properly rendered surrounds and connected to a disposal system shall be provided at every water standpipe.
- [2]** The grease traps shall be kept clean and in good working order.

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- [18] Facilities for the washing of pots, pans, crockery and cutlery and for the disposal of kitchen and other waste water shall be provided.
- [19] [1] Only sanitary conveniences approved by the municipality as being healthy shall be provided.
- [2] All sanitary conveniences shall be kept clean and in good working order.
- [20] There shall be provided for each sex in respect of the first six sites a minimum of two sanitary conveniences and two wash hand basins and thereafter a minimum of one sanitary convenience and one wash hand basin for every ten sites or portion thereof.
- [21] There shall be provided for each sex in respect of every twelve sites or portion thereof a minimum of one bathroom and one shower cubicle.
- [22] [1] No system for the in situ disposal of sewerage effluent or kitchen and other waste water shall be constructed unless it is approved by the municipality as being healthy.
- [2] Any system referred to in subsection [1] shall be maintained in good working order and in such a manner that it does not constitute a nuisance.
- [23] The municipality shall prescribe such additional requirements for water, sewerage and stormwater services as it may deem necessary in respect of sites which are occupied on a permanent basis.
- [24] [1] There shall be provided for laundering an area of not less than 100 square metres provided with-
- [a] one permanent water stand-pipe;
- [b] one water through or other contrivance in which clothing and linen may be washed, and
- [c] one table or board for ironing.
- [2] The area referred to in subsection [1] shall be screened in such a manner that articles hanging out to dry shall not be visible from outside the said area.
- [25] [1] Portable fly-proof refuse bins to the satisfaction of the municipality shall be provided and shall be so situated that no site is situated at a greater distance than 20 metres from the nearest refuse bin.
- [2] The refuse bins shall be kept in a good state of repair and shall be emptied, cleaned and disinfected daily.

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- [26]** An attendant shall be appointed to be in attendance during the hours between sunrise and sunset whenever a caravan or mobile home is accommodated in the park, for the purpose of ensuring that these by-laws are complied with.

General

- [27]** No person not employed by the management of the park shall erect any tent or structure other than a fabric awning attached to the side of a caravan.
- [28]** No person shall wash or hang out to dry any article elsewhere than in the area referred to in section 24.
- [29]** No person shall dispose of refuse elsewhere than in the refuse bins provided in terms of section 25.
- [30]** **[1]** The municipality shall cause every park to be inspected at least once in every six months for the purpose of ascertaining whether these by-laws are being complied with.
- [2]** Every employee sent to inspect a park in terms of subsection [1] shall be granted admission to the park.
- [3]** The municipality shall provide each employee sent in terms of subsection [1] to inspect parks with a written authority which such official shall produce when required to do so.

[31] Penalties

Any person who contravenes or fails to comply with the provisions of these by-laws shall be guilty of an offence and shall, upon conviction be liable to –

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

[32] Repeal of By-Laws

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Any by-laws adopted by the Municipality or the Council of a Municipality now comprising an administrative unit of the Municipality and relating to caravan parks and mobile homes are, from the date of promulgation of these by-laws, repealed.

ANNEXURE A**LOCAL GOVERNMENT NOTICE****MUNICIPALITY OF RUSTENBURG**

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

PUBLIC AMENITIES BY-LAWS

The purpose of these by-laws is to promote the achievement of a safe and peaceful environment and to provide for procedures, methods and practices to regulate the use and management of public amenities.

[1] Definitions

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

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

"notice" means an official notice displayed at every entrance to or at a conspicuous place at or on a public amenity and in which the municipality shall make known provisions and directions adopted by it in terms of these by-laws;

"public amenity" means –

- [a]** any land, square, camping site, swimming bath, river, public resort, recreation site, nature reserve, zoological, botanical or other garden, park or hiking trail which is the property of the municipality, including any portion thereof and any facility or apparatus therein or thereon;
- [b]** any building, structure, hall, room, or office including any part thereof and any facility or apparatus therein, which is the property of, or is possessed, controlled or leased by the municipality and to which the general public has access, whether on payment of admission fees or not but excluding:
 - [i]** any public road or street;

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[ii] any public amenity contemplated aforesaid if it is lawfully controlled and managed in terms of an agreement concluded by any person with the municipality, and

[iii] any public amenity hired from the municipality;

[2] Maximum number of visitors

[1] The municipality may determine the maximum number of visitors who may be present at a specific time in or at a public amenity;

[2] The number contemplated in subsection [1] shall be made known by the municipality by means of a notice.

[3] Admission to and sojourn in a public amenity

[1] A public amenity is, subject to the provisions of these by-laws, open to the public during the times determined by the municipality and made known in a notice;

[2] No visitor shall enter or leave a public amenity at a place other than that indicated for that purpose.

[4] Entrance fees

[1] A visitor to a public amenity shall pay entrance fees determined from time to time by the municipality and such entrance fees shall be made known by means of a notice.

[2] Different entrance fees may be determined in respect of visitors of different ages and the municipality may exempt certain groups of persons from the payment of an entrance fee.

[5] Nuisances

No person shall perform or permit any of the following acts in or at a public amenity –

[a] the use of language or the performance of any other act which disturbs the good order;

[b] the firing of firearms, airguns, air pistols, fireworks or the use of slingshots or catapults without the municipality's written consent;

[c] the burning of rubble or refuse;

[d] the causing of unpleasant or offensive smells;

[e] the production of smoke nuisances;

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- [f]** the causing of disturbances by fighting, shouting, arguing, singing or the playing of musical instruments; or by the use of loudspeakers, radio reception devices, television sets, or similar equipment;
- [g]** the begging for money, food, work or the offering of services, or
- [h]** in any other manner cause a nuisance, obstruction, disturbance or annoyance to the public.

[6] Health matters

No person shall in or at a public amenity-

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

[7] Structures

No person shall without the written consent of the municipality having first been obtained, erect or establish in or on a public amenity any structure, shelter or anything similar, except the parking of a caravan or tent erected for camping purposes on a site specifically set aside therefor by notice;

[8] Liquor and food

- [1]** No person shall, contrary to a provision of a notice, bring into a public amenity any alcoholic or any other liquor or any food of whatever nature.
- [2]** No person shall on, in or at a public amenity, contrary to a provision of a notice, cook or prepare food of any kind whatsoever, except at places set aside for such purposes by notice; provided that the preparation and cooking of food in or at a public amenity shall be done in a clean and hygienic manner so as not to give rise to excessive smoke or other nuisances or entail any danger to health; provided further that no live animals, poultry or fish may be killed or skinned on, in or at a public amenity.

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[9] Animals

[1] No person shall bring any live animal, bird, fish or poultry into a public amenity except in accordance with the directions of the municipality.

[2] The directions contemplated in subsection [1] shall be made known by means of a notice.

[10] Use of public amenities

[1] No person shall without the consent of the municipality or contrary to any condition which the municipality may impose when granting such consent –

[a] arrange or present any public entertainment;

[b] collect money or any other goods for charity or any other purpose from the general public;

[c] display or distribute any pamphlet, placard, painting, book, handbill or any other printed, written or painted work;

[d] arrange, hold or address any meeting;

[e] arrange or hold a public gathering or procession, exhibition or performance;

[f] conduct any trade, occupation or business;

[g] display, sell or rent out or present for sale or rent any wares or articles;

[h] hold an auction;

[i] tell fortunes for compensation;

[2] For the purposes of these by-laws "public gathering or procession" shall mean a procession or gathering of 15 or more persons and which is not regulated by national or provincial legislation.

[11] Safety and order

[1] No person shall, subject to subsection [2], in or at a public amenity-

[a] damage or disfigure anything within such amenity;

[b] use or try to use anything within such amenity for any purpose other than that for which it is designated or determined by notice;

[c] light a fire or prepare food, except at a place indicated for that purpose by notice;

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- [e]** throw away any burning or smouldering object;
 - [f]** throw or roll down any rock, stone or object from any mountain, koppie, slope or cliff;
 - [g]** pull out, pick or damage any tree, plant, shrub, vegetation or flower;
 - [h]** behave himself in an improper, indecent, unruly, violent or unbecoming manner;
 - [i]** cause a disturbance;
 - [j]** wash, polish or repair a vehicle;
 - [k]** walk, stand, sit or lie in a flower bed;
 - [l]** kill, hurt, follow, disturb, ill-treat or catch any animal, bird or fish or displace, disturb, destroy or remove any bird nests or eggs;
 - [m]** walk, stand sit or lie on grass contrary to the provisions of a notice;
 - [n]** lie on a bench or seating-place or use it in such a manner that other users or potential users find it impossible to make use thereof;
 - [o]** play or sit on play park equipment, except if the person concerned is a child under the age of 13 years;
 - [p]** swim, walk or play, contrary to the provisions of a notice, in a fish-pond, fountain, stream or pond;.
- [2]** The municipality may by way of notice and subject to such conditions as the municipality deems necessary and mentioned in a notice, authorise any of the actions contemplated in subsection [1].
- [12] Water**
- No person may misuse, pollute or contaminate any water source or water supply or waste water in or at any public amenity.
- [13] Laundry and crockery**
- No person may in or at a public amenity wash any crockery or laundry or hang out clothes, except at places indicated by notice for that purpose.
- [14] Vehicles**
- [1]** No person may bring into a public amenity any truck, bus, motorcar, motor cycle, motor tricycle, bicycle or any other vehicle, craft or aeroplane, whether driven by mechanical, animal, natural or human power, except in accordance with the directions of the municipality;

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- [2]** The municipality shall determine the speed limit applicable in a public amenity;
- [3]** The directions contemplated in subsection [1] and the speed limit contemplated in subsection [2] shall be made known by the municipality by way of notice.

[15] Games

No game of any nature whatsoever shall be played or conducted in or on a public amenity by any person or persons except at places set aside for that purpose by notice and in accordance with the directions of the municipality and which is made known by way of notice.

[16] Penalties

Any person who contravenes or fails to comply with a provision of these by-law, a notice issued in terms of these by-laws or a condition imposed under these by-laws, irrespective of whether such contravention or failure has been declared as an offence elsewhere in these by-laws, shall be guilty of an offence and liable upon conviction to:

- [1]** a fine or imprisonment for a period not exceeding six months or either such fine or such imprisonment or both such fine and such imprisonment;
- [2]** in the case of a continuing offence, an additional fine or an additional period of imprisonment of 10 days or either such additional fine or such additional imprisonment or both such additional fine and imprisonment for each day on which such offence is continued, and
- [3]** a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as a result of such contravention or failure.

[17] Repeal of by-laws

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

THIS BY-LAW MAY ALSO APPLY TO PARKS AND GARDENS**LOCAL GOVERNMENT NOTICE****MUNICIPALITY OF RUSTENBURG**

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

BY-LAWS RELATING TO OPEN SPACES, PARKS SIDE WALKS AND GARDENS**CHAPTER 1 – INTERPRETATION AND FUNDAMENTALS****Definitions**

[1] In these by-laws, unless the context indicates otherwise –

“active game” means any physical sport, game or other activity by one or more persons which is undertaken within a public open space other than in an area set aside for that purpose, and which may cause injury to other users of the public open space, a nuisance or damage to vegetation or municipal property within a public open space and includes rugby, golf, archery, football, tennis, badminton, hockey, netball, volleyball, skate-boarding, roller-skating and in-line skating;

“authorised official” means any official of the Council who has been authorised by the Council to administer, implement, and enforce the provisions of these by-laws;

“conservation public open space” means public open space that is managed by or on behalf of the Council for conservation purposes, and includes nature reserves, greenbelts, ravines, bird sanctuaries and sites of historic, ecological or archaeological value;

“Council” means –

- [a] the municipal council of Rustenburg established in terms of Section 12 of the Municipal Structures Act 1998 as amended or its successors in title, and any committee or person to which or whom an instruction has been given or any power has been delegated or sub-delegated in terms of, or as contemplated in, section 59 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000] or, where the context so requires, means the Municipality of Rustenburg; or
- [b] a service provider in respect of any power, function or duty of the Council as contemplated in paragraph [a], which has been assigned for the purposes of these by-laws to that service provider in terms of section 81[2] of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000];

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"designated area" means an area designated by the Council as an area in which an active game or any other activity, which would otherwise be prohibited under Chapter III of these by-laws, may be undertaken;

"enforcement officer" means any peace officer, as defined in the Criminal Procedure Act, 1977 [Act No. 51 of 1977], who is duly appointed by the Council to enforce any provision of these by-laws;

"environment" means the surroundings within which humans exist and that are made up of –

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

"environmentally sustainable" means the exercising of any decision-making powers or performance of any activities in a manner aimed at ensuring that –

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

"local community" means that body of persons comprising –

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

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

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

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"notice" means a clear and legible official notice drawn up by the Council in the official languages recognised by the Council and prominently erected in a public open space;

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

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

"organ of State" means –

- [a] any department of State or administration in the national, provincial or local sphere of government; or
- [b] any other functionary or institution –
 - [i] exercising a power or performing a function in terms of the Constitution of the Republic of South Africa Act, 1996 [Act No. 108 of 1996] or a provincial Constitution; or
 - [ii] exercising a public power or performing a public function in terms of any legislation, but does not include a court or a judicial officer;

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

"prescribed fee" means a fee determined by the Council by resolution in terms of section 10G[7][a][ii] of the Local Government Transition Act, 1993 [Act No. 209 of 1993], or any other applicable legislation;

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

"prohibited activity" means any activity or behaviour that is prohibited in terms of Chapter III from being undertaken in a public open space, either completely or without permission in terms of sections 22, 23 or 24;

"public open space" means any land which –

- [a] is owned by an organ of State, or
- [b] over which an organ of State has certain real rights arising from the filing in the Deeds Office or other registration office of a general plan of a township, agricultural holding or other division of land, or any alteration, addition to or amendment of such land approved by the Surveyor-General, on which is marked the land to which the public has a common right of use; and
- [c] is controlled and managed by the Council; and

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[d] is either –

- [i] set aside in terms of any law, zoning scheme or spatial plan for the purposes of public recreation, conservation, the installation of public infrastructure or agriculture; or
- [ii] predominantly undeveloped and open and has not yet been set aside for a particular purpose in terms of any law, zoning scheme or spatial plan;

“public utility public open space” means public open space that is managed by or on behalf of the Council for the purposes of providing a public service, which includes road reserves and areas subject to electrical, pipeline and other public utility servitudes, but excludes council housing, clinics and other social services;

“recreational public open space” means public open space that is managed by or on behalf of the Council for public recreational purposes, and includes parks, botanical gardens, sports grounds and play grounds, but excludes golf courses;

“road reserve” means that portion of a road, street or thoroughfare improved, constructed or intended for vehicular traffic which is between the edges of the roadway or that portion of a road, street or thoroughfare, including the sidewalk, which is not the roadway or shoulder;

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

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

“urban agricultural public open space” means public open space that is managed by or on behalf of the Council for urban agricultural purposes;

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

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

“watercraft” includes any boat, raft, yacht, canoe, inflatable mattress, model ship or boat, radio-controlled boat or similar device;

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

Application

- [2] [1] These by-laws apply to all public open space that fall under the jurisdiction and control of the Council but do not apply to cemeteries.

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- [2] These by-laws are binding on the State.

Purpose

- [3] The purpose of these by-laws is to provide, in conjunction with other applicable legislation, an effective legal and administrative framework:
- [a] to ensure that the way in which the Council controls, manages and develops public open spaces, parks, side walks and gardens is environmentally sustainable, and is in the long-term interests of the whole community of Rustenburg, including future generations; and
 - [b] that clearly defines the rights and obligations of the public in relation to public open spaces.

CHAPTER II: MANAGEMENT AND ADMINISTRATION OF PUBLIC OPEN SPACES

Principles

- [4] [1] Public open spaces must be managed, and where appropriate developed, in the interests of the whole community, and in determining the interests of the whole community –
- [a] the long-term collective interests of the people of Rustenburg Local Municipality and of South Africa, must be prioritised over the interests of any specific interest group or sector of society;
 - [b] a long-term perspective, that takes account the interests of future generations, must be adopted; and
 - [c] the interests of other living organisms that depend on public open spaces must be taken into account.
- [2] Public open spaces must be managed in an environmentally sustainable manner.
- [3] Subject to subsection [5] and section 7, people must be given access to public open spaces on a non-discriminatory and equitable basis.
- [4] Where necessary, special measures must be taken to facilitate access to public open spaces by historically disadvantaged persons and by disabled persons.
- [5] Access to a public open space may be restricted in a manner that does not unjustifiably discriminate against any person or class of persons –
- [a] if the restriction is authorised by these by-laws or by any other applicable legislation; or
 - [b] in order to achieve the purposes of these by-laws.

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- [6] The recreational, educational, social and other opportunities which public open spaces offer must be protected and enhanced to enable local communities, particularly historically disadvantaged communities, and the public to improve and enrich their quality of life.
- [7] Local communities must be encouraged to use and care for public open spaces in their areas.
- [8] The natural environment and heritage resources within public open spaces must be identified, preserved, protected and promoted, for the benefit of the local community, the public and future generations.

Application of principles

- [5] The public open space management principles set out in section 4, and the national environmental management principles set out in section 2 of the National Environmental Management Act, 1998 [Act 107 of 1998], must be considered and applied by any person –
 - [a] exercising a power or function or performing a duty under these by-laws;
 - [b] formulating or implementing any policy that is likely to have a significant effect on, or which concerns the use of, public open spaces within the Council's jurisdiction; or
 - [c] exercising a public power or function or performing a public duty that is likely to have a significant effect on, or which concerns the use of, public open spaces.

General powers

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

Fees

- [7] The Council may require members of the public to pay –
 - [a] a reasonable prescribed fee to use recreational or other facilities that the Council provides within public open spaces;

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- [b] a reasonable prescribed fee for entrance to public open spaces which are significantly more expensive to maintain than other public open spaces, such as botanical gardens;
- [c] a prescribed fee for the right to undertake a special event;
- [d] a prescribed fee for the right to exclusively use municipal property for a specific period;
- [e] a deposit prior to undertaking a prohibited activity;
- [f] an annual or monthly fee for the right to use urban agricultural public open space to the exclusion of any other person; and
- [g] a prescribed fee for processing applications for permits or letters of permission under these by-laws.

Restricting access

- [8] The Council may restrict access to any public open space or to any part of a public open space for a specified period of time –
 - [a] to protect any aspect of the environment within a public open space;
 - [b] to reduce vandalism and the destruction of property;
 - [c] to improve the administration of a public open space;
 - [d] to develop a public open space;
 - [e] to enable a special event that has been permitted in terms of section 0 to proceed; or
 - [f] to undertake any activity that the Council reasonably considers necessary or appropriate to achieve the purposes of these by-laws.

Procedure when exercising powers

- [9] If the rights or legitimate expectations of any person will be materially and adversely affected by the Council exercising any power in terms of sections 6, 7 or 8, before exercising the power the Council must –
 - [a] give notice of the proposed administrative action, which notice must –
 - [i] be published in the Provincial Gazette and in a newspaper circulating in the area or areas that will be directly affected by the proposed administrative action;
 - [ii] contain a clear statement of the proposed administrative action;
 - [iii] invite comments and objections within a specified period; and
 - [iv] consider the comments and objections received in response to the notice.

ANNEXURE A**Powers of enforcement officers**

- [10] In relation to any public open space, an enforcement officer may –
- [a] issue a notice in terms of section 341 of the Criminal Procedure Act, 1977 [Act No. 51 of 1977];
 - [b] issue a notice under section 21;
 - [c] order any person to leave a public open space if the enforcement officer reasonably believes that that person has not complied with any provision of these by-laws; and
 - [d] exercise any other power that may be exercised by a peace officer under the Criminal Procedure Act, 1977 [Act No. 51 of 1977].

Obligations in relation to public open spaces

- [11] [1] The Council must within a public open space, erect any notice required under these by-laws.
- [2] In relation to recreational public open spaces, the Council must –
- [a] ensure that they are open to the public between sunrise and sunset, unless specified otherwise in terms of a notice; and
 - [b] erect prominently displayed notices at every entrance indicating:
 - [i] the opening and closing times of that recreational public open space; and
 - [ii] any rules made in relation to that recreational public open space.

CHAPTER III: PROHIBITED CONDUCT**Prohibited activities**

- [12] [1] Any person who undertakes an activity or behaves in a manner that is prohibited under sections 13 to 20 commits an offence unless the activity or conduct in question –
- [a] took place in a designated area within which that activity was allowed;
 - [b] is authorised in terms of a permission granted or permit issued under sections 22, 23 or 24; or
 - [c] was deemed to have been authorised by the Council under subsection [2].
- [2] Subject to subsection [3], a person is deemed to have permission to undertake a prohibited activity if that person needs to undertake the prohibited activity –

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- [a] to perform his or her obligations as an employee, agent or subcontractor of the Council under his or her contract with, or mandate from, the Council or to achieve the purposes of this by-law;
 - [b] to carry out public duties as an employee, agent or subcontractor of an organ of State within a public open space which is subject to a public utility servitude in favour of an organ of State;
 - [c] to fulfil his or her duties as an authorised officer to implement these by-laws; or
 - [d] to fulfill his or her duties as a peace officer.
- [3] No person is deemed to have permission to undertake an activity that is prohibited under Section 13 [a], [e] or [f] or an activity that the Council has expressly refused to permit.

General

- [13] No person shall within a public open space –
- [a] act in a manner that is dangerous to life or property;
 - [b] contravene the provisions of any notice within any public open space;
 - [c] unlawfully enter a public open space to which access has been restricted in terms of section 8;
 - [d] cause a nuisance;
 - [e] behave in an indecent or offensive manner; or
 - [f] obstruct any authorised official who is exercising a power under these by-laws.

Use

- [14] No person shall within a public open space –
- [a] bathe, wade, or swim in or wash him- or herself, an animal or any object, including clothing, in any water body;
 - [b] sail, row, paddle, propel or control any watercraft on any water body;
 - [c] make, light or otherwise start a fire;
 - [d] camp or reside in any public open space;
 - [e] consume, brew, store or sell any alcoholic beverage;
 - [f] use any sound equipment, including a radio, portable hi-fi or car stereo;

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- [g] play an active game, except in an area designated for that purpose, on sport playing fields or on a golf course;
- [a] shoot a projectile of any nature; or
- [b] ride a horse or bicycle.

Waste

- [15] No person shall within a public open space –
 - [a] deposit, dump or discard any waste, unless in a receptacle provided by the Council for that purpose; or
 - [b] pollute or deposit any waste or thing in a manner which may detrimentally impact on a water body.

Vehicles

- [16] No person shall within a public open space –
 - [a] except at times and on roads or pathways prescribed by the Council, drive, draw or propel any vehicle;
 - [b] drive, draw or propel a vehicle in excess of 5 kilometers per hour; or
 - [c] park a vehicle in a public open space.

Animals and vegetation

- [17] [1] Subject to subsection [2], no person shall within a public open space –
 - [a] disturb, damage, destroy or remove any vegetation;
 - [b] plant any vegetation;
 - [c] alter the slope or drainage pattern so as to interfere with the access of water, air or nutrients to any tree;
 - [d] capture or attempt to capture, chase, shoot at, injure, throw objects at, tease, molest or in any other way disturb any fish, bird or animal;
 - [e] disturb, damage or destroy any bird nest or eggs;
 - [f] walk, carry, ride or bring an animal, unless the animal is a guide dog and is accompanied by a person with a sight disability; or
 - [g] affix or place on any tree any printed matter.
- [2] The provisions of subsections [1][a] and [b] do not apply to any person who has obtained a permit in terms of section 24 to undertake agricultural activities in an urban agricultural public open space.

ANNEXURE A**Municipal property and erection of structures**

- [18] [1] Subject to subsection [2], no person shall within a public open space-
- [a] deface, damage, destroy or remove any municipal property;
 - [b] disturb the surface of any land, whether by digging or undertaking any earthworks;
 - [c] erect, build or assemble any structure, including a hut, tent, screen, bulletin board, pole, stand or stage;
 - [d] affix or place on any municipal property, or distribute, any printed matter; or
 - [e] plug, tamper with, or in any way damage any plumbing, electrical, heating or other fixtures or installations in any public open space.
- [2] The provisions of subsection [1][b] do not apply to any person who has obtained a permit in terms of section 24 to undertake agricultural activities in an urban agricultural public open space.

Selling and special events

- [19] [1] No person shall within a public open space –
- [a] use municipal property in a way that unfairly restricts or prevents other users of the public open space from enjoying that municipal property; or
 - [b] sell, hawk, offer or display any goods or articles for sale or hire;
- [2] No person may undertake a special event, except in terms of a permit issued in terms of section 0.

Community service

- [20] No person shall within a public open space undertake any community or voluntary work of any description.

Restoration or removal notices

- [21] [1] Unless permission or a permit to do so has been obtained under sections 21, 23 or 24, an enforcement officer may issue a restoration or removal notice to any person who has directly or indirectly in a public open space –
- [a] damaged, defaced, disturbed, destroyed, demolished or removed vegetation or a municipal structure;
 - [b] erected, built or assembled a structure; or
 - [c] dumped, discarded or deposited any waste, unless in a receptacle provided by the Council for that purpose.

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- [2] The restoration or removal notice may direct the person within the reasonable time stated in the notice to take stated reasonable action:
- [a] to restore or rehabilitate the affected area to the reasonable satisfaction of the Council; or
 - [b] to remove a structure or thing and restore the affected site, as nearly as practicable, to its former condition.

CHAPTER IV: APPLICATIONS FOR AUTHORISATION**Application for permission**

- [22] [1] Any person who wants to undertake a prohibited activity must apply in writing to the Council for permission to do so.
- [2] The Council may, after receiving an application, request the applicant to provide additional information which the Council reasonably requires in order to consider the application.
- [3] The Council may refuse to consider an application until it has been provided with the information that it reasonably requires to make an informed decision and until the prescribed fee [if any] has been paid.
- [4] Subject to subsections [2] and [3], the Council must consider the application within a reasonable time and must either:
- [a] refuse the application; or
 - [b] grant permission in writing subject to whatever conditions the Council considers appropriate to best achieve the purposes of these by-laws, which may include payment of a deposit and/or a fee.
- [5] The Council must not grant permission for any person to behave in a manner that is prohibited under section 13[1][a], [e] or [f].

Application for a special event permit

- [23] [1] An application for permission to hold a special event in a public open space must be made at least three weeks before the proposed date of the special event.
- [2] The time period referred to in subsection [1] may be reduced on good cause at the Council's discretion.
- [3] The application must contain the following information --
- [a] the name and full contact details of the applicant [including name, organisation [if any], address, telephone and fax numbers and email address, if available];
 - [b] the nature and purpose of the special event;

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- [c] the intended route or area proposed to be used by the special event; and
 - [d] the permissions, if any, required under Chapter III of these By-laws.
- [4] Subject to any permit conditions imposed by the Council, the holder of a special events permit has the right to use the area of public open space specified on the permit to the exclusion of any other person during the period specified in the permit.

Application for permission to farm in an urban agricultural public open space

- [24] [1] An application for permission to farm in an urban agricultural public open space must contain the following information –
- [a] the name and full contact details of the applicant [including name, organisation [if any], address, telephone and fax numbers and email address, if available];
 - [b] the nature of the agricultural activity that the applicant proposes to undertake; and
 - [c] the size and location of the area on which the applicant wishes to undertake the proposed agricultural activity.
- [2] A permit under this section may require the permit holder to pay an annual or monthly fee for the use of the land.
- [3] The holder of an urban agricultural permit may, subject to any conditions in the permit, use the area of public open space specified in the permit for agricultural purposes to the exclusion of any other person.

CHAPTER V: CO-OPERATIVE MANAGEMENT AGREEMENTS

- [25] [1] The Council may enter into a written agreement with any organ of State, local community or organization to provide for –
- [a] the co-operative development of any public space; or
 - [b] the co-operative management of any public open space; and
 - [c] the regulation of human activities within a public open space.
- [2] The Council shall not enter into a co-management agreement in relation to a public open space unless it is reasonably believed that entering into the co-management agreement will promote the purpose of these by-laws.
- [3] The Council must monitor the effectiveness of the co-management agreement in achieving the purposes for which it was entered into and may cancel the agreement after giving reasonable notice to the other party if the Council has reason to believe that the co-management agreement is not effective, or is inhibiting the attainment of the purpose of these by-laws.

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CHAPTER VI: TREE PRESERVATION ORDERS

General

- [26] [1] If the Council believes that any tree or group of trees in a public open space requires legal protection the Council may issue a tree preservation order in respect of that tree or group of trees.
- [2] A tree preservation order:
- [a] must indicate the tree or trees to which it relates; and
 - [b] may provide that any person who cuts, disturbs, damages, destroys, removes, transports, exports, purchases, sells, donates or in any other manner acquires or disposes of the tree or trees to which it relates, commits an offence.
- [3] The Council must erect a prominently displayed copy of any tree preservation order granted at or in the vicinity of the tree or trees to which the order relates.

Procedure

- [27] Unless, in the Council's reasonable opinion, the issuing of a tree preservation order is required as a matter of urgency, the Council must, before issuing a tree preservation order under section 26 –
- [a] give notice of the proposal to protect the tree or group of trees and invite comments and objections within a specified period, by publishing a notice in the Provincial Gazette and in two newspapers circulating in the area in which the tree or group of trees is situated;
 - [b] notify any affected organs of State; and
 - [c] consider the comments and objections received in response to the notice.

CHAPTER VII: APPEALS

- [28] [1] A person whose rights are affected by a decision taken by any authorised official under these by-laws, may appeal against that decision by giving written notice of the appeal and reasons to the municipal manager within 21 days of the date of the notification of the decision.
- [2] The municipal manager must promptly submit the appeal to the appropriate appeal authority mentioned in subsection [4].
- [3] The appeal authority must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.

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- [4] An appeal submitted in terms of this section shall be dealt with in the manner prescribed by Section 62 of the Municipal Systems Act 32/2000.

[4] CHAPTER VIII: GENERAL PROVISIONS

Offences and penalties

- [29] [1] 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

is guilty of an offence and liable on conviction to a fine or in default of payment to imprisonment for a period not exceeding 6 months.

Repeal

- [30] Any by-law relating to open spaces, parks and/or gardens adopted by the municipality or any municipality now comprising an administrative unit of the municipality is repealed from the date of promulgation of these by-laws.

LOCAL GOVERNMENT NOTICE**MUNICIPALITY OF RUSTENBURG****BY-LAWS RELATING TO SWIMMING POOLS AND SPA-BATHS**

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

Definitions

[1] In these by-laws, unless the context indicates otherwise –

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

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

“spa-bath” means a structure constructed of an approved material, provided with controlled circulating water supply and used for bathing;

“spa-bath keeper” means any person who owns or controls the operation of a spa-bath;

“swimming pool” means a structure with a controlled water supply used for swimming or bathing, including children's swimming and paddling pools, but excluding a tidal swimming pool or a swimming pool at a private home that is not used for commercial purposes;

“swimming pool keeper” means any person who owns or controls the operation of a swimming pool.

Requirements for premises

[2] No person may operate a swimming pool or spa bath in or on any premises that do not comply with the following requirements –

- [a] separate and readily accessible change-rooms, showers and toilet facilities must be provided for each sex in compliance with the National Building Regulations and Building Standards Act, 1977 (Act No.103 of 1977), as amended;

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- [b]** every swimming-pool must be surrounded by a wall or fence as prescribed by the National Building Regulations and Building Standards Act, 1977 (Act No.103 of 1977), as amended;
- [c]** the surface of the floor area surrounding the spa-bath or swimming-pool must be constructed of an impervious, non-slip material;
- [d]** an approved chemical gas mask must be provided at the chlorinator installation;
- [f]** if notified in writing by an authorised official in writing, a prescribed oxygen or air breathing apparatus must be provided; and
- [g]** an adequate number of refuse receptacles must be provided on the premises.

Duties of the spa-bath keeper**[3] Every spa-bath keeper must –**

- [a]** keep the premises in a safe, clean and sanitary condition and in good repair at all times;
- [b]** provide a properly maintained approved first-aid box in a prominent, easily accessible and protected position;
- [c]** purify, treat and maintain the spa-bath water quality to an adequate level at all times;
- [d]** provide and maintain, in good working order, equipment for testing the quality of the spa-bath water;
- [e]** be capable of undertaking routine tests on the water quality in the spa-bath and interpreting the tests results; and
- [f]** maintain a daily record of the spa-bath water quality.

Duties of the swimming pool keeper**[4] Every swimming pool keeper must –**

- [a]** keep the premises in a safe, clean and sanitary condition at all times;
- [b]** provide a properly maintained approved first-aid box in a prominent, easily accessible and protected position;

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- [c]** be qualified and proficient in life saving, the rendering of first aid, the use of resuscitation appliances, the operation of the swimming pool as well as the testing and maintenance of the safety of the water;
- [d]** ensure that the water is purified, treated and maintained to an adequate quality at all times;
- [e]** provide and maintain, in proper working order, equipment for testing the quality of the swimming pool water;
- [f]** be capable of undertaking routine tests on the water quality in the spa-bath and interpreting the tests results; and
- [g]** maintain a daily record of the spa-bath water quality.

Water supply

- [5]** No person operating a spa-bath or swimming pool may use water from a source other than a municipal supply to clean, fill or maintain the level in a swimming pool or spa-bath.
- [6]** An authorised official must –
 - [a]** take samples of the swimming pool or spa-bath water, at intervals that he or she considers appropriate for the purpose of a chemical analysis or bacteriological examination;
 - [b]** submit the samples to an analyst authorised in terms of section 12 of the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No 54 of 1972) to conduct an analysis.

Safety of water

- [7]** Every spa-bath keeper and swimming pool keeper must ensure that the water in the spa-bath or swimming pool complies with the following requirements:
 - [a]** it must be free from floating, suspended or settled debris or swimming organisms and the walls, floor, access ladders or steps and gutters must be free from slime and algae;
 - [b]** the pH value of the water must be not less than 7 and not greater than 8;
 - [c]** where chlorine based disinfectants are used, a minimum free available chlorine residual of 0,5 mg/l, with a maximum free available chlorine residual of 3 mg/l, must be maintained;

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- [d]** where a disinfectant other than chlorine is used, the residual level must be equivalent in effect to the requirements of subparagraph (c);
- [e]** the total viable bacteriological count of any sample submitted for analysis must not exceed 100 organisms per ml of water; and
- [f]** *Escherichia coli* type 1 bacteria must not be present in any 100 ml of water.

[8] Maximum number of visitors

- [1]** The municipality may determine the maximum number of visitors who may be present at a specific time in or at a public swimming pool;
- [2]** The number contemplated in subsection [1] shall be made known by the municipality by means of a notice.

[3] Admission to a public swimming pool

- [1]** A public swimming pool is, subject to the provisions of these by-laws, open to the public during the times determined by the municipality and made known in a notice;
- [2]** No visitor shall enter or leave a public swimming pool at a place other than that indicated for that purpose.

[4] Entrance fees

- [1]** A visitor to a public swimming pool shall pay entrance fees determined from time to time by the municipality and such entrance fees shall be made known by means of a notice.
- [2]** Different entrance fees may be determined in respect of visitors of different ages and the municipality may exempt certain groups of persons from the payment of an entrance fee.

[9] Nuisances

No person shall perform or permit any of the following acts in or at a public amenity –

- [a]** the use of language or the performance of any other act which disturbs the good order;
- [b]** the firing of firearms, airguns, air pistols, fireworks or the use of sling-shots or catapults without the municipality's written consent;
- [c]** the burning of rubble or refuse;

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- [d]** the causing of unpleasant or offensive smells;
- [e]** the production of smoke nuisances;
- [f]** the causing of disturbances by fighting, shouting, arguing, singing or the playing of musical instruments; or by the use of loudspeakers, radio reception devices, television sets, or similar equipment;
- [g]** the begging for money, food, work or the offering of services, or
- [h]** in any other manner cause a nuisance, obstruction, disturbance or annoyance to the public.

[10] Health matters

No person shall in or at a public swimming pool –

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

[11] Structures

No person shall without the written consent of the municipality having first been obtained, erect or establish in or on a public amenity any structure, shelter or anything similar, except the parking of a caravan or tent erected for camping purposes on a site specifically set aside therefore by notice;

[12] Liquor and food

- [1]** No person shall, contrary to a provision of a notice, bring into a public amenity any alcoholic or any other liquor or any food of whatever nature.
- [2]** No person shall on, in or at a public amenity, contrary to a provision of a notice, cook or prepare food of any kind whatsoever, except at places set aside for such purposes by notice; provided that the preparation and cooking of food in or at a public swimming

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pool shall be done in a clean and hygienic manner so as not to give rise to excessive smoke or other nuisances or entail any danger to health; provided further that no live animals, poultry or fish may be killed or skinned on, in or at a public swimming pool.

[13] Use of public swimming pool

- [1]** No person shall without the consent of the municipality or contrary to any condition which the municipality may impose when granting such consent –
- [a]** arrange or present any public entertainment;
 - [b]** collect money or any other goods for charity or any other purpose from the general public;
 - [c]** display or distribute any pamphlet, placard, painting, book, handbill or any other printed, written or painted work;
 - [d]** arrange, hold or address any meeting;
 - [e]** arrange or hold a public gathering or procession, exhibition or performance;
 - [f]** conduct any trade, occupation or business;
 - [g]** display, sell or rent out or present for sale or rent any wares or articles;
 - [h]** hold an auction;
 - [i]** tell fortunes for compensation;
- [2]** For the purposes of these by-laws "public gathering or procession" shall mean a procession or gathering of 15 or more persons and which is not regulated by national or provincial legislation.

[14] Safety and order

- [1]** No person shall, subject to subsection [2], in or at a public swimming pool –
- [a]** damage or disfigure anything within such amenity;
 - [b]** use or try to use anything within such amenity for any purpose other than that for which it is designated or determined by notice;
 - [c]** light a fire or prepare food, except at a place indicated for that purpose by notice;

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- [d] throw away any burning or smouldering object;
- [e] throw or roll down any rock, stone or object from any mountain, koppie, slope or cliff;
- [f] pull out, pick or damage any tree, plant, shrub, vegetation or flower;
- [g] behave himself in an improper, indecent, unruly, violent or unbecoming manner;
- [h] cause a disturbance;
- [i] wash, polish or repair a vehicle;
- [j] walk, stand, sit or lie in a flower bed;
- [k] kill, hurt, follow, disturb, ill-treat or catch any animal, bird or fish or displace, disturb, destroy or remove any bird nests or eggs;
- [l] walk, stand, sit or lie on grass contrary to the provisions of a notice;
- [m] lie on a bench or seating-place or use it in such a manner that other users or potential users find it impossible to make use thereof;
- [n] play or sit on play park equipment, except if the person concerned is a child under the age of 13 years;
- [o] swim, walk or play, contrary to the provisions of a notice, in a fish-pond, fountain, stream or pond;
- [2] The municipality may by way of notice and subject to such conditions as the municipality deems necessary and mentioned in a notice, authorise any of the actions contemplated in subsection [1].

[15] Water

No person may misuse, pollute or contaminate any water source or water supply or waste water in or at any public swimming pool.

[16] Laundry and crockery

No person may in or at a public swimming pool wash any crockery or laundry or hang out clothes, except at places indicated by notice for that purpose.

ANNEXURE A**[17] Vehicles**

- [1]** No person may bring into a public swimming pool any truck, bus, motorcar, motor cycle, motor tricycle, or any other vehicle, craft or aeroplane, whether driven by mechanical, animal, natural or human power, except in accordance with the directions of the municipality;
- [2]** The municipality shall determine the speed limit applicable in a public swimming pool;
- [3]** The directions contemplated in subsection [1] and the speed limit contemplated in subsection [2] shall be made known by the municipality by way of notice.

Order and behaviour

- [18]** No person may –
 - [a]** interfere with the spa-bath keeper, swimming pool keeper or any authorised official of the Council in the execution of their duties;
 - [b]** allow any dog or other pet belonging to him or under his care to enter or to remain within the premises;
 - [c]** use any premises where he or she knows or suspects that he or she may suffering from any communicable or contagious disease; and
 - [f]** urinate, defecate, spit or blow his or her nose in the spa-bath or swimming pool.

Offences and Penalties

- [19]**
 - [1]** Any person who contravene or fails to comply with any provision of these by-laws or who fails to comply with any notice given in terms of these by-laws shall be guilty of an offence and upon conviction be liable to a fine or imprisonment for a period not exceeding six months or to both such fine and imprisonment.
 - [2]** Any person who contravenes or fails to comply with a provision of these by-laws, a notice issued in terms of these by-laws or a condition imposed under these by-laws, irrespective of whether such contravention or failure has been declared as an offence elsewhere in these by-laws, shall be guilty of an offence and liable upon conviction to:
 - [a]** a fine or imprisonment for a period not exceeding six months or either such fine or such imprisonment or both such fine and such imprisonment;
 - [b]** in the case of a continuing offence, an additional fine or an additional period of imprisonment of 10 days or either such

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- additional fine or such additional imprisonment or both such additional fine and imprisonment for each day on which such offence is continued, and
- [c] a further amount equal to any costs and expenses found by the court to have been incurred by the municipality as a result of such contravention or failure.

Repeal of By-Laws

- [10] Any by-laws adopted by the Council or the Council of a municipality now forming an administrative unit of the Council and relating to public swimming pools and spa-baths are, from the date of promulgation of these by-laws, hereby repealed.

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LOCAL GOVERNMENT NOTICE**MUNICIPALITY OF RUSTENBURG****BY-LAWS FOR THE HIRE AND USE OF
COMMUNITY, ARTS AND CULTURE FACILITIES**

The Municipal Manager hereby publishes, in terms of Section 13 of the Local Government Municipal Systems Act, 2000 [Act 32 of 2000] read with Section 162 of the Constitution of the Republic of South Africa Act 1996 [Act 108 of 1996] the By-Laws for the Hire and Use of Community, Arts and Culture Facilities which shall come into operation on the date of publication thereof.

[1] Definitions

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

"arts" means all forms and traditions of dance, drama, music, music theatre, visual arts, crafts, design, written and oral literature, film video, traditional and community art, all of which serve as means for individual and collective creativity and expression through performance, execution; presentation, exhibition, transmission and study;

"artist" means anyone who is involved in the creation or production of music, dance, theatre, craft, films, video, traditional and community art, musical theatre and literature;

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

"authorized official" means an official of the Council to whom powers and/or functions to administer and implement these by-laws have been lawfully delegated or assigned;

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

"Council" means the municipality of Rustenburg and includes the council of the municipality and any duly authorized committee or official of the municipality.

"culture" means the dynamic totality of distinctive, spiritual, material, intellectual and emotional features which characterise a society or a social group and includes language and heritage conservation [including museums, archives, libraries, historical sites and monuments];

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"cultural activity" means any cultural function, cultural meeting, festival, flea market, exhibition or any other cultural activity;

"facilities" means the arts and culture facilities under the administration and control of the Council and includes all appurtenances;

"group activity" means –

for the purposes of these by-laws, an activity or function of an artistic or cultural nature, in which several members of a group of persons having an interest in the subject matter of such activity participate either together or in sub-groups or serially, whether as individuals or in teams.

"hirer" means any person who applies, pays and obtains approval for the use of the facilities;

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

"premises" means any land, building or structure or any portion of land, building or structure on or in which the arts and cultural activities regulated by these by-laws are carried out or on which a centre has been constructed;

"prescribed fee" means the fee determined by resolution of the Council for the hire of a centre and/or facilities.

"property" means the property on which the premises or buildings of the Council are situated;

[2] Rights and status of artists

The Council must recognise the right of all artists to practice their respective forms of art and enjoy their right to freedom of expression through such medium, consistently with the application of any other relevant law.

[3] Co-operation between Council departments

Every Department of the Council having jurisdiction over or responsibility for any multi-purpose community facility must cooperate with any other such Department in ensuring that –

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

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[4] Application for hiring of facilities

[1] Any person wishing to apply for the hiring of facilities must –

- [a]** submit an application to the authorized official in the form prescribed by the Council for this purpose;
- [b]** clearly stipulate in such application the facilities, seating, accommodation and equipment required and the period for which the premises and such other facilities as are referred to in this sub-section are required;
- [c]** ensure that such application form is received by the authorized official not less than six weeks prior to the date on which the premises and facilities are first required by the applicant, provided that this time period may, depending on the demand for the facilities in question, be relaxed by the authorized official.

[2] The Council may refuse to hire out any premises or facilities in terms of subsection [1], or to cancel any booking thereof if –

- [a]** the premises or the facilities are to be used for any unlawful purposes; or
- [b]** the premises or facilities being applied for are required by the Council for municipal purposes at the same time.

[3] No compensation is payable by the Council to the hirer for any loss which the hirer may suffer by reason of the Council having acted in terms of subsection [2]: Provided that the Council may in its discretion refund all the charges that have already been paid to it in respect of the application.

[4] The hirer is limited to the use of the facilities specified in the application form and may not use any other facilities for which he has not applied.

[5] The facilities and accommodation so hired may not, except with the prior written approval of the authorized official, be used for any purpose other than the purposes indicated on the application form.

[6] No premises or facilities hired out by the Council may be used for the purpose of conducting any form of religious worship, unless the express written consent of the Council to such use has been given in writing; provided that –

- [a]** such use may be made of the premises only at the times specified in the contract of hire or letter of approval; and
- [b]** the Council is entitled to refuse its approval unless it is satisfied that such use will not, by reason of singing, chanting, acclamation or other form of noise-producing worship will not constitute an undue

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interference with the amenities normally enjoyed by other occupants of the building or occupants of neighbouring buildings.

[5] Tariff of Fees

The Council may from time to time determine a tariff of prescribed fees for the services and facilities provided by the Council in terms of these by-laws.

[6] Payment of charges

No person is permitted to use any premises or facilities unless the prescribed fee has been fully paid: Provided that the Council may exempt any person or organisation, on good cause, from the payment of portion or all of the prescribed fee.

[7] Period of hire

Notwithstanding any determination made by the authorized official regarding the dates and period for which the premises and/or facilities may be hired, the Council may allow the hirer reasonable access to the facilities before the commencement date of the period of hire, so as to enable the hirer to make the necessary preparations and arrangements in the premises but subject to the payment of the prescribed fee by the hirer.

[8] Adjustment of period of hire

[1] Any person who makes an application for the use of premises and/or facilities in terms of the provisions of section 4 may, subsequent to the approval of such application and the reservation of such premises, apply for the postponement of such reservation to a later date, without penalty or forfeiture: Provided that such postponement may be refused if such premises and/or facilities have, in the meantime, been reserved for use by another or others on the dates to which the postponement is sought.

[2] Any person who has already made an application for the reservation of premises or facilities may cancel such reservation provided that if -

[a] a reservation is cancelled one month or longer prior to the commencement date of such reservation, the hirer must receive a full refund of the prescribed fee already paid;

[b] a reservation is cancelled more than 15 days but less than one month prior to the commencement date of such reservation, the hirer must receive a 50% refund of the prescribed fee;

[c] a reservation is cancelled 15 days or less prior to the commencement date of such reservation, the hirer is not entitled to receive any refund of the prescribed fee.

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- [3] Any person may extend the period of hire of premises and/or facilities upon written application to the Council in the manner provided for in Section 4[1], except that a period of six weeks notice is not required, provided that the premises and/or facilities concerned have not in the meantime, been reserved for use by any other person or persons.

[9] **Joint hire**

- [1] The Council may let any premises or parts thereof to different hirers for simultaneous use and in such a case, each hirer must use all the ancillary facilities which serve the different parts of the premises in common jointly with the other users and in such manner that all the different hirers, their guests, customers and patrons, are able to enjoy the use of the facilities without infringing on the rights of use by other users.

- [2] The provisions of these by-laws, read with the necessary changes, apply to the joint users of the hired premises.

[10] **Sub-letting**

The hirer may not sub-let any of the hired premises or facilities to any other person or organization nor may the hirer cede, pledge or renounce in favour of another person any of his rights or obligations under these by-laws nor allow any other person to occupy the premises without the prior written consent of the Council.

[11] **Condition of premises**

- [1] The hirer must inspect the hired facilities, including all installations, appliances, fittings, accessories and furniture before he commences to use the same installations, appliances, fittings, accessories and furniture and if the hirer finds that any of the installations, appliances, fittings, accessories and furniture on the premises are not in a proper state of repair, the hirer must report this fact to the authorized official.

- [2] If the hirer fails either to inspect the facilities in terms of subsection [1], or to report any defects found therein or therewith, it may be deemed that upon commencement of occupation by the hirer, everything in the premises was in a proper state of repair.

[12] **Duties of the hirer**

Every person hiring premises from the Council must -

- [a] take all reasonable steps to keep all sewerage pipes, water taps and drains within or serving the premises free from obstruction or blockage as a result of the hirer's activities;
- [b] at all times keep the premises in a clean, tidy and sanitary condition;

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- [c] not affix or attach to the premises any notices or other matter without the prior consent of the Council: Provided that upon the termination of the hire, the hirer must remove all such attachments;
- [d] not obscure any plate glass windows by painting or otherwise;
- [e] not drive into the walls or partitions or doors of the premises any screws or nails;
- [f] not change or interfere with or overload any electrical installation in the premises;
- [g] not remove or take out from the premises any furniture or other articles whatsoever belonging to the Council,
- [h] not obstruct or interfere or tamper with any thermostats or air conditioning appliances in the premises or any building in which such premises are located;
- [i] not introduce or install any unsafe or heavy article, furniture, fitting, appliance or equipment which in the opinion of the authorised official could damage the premises or any part thereof: Provided further that the authorised official may impose on the introduction of such item, such conditions as are reasonable to ensure the safety of the premises and persons using them;
- [j] not install in the premises any air conditioning or ventilating units or equipment without the Council's prior consent;
- [k] not permit the storage of motor vehicles or other movable items of any description on the pavements outside or the entrance halls, staircases or passages of the premises;
- [l] not do anything on the premises, nor allow anything to be done in non-compliance with any reasonable instruction or prohibition given or issued by the authorised official;
- [m] not park vehicles nor allow the parking of vehicles by the hirer's employees, invitees, agents, directors or other representatives anywhere on the premises except in the properly demarcated parking bays on the premises as pointed out by the authorised official.

[13] Damage to property

A hirer who fails to keep and maintain the premises and facilities hired out to him or her and to return them to the Council in the same order and condition as when they were hired out to him or her is, in addition to any remedies available to the Council at common law, guilty of an offence and liable to the penalties specified in these by-laws.

ANNEXURE A**[14] Advertisements and decorations**

- [1]** No person who has applied for the hire of premises and/or facilities may publicly announce or advertise any function or event in respect of which an application for the hire of such premises and/or facilities in terms of these by-laws has been made before the Council has notified such person in writing that the application has been approved.
- [2]** Every hirer must, before vacating the hired premises on the termination of the period of hire for any reason whatsoever, remove all posters, notices, decorations, flags, emblems, signs and other forms of advertisement or direction erected or affixed by him or her, and make good any damage caused by such removal

[15] Admissions and sale of tickets

The hirer is responsible for all arrangements in connection with the admission of members of the public to any cultural or other activities on the premises; and the provision of ushers and other persons necessary to control the admission of persons to the premises, and the sale of tickets.

[16] Overcrowding

- [1]** No overcrowding of the premises or facilities may be allowed at any time during any of the hirer's cultural activities and the hirer must comply with the Council's requirements prescribing the maximum number of persons allowed on the facilities during cultural activities,
- [2]** Without detracting from the general requirements referred to in subsection [1], the hirer may not allow more persons admission to the premises than the number of available seats or, where seating is not provide, the maximum number of persons prescribed by notice on the premises or as stipulated in the contract of hire.

[17] Sale of refreshments

- [1]** No person may sell food or soft drinks on or in any hired premises during any activities for which they have been hired, without the prior written consent of the authorized official.
- [2]** The authorized official may permit the sale of refreshments or foodstuffs by such persons as it may approve after it has received written application to sell such items, and the Council may allocate sufficient accommodation to such approved persons, wherein trading stock, furniture, equipment, installations and books necessarily required for that purpose may be accommodated.
- [3]** The provisions of subsections [1] and [2] do not apply where the supply and sale of refreshments or foodstuffs is an integral part of the cultural activities of the hirer.

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- [4] The Council shall not be responsible for the payment of compensation to the hirer in respect of any loss, theft or damage suffered by the hirer or any other person in respect of the items referred to in subsection [2] for any cause whatsoever.

[18] Services

- [1] The nature of the municipal services to be provided to the facilities by the Council or its employees, authorized representatives of the Council or a service provider is at the sole discretion of the Council.
- [2] Neither the Council nor its employees or authorized representatives or service providers are liable for the non-receipt or non-delivery of goods, postal matter or correspondence belonging to the hirer, nor are they liable for anything which the hirer, his or her employees, invitees, agents, directors or representatives may have deposited or left in the premises or any part thereof.
- [3] The Council may take such steps as it may consider necessary in its discretion for the proper maintenance and operation of any common areas in the premises.
- [4] The authorized official of the Council may attend the hirer's function to ensure compliance with any provision of these by-laws.
- [5] The hirer is not entitled to the official services of the authorized official or other representative of the Council who attends the hirer's function in terms of subsection [4].
- [6] The hirer is not entitled to receive gratuitous cleaning or other services from the Council in connection with the hirer's activities during the preparation of a function or during a function.

[19] Exclusion of liability

- [1] The Council, its employees, and service providers are not liable for -
- [a] any damage or loss sustained by any person as a result of an insufficient supply or interruption in the supply of municipal services to the premises, or due to any act or omission on the part of the Council, its employees, authorised officials or representatives or service providers if the Council considers the interruption necessary to enable it to exercise any of its rights or carry out its obligations under these by-laws or under any other law;
- [b] any loss, theft or damage caused to the stock-in-trade, furniture, equipment, installations, books, papers, clothing or other articles of any stature whatsoever kept in the hired premises by the hirer or anyone else whether in regard to the hirer's business or not;

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- [c]** any consequential loss suffered by the hirer or anyone by making use of the facilities on the hired premises or as a result of rain, hail, lightning, wind, fire, storms, riot or civil commotion or for loss of life or injury to the hirer or anyone else on or in the premises;
 - [d]** any loss suffered by the hirer or anyone else as a result of any failure or defect of any of the facilities on the hired premises: Provided such failure or defect is not attributable to any willful act or omission on the part of the Council,
- [2]** Every hirer must, at the time of concluding a contract of hire for the premises and/or facilities applied for, complete and sign an indemnity in a form required by the Council in favour of the Council, its employees and service providers
- [20] Destruction of premises**
- [1]** The Council may cancel the hire of facilities if-
- [a]** the facilities are destroyed or are damaged to such an extent as to be substantially unusable; or
 - [b]** there is damage to the facilities such that, although subsection [1] [a] does not apply, the premises have been rendered substantially unusable because of absence of access or supply of any necessary municipal service or amenity: or
 - [c]** there is destruction of damage to the premises or parts thereof or to neighbouring buildings, whether or not the hired premises are involved and the Council decides not to proceed with the hire of the premises in order to engage in reconstruction, renovation or rebuilding or for safety reasons.
- [2]** Any decision made in terms of subsection [1] must be communicated by written notice given by the Council to the hirer within a reasonable period of the taking place of the event referred to in subsection [1] [a] giving rise to the cancellation; provided that in the case of notice given in relation to an event referred to in sub-section [1] [b] and [c], such notice may be deemed to be effective as from the date on which the damage or destruction, as the case may be, took place.
- [3]** No hirer has any claim against the Council, its employees or authorized representatives or service providers arising out of the damage to or destruction of the premises or any part thereof or for the resultant loss of beneficial use of the premises by such hirer.
- [21] Termination for non-compliance**

The authorized official may at any time cancel the hire of the facilities if the hirer fails to comply with any of the provisions of these by-laws and the

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Council is not liable for any damage or loss sustained by any person as a result of such cancellation: Provided that such a cancellation may be without prejudice to any rights or claims which the Council may have against the hirer under any provision of these by-laws or at common law.

[22] Termination of hire

- [1]** Upon the termination of the period of hire for any reason, the hirer must return the premises and the facilities to the Council in good order and condition and must make good and repair at his own cost on demand any damage or breakages or, in the alternative, reimburse the Council for the cost of replacing, repairing or making good any broken, damaged or missing articles and it shall be lawful for the Council to deduct from any deposit paid by the hirer of the facilities the costs of the damage or breakages aforesaid..
- [2]** Every hirer must vacate the hired premises within such period after expiry of the period of hire as is stated on the application form or contract of hire: Provided that failure by the hirer to comply with the provisions of this subsection entitles the Council to levy a further prescribed fee, for such additional period during which the hirer remains in occupation of the premises after the expiry of the period of hire; Provided further that the provisions of this subsection do not preclude the Council from taking lawful steps to procure the eviction of any such hirer from the premises.
- [3]** Every hirer must comply with all reasonable and lawful instructions of the authorized official in respect of the cleaning of the facilities upon the hirer's vacation of the premises: Provided that the authorized official may elect to undertake the cleaning of all crockery and cutlery used by the hirer.
- [4]** Every hirer must comply with all reasonable and lawful instructions of the Council in respect of the vacation of the premises and the return of the facilities.

[23] Fire hazards and Insurance

- [1]** A hirer may not at any time bring or allow to be brought or kept on the premises, nor undertake nor permit to be done or undertaken in the premises, any matter, thing or activity whereby the fire or any other insurance policy of the building concerned may become or becomes void or voidable or whereby the premium for any such insurance may be or is increased.
- [2]** If the premiums for such insurance are increased as a result of any act or omission contemplated in subsection [1], the Council may, in its discretion, allow such activity and recover from the hirer the amount due in respect of any additional insurance premiums and the hirer must pay such amount immediately on notification from the Council or the insurance company to the effect that such additional premiums have been charged.
- [3]** The Council may at any time at its discretion require the hirer to take out insurance for the premises hired with an insurance company approved by the

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authorized official, against loss or damage by fire or any other cause during or as a result of any function for which the facilities are hired.

[24] Storage facilities

The Council is not responsible for providing facilities for the storage of the equipment of the hirer, or the hirer's employees, visitors, supporters or agents during any period prior to, during or after a cultural activity.

[25] Equipment

A hirer who requires the Council to supply any equipment for use during a function, may use such equipment only with the permission of the authorized official and under the supervision of the authorized official: Provided that if the hirer causes damage to the equipment or removes or causes the equipment to be removed from the premises without permission or, having removed it with permission, fails to return it, the hirer is liable for the repair or replacement costs thereof.

[26] Right of entry

[1] Subject to the provisions of applicable national and provincial legislation, the Council or the authorized official of the Council or a service provider may enter the premises at all reasonable times-

[a] to inspect the premises and carry out any repairs or alterations or additions or modifications or improvements on or to the facilities or the premises.

[b] in order to ensure that the conditions of hire of the premises and the provisions of these by-laws are being complied with.

[2] A hirer has no claim for remission of any charges payable for the hire of the facilities, compensation, damages or otherwise in connection with the exercise by the Council or the authorized official of its or his rights under subsection [1].

[3] The Council, the authorized official of the Council or a service provider is entitled to erect scaffolding, hoardings and building equipment in, at, near or in front of the premises as well as such other devices required by law or which the Council's architects may certify is necessary to carry out the repairs contemplated in subsection [1][a].

[27] Inspection

Upon the conclusion of all the hirer's activities at the end of the period of hire or at the termination of the hire under any of the provisions of these by-laws, the authorized official of the Council and the hirer or his nominee must inspect the premises and facilities hired, for the purpose of assessing any damage or loss.

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The hirer must comply with the Council's reasonable security and fire protection regulations which may from time to time be in force in respect of the premises.

[29] Nuisance

- [1]** No person attending any cultural activity in hired premises may conduct himself in an unseemly or obnoxious manner or cause a nuisance or annoyance to other people in or users of the premises, or to occupiers of other parts of the building or neighbouring buildings.
- [2]** An authorized official of the Council may, during any cultural activity of the hirer, direct that the hirer removes from the facilities any person who is in a state of intoxication and who is behaving in an unseemly or obnoxious manner or causing a nuisance or annoyance to other people in or users of the premises, or to occupiers of other parts of the building or neighbouring buildings-
- [3]** An authorized official of the Council may, during any cultural activity of the hirer, direct the hirer to prevent the entry on the hired facilities by any person who is in a state of intoxication and who behaves in an unseemly or obnoxious manner or is causing a nuisance or annoyance to other people in or users of the premises, or to occupiers of other parts of the building or neighbouring buildings.

[32] Penalty

Any person who fails to comply with a direction or instruction given by the Council or its authorized official in terms of these by-laws or otherwise contravenes or fails to comply with any provision of these by-laws shall be guilty of an offence and be liable on conviction to a penalty not exceeding a fine or imprisonment for a period of six months or to such imprisonment without the option of a fine or to both such fine and such imprisonment.

[33] Repeal of By-laws

Any by-law relating to the hire and use of community, arts and culture facilities or public halls adopted by the municipality or any municipality now comprising an administrative unit of the municipality is repealed from the date of promulgation of these by-laws.

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LOCAL GOVERNMENT NOTICE**MUNICIPALITY OF RUSTENBURG**

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

PUBLIC CEMETERY BY-LAWS

[1] In these by-laws:

"adult" where the word is used to describe a body, means any deceased person over the age 12 whose coffin will fit into the grave opening prescribed for adults in section 7[2];

"ashes" means the cremated remains of a body;

"body" means any human dead body including the body of any stillborn child;

"burial order" means an order issued in terms of the Births and Deaths Registration Act, 1992 (Act 51 of 1992)

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

"burial" shall mean burial in earth or any other form of interment and shall include any other mode of disposal of a body;

"cemetery" means a piece of land duly set aside and demarcated by the municipality on an official plan for human burials, either within or outside the area of the municipality;

"child" where the word is used to describe a body, means any deceased person of the age of 12 years or under and whose coffin will fit into the grave opening prescribed for children in section 7[2];

"garden of remembrance" means a section of a cemetery set aside by the Municipality for the erection of memorial work to commemorate a deceased person whose body was cremated and for the placing of ashes;

"grave" means a demarcated plot for the burial of a body in a cemetery.

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"berm/garden section" means a cemetery or section set aside by the Municipality where memorial work is restricted to a headstone only;

"medical officer of health" shall mean the officer appointed by the Municipality or any person acting in the capacity of medical officer of health;

"monumental section" means a cemetery or section of a cemetery which is not a berm section;

"memorial wall" means a wall in a crematorium section provided for the placement of inscribed tablets commemorating deceased persons who have been cremated;

"memorial work" means any tombstone, railing, fence, monument, memorial, inscription or other work erected or which may be erected on any grave to commemorate a deceased person and includes a kerb demarcating any grave;

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

"name" shall include any identifying description of a deceased human being who possessed no name or whose name is unknown at time of death;

"non-resident" means a person who at the time of his death was not a resident of the Rustenburg Local Municipality;

"officer-in-charge" means any person authorized by the Municipality to be in control of any cemetery;

"plot" means a piece of land in a cemetery. No grave can be purchased before the person to be buried has died and in such a case only one additional adjacent grave or niche will be made available to the surviving spouse on payment of the determined charges;

"register of deaths" means any person appointed as registrar or assistant registrar of death in terms of National legislation or any person fulfilling the description of such registrar;

"regulation" means a regulation published in terms of National or Provincial legislation;

"indigent person" means a person who has died in indigent circumstances, or if no relative or other person can be found to bear the burial costs of such deceased person. The onus of proof of being indigent rests with the applicant;

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"normal operational working hours" means Monday to Sunday 07:00 to 16:00 excluding public holidays;

"office hours" means Monday to Friday 07:00 to 16:00 excluding Saturdays, Sundays and public holidays;

"holder of private rights" means the person or persons referred to in Chapter 3, Section 7 thereof;

"urn" means a place where the cremated remains of a deceased can be placed.

"pauper" means a person who has died as an unknown person or if no relative or other person can be found to bear the burial or cremation costs of such deceased person;

"municipal manager" means the person appointed by the municipal council as the municipal manager of the municipality in terms of section 82 of the Local Government Municipal Structures Act, 1998 (Act No. 117 of 1998) and includes any person -

[a] acting in such position; and

[b] to whom the municipal manager has delegated a power, function or duty in respect of such a delegated power, function or duty;

"non-resident" means any person who at the time of his or her death was not a resident of the municipality.

"resident" means a person who, at the time of death, is ordinarily resident within the municipality or any person who, at the time of death, shall have been the owner or fixed property within the municipality for a period of at least six months immediately prior to death: provided that unless otherwise provided herein, the term does not include inmates of hospitals, institutions or other persons temporarily resident within the municipality.

"tariff" means the charges as determined by the Council of the municipality from time to time in terms of these by-laws;

[2] The municipality may set aside any portion of a cemetery for the burial of the deceased of any religious group or other body or community; provided that:

[a] "religious group" shall not be construed as being a denomination, and

[b] such setting aside shall not entitle any person to be buried in any particular place in a cemetery.

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- [3]
[1] The municipality may sell or otherwise dispose of the right of burial in plots on such conditions as it may determine from time to time, and shall issue the person thus acquiring such right with a certificate setting out the conditions attaching to such acquisition.
- [2] The holder of a right of burial shall not dispose of such right except with the written permission of the municipality, and such holder or his/her next of kin shall not permit any other person who has not been approved by the municipality to be buried in the plot in respect of which such right exists.
- [4]
[1] No person shall bury a body in a cemetery:-
- [a] except under the authority of a written permit issued by the caretaker; or
- [b] otherwise than in accordance with the conditions specified in such permit.
- [2] An application for the permit referred to in subsection (1) shall be accompanied by the burial order issued in accordance with the Births and Deaths Registration Act, 1992 (Act 51 of 1992), and shall contain such information as may be required by the caretaker.
- [5] Except with the permission of the caretaker who shall record the circumstances under which such permission is granted, no person shall bury a body in a cemetery during the hours between sunset and sunrise.
- [6] No person shall:
- [a] bury a body, unless the grave is of sufficient depth so that the top of the body, or, if contained in a coffin or container, the top of the coffin or container is not less than 1 050 mm below the surface of the ground when the grave has been filled up;
- [b] bury more than one body in a grave, unless the grave has been dug to a sufficient depth so that subsection (a) may be complied with and so that the first body or, if such body is in a coffin or container, such coffin or container may be covered with 100 mm of reinforced concrete or 300 mm of soil when the second body is buried, or
- [c] remove a body from a grave in order to enlarge such grave.

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[7]**[1]** The standard measurements for burial plots shall be determined by the municipality.**[2]** The standard measurements for graves shall be as follows:**[a]** Adults:

Length: 2 200 mm

Width: 1 200 mm

Depth: 1 800 mm.

[b] Children:

Length: 1 350 mm

Width: 600 mm

Depth: 1 500mm.

[8]**[1]** No person shall open a grave or exhume or cause a body to be exhumed from a grave :**[a]** except under the authority of a written permit which may be issued by the municipality; or**[b]** otherwise than in accordance with the conditions specified in such permit.**[2]** Whenever a municipality deems it advisable that a body be removed from a grave, it may, after consultation, if possible, with any near relative of such deceased person and, with the approval of the MEC for Housing and Local Government or other competent authority, remove such body to another grave.**[9]****[1]** No person shall erect or place any kerb, tombstone, monument, railing or fence or any ornamentation upon a grave:**[a]** except under the authority set out in a written permit issued by the caretaker;**[b]** otherwise than in accordance with the conditions set out in such permit, or**[c]** in such a manner as to exceed the boundaries of a burial plot.

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- [2]** The size (outer dimensions) of any erections on burial plots shall not exceed the following measurements:

 - [a]** Adults:

 - [i]** Single burial plot: 2 500 mm x 1 050 mm;
 - [ii]** Double burial plot: the size of two single burial plots;
 - [iii]** Family burial plot: the appropriate multiple of a single burial plot;
 - [iv]** Width of kerb: 150 mm;
 - [v]** Tombstones shall not be higher than 1 600 mm above the surface of the ground.
 - [b]** Children:

 - [i]** Single burial plot: 1 500 mm x 1 000 mm;
 - [ii]** Width of kerb: 150 mm;
 - [iii]** Tombstones shall not be higher than 1 200 mm above the surface of the ground.
- [3]** An application for a permit referred to in subsection (1) shall contain such details as may be required by the municipality in respect of the erection concerned and the inscription to be placed thereon, and the municipality may refuse to issue such permit if, in its opinion, such erection is likely to be of poor craftsmanship or quality or is likely in any way to disfigure a cemetery or is calculated to hurt or offend the feelings of the public.
- [10]** No person shall:

 - [a]** use any portion of a cemetery for the cutting, dressing and manufacturing of tombstones, monuments, railings, kerbs or other grave fittings except with the permission of the municipality or otherwise than in accordance with the conditions determined by the municipality;
 - [b]** carry out any work in connection with any kerb, tombstone, monument, railings or fence on or round a grave or bring any materials into a cemetery for the purposes of such work, except during the following hours:

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Mondays to Saturdays (excluding public holidays): Sunrise to sunset,
or

[c] at any time leave any building sand, stones, builders' rubble, soil, rubbish or other debris in the cemetery.

[11]

[1] Whenever the person who erected a memorial work in a cemetery allows it to fall into such state of disrepair as in the opinion of the municipality constitutes a danger or a disfigurement in the cemetery, the municipality may by written notice require him or her to effect such repairs as may be specified in such notice, and if his or her address is unknown, such notice may be published in a newspaper circulating within the area of such municipality.

[2] In the event of the required repairs not being effected within three months from the service or publication of such notice, the municipality may itself effect the repairs or remove the memorial work without paying compensation and may recover the expense of such repair or removal from such person.

[12]

[1] The holder of the right of burial in a plot in a cemetery shall keep that plot and the monuments, tombstones or other erections thereon in good order and repair.

[2] The municipality may undertake the upkeep of graves at the prescribed tariff.

[3] No person shall undertake the upkeep of graves in a cemetery except with the written consent of the municipality.

[13]

[1] No person shall

[a] plant a tree or shrub on a grave site without the permission of the caretaker; or

[b] when cleaning a grave plot, deposit the material cleared from the grave, in the cemetery at a place other than that provided for such purpose.

[2] The caretaker or his authorised assistant may prune, cut down, dig up or remove any shrub, plant or flower in a cemetery if such is in his opinion unsightly.

[14] No person shall:

[a] enter or leave a cemetery except by the proper gates;

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- [b]** sit, stand or climb upon or over a memorial work, gate, wall, fence or building in a cemetery;
- [c]** drive a hearse in a cemetery except upon the carriage ways provided for that purpose;
- [d]** enter a cemetery
 - [i]** with or on a bicycle; or
 - [ii]** in any other vehicle without the permission of the caretaker;
- [e]** conduct a religious ceremony or service according to the rites of any denomination in that part of a cemetery set aside for members of any other denomination;
- [f]** expose or convey a body in an unseemly manner in a street, cemetery or other public place;
- [g]** mark, draw, scribble or erect an advertisement upon, or in any way deface a wall, building, fence, gate, memorial work or other erection in a cemetery;
- [h]** pick flowers in a cemetery;
- [i]** smoke in a cemetery;
- [j]** bring an animal into a cemetery;
- [k]** hold a demonstration or participate in such demonstration in a cemetery;
- [l]** create or allow to be created a nuisance in a cemetery;
- [m]** disrupt or allow to be disrupted any funeral proceedings in a cemetery, or
- [n]** discharge any fire-arm in a cemetery, except as a salute at a military funeral.
- [o]** use or cause any cemetery to be used for any immoral purpose;
- [p]** bring any dog, cat, fowl or other animal or bird into a cemetery or allow it to wander therein;
- [q]** trade or hawk goods or services in a cemetery;
- [r]** drive a permitted vehicle in a cemetery at a speed in excess of 20km/h;
- [s]** obstruct, resist or oppose the caretaker or any worker employed

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by the municipality in any cemetery in the course of his or her duty or refuse to comply with any order or request which the caretaker is entitled to make under these by-laws.

- [15] The tariffs payable in terms of section 3 (1), as well as all other tariffs payable for burials, exhumations, re-interments or any other services rendered by the municipality in a cemetery or in connection with a funeral, shall from time to time be fixed by a resolution of the Council of the municipality.
- [16] The Municipal Manager shall maintain a register of all burial plots disposed of the municipality in terms of these by-laws and shall record therein the number of each plot in a cemetery which number shall be consecutive, the name of the owner of such plot and its date of purchase. The Municipal Manager shall, furthermore, record in such register details of burials in plots sold by the municipality in terms of these by-laws.
- [17] Any person who contravenes or fails to comply with any provision of these by-laws or any instruction or permit issued thereunder shall be guilty of an offence and be liable on conviction to a fine not exceeding R1000 or such higher amount as is determined from time to time by the Minister of Justice as contemplated in section 1(1)(a) of the Adjustment of Fines

Act 1991 (Act No. 101 of 1991) or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

- [18] Any by-law relating to public cemeteries adopted by the municipality or any municipality now comprising an administrative unit of the municipality is repealed from the date of promulgation of these by-laws.

[19] Interment only in Allotted Grave

Subject to the provisions of these by-laws, no interment shall take place in any grave not allotted by the officer-in-charge.

[20] Private Rights

The below mentioned private rights are applicable to Categories A and B only, unless stated otherwise.

Private rights in a grave shall give to the holder of such rights and obligations dealt with in these by-laws.

- [1] The holder of Private Rights shall include, but shall not be limited to, the following:

- (a) The person who purchased the grave or who received the grave as a gift from the original purchaser and whose name appears in the register of the Municipality.

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- (b) The person who paid the burial fees in respect of the first interment in the grave:
 - (c) The person to whom the holder of private rights has transferred his rights to.
 - (d) The person who has inherited the private rights by means of a testamentary disposition or in the absence thereof, by means of such customary of common law of succession as may be applicable to the original holder of the private rights.
- [2] The private rights in a grave shall be freely transferable, but such transfer shall only come into operation once the transfer has been registered by the Municipality.
 - [3] In the event of a dispute regarding the holder of private rights, the dispute shall be referred to the officer-in-charge for determination thereof.
 - [4] In the event of the private rights previously vesting in a now deceased person not being transferred or new person filing a claim for such rights, within 5 years of interment, the rights shall revert back to the Municipality.

[21] Subsequent Interment

- [1] Not more than two interments may be made in any grave: Provided that a third interment may be made in such grave with the consent of the officer-in-charge if the grave has been deepened as contemplated in Section 10(1)(b).
- [2] Any holder of rights desiring to have a body interred in a private grave as a second or third interment in such grave shall –
 - (a) remove all memorial work on such grave at his own expense and comply with any requirement of the officer-in-charge in respect of such removal;
 - (b) after compliance with paragraph (a), give at least 48 hours written notice to the officer-in-charge on the prescribed form of such interment, which period shall be calculated exclusive of any Saturday, Sunday or a public holiday.
- [3] The notice referred to in subsection (2) shall be accompanied by written proof of the title of the holder of rights to the grave concerned and after payment of the appropriate charges.

[22] Enlarging of Excavation

- [1] (a) If a coffin is too large to be accommodated within the excavation of an adult grave, such excavation may be enlarged

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to a size which will accommodate the coffin;

- (b) a grave may be deepened at the request of an applicant contemplated in section 5 as to permit the interment in such grave of a third body.

- [2] If a grave is to be enlarged or deepened as contemplated in subsection (1), the officer-in-charge shall be notified accordingly, at least 24 hours before the interment, which period shall be calculated exclusive of any Saturday, Sunday or public holiday, and such notice shall be accompanied by payment of the appropriate charge.

[23] Covering of Coffins

- [1] There shall be at least 900mm of soil between any coffin and the surface of the ground.
- [2] At least 300mm of soil shall be placed over any coffin immediately after interment.

[24] Construction of Coffins

No coffin intended to be placed in a grave shall be constructed of any material other than natural timber or other decomposable material, excluding lead caskets.

[25] Duration of Services

No person shall occupy for more than 60 minutes a cemetery for the purposes of a service or ceremony without the consent of the officer-in-charge.

[26] Care of Graves**Gardening of graves and objects on graves**

- [1] No person shall garden on any grave in the berm system.
- [2] (a) No person shall erect, place or leave upon a grave any object or decoration, except during the first 30 days following the interment there-in in the berm system.
- (b) Natural or artificial flowers and the receptacles in which they are contained may be placed on a grave at any time except in the berm system.
- (c) The officer-in-charge or any member of his staff may remove natural or artificial flowers and any receptacle placed on a grave, when they become withered, faded or damaged, or when placed on a grave contrary to these by-laws.

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- (d) The Municipality can not be held liable for any loss or damage to any object on any grave, as contemplated herein.

**[27] Memorial Work
Erection or Re-erection of Memorial Work**

- [1] No memorial work may be erected on a grave in a pauper section.
- [2] No person shall, without the prior written consent of the officer-in-charge, erect any memorial work in any cemetery. Or bring any material into any cemetery for the purpose of erecting any memorial work.
- [3] Application for consent in terms of subsection (2) shall be made at least five working days before the proposed date of the erection to the officer-in-charge in the prescribed form.
- [4] If any memorial work is removed for additional inscriptions or toher alterations thereof, the provisions of subsection)2) shall mutatis mutandis apply.
- [5] Save with the permission of the officer-in-charge, no work on any memorial work shall be performed on a Saturday, Sunday or a public holiday, or at any time between the hours of 16:00 and 09:00.
- [6] No person shall erect or re-erect any memorial work at any time when the ground upon which such memorial work is to be erected or re-erected is, in the opinion of the officer-in-charge, in an unsuitable condition. The Municipality shall not be held liable for damage to memorial work resulting from subsiding soil or otherwise.
- [7] The person in charge of the erection or re-erection of any memorial work shall produce the written consent referred to in subsection (2), at the request of the officer-in-charge.
- [8] No memorial work or material for use in connection therewith shall be conveyed in any cemetery in such a manner as may damage the roadways, paths or grounds.
- [9] Any surplus material, rubbish or rubble resulting from the erection of any memorial work, shall be removed forthwith by the person responsible for such erection immediately on completion of work.

[28] General Requirements for Memorial Work

Any person constructing any memorial work must comply with the following requirements:

- (a) Wherever any part of the memorial work is joined to any other

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section thereof, copper or galvanised iron pins shall be used as follows:

- (i) memorial work up to a height of 500mm, two or more pins at least 5mm thick and 100mm long;
 - (ii) memorial work 501mm up to height of 1 000mm two or more pins at least 10mm thick and 200mm long;
 - (iii) memorial work 1 001mm and higher at least two or more pins 20mm thick and 300mm long;
- (b) Any part of such memorial which rests upon the ground or any stone or other foundation shall be properly squared and bedded;
 - (c) No material of uneven thickness or having any corner wanting shall be used;
 - (d) The undersides of every flat material work and the base of every memorial work shall be sunk at least 50mm below the natural level of the ground;
 - (e) No border which is more than 225mm above the surface of the ground or more than 200mm deep shall be used without the consent of the Municipality;
 - (f) All memorial work and borderstones shall be securely clamped with round copper or galvanised iron clamps;
 - (g) All memorial work up to 150mm in thickness shall be securely attached to the base in an approved manner;
 - (h) Any kind of memorial work shall be completed as far as possible before being brought into any cemetery;
 - (i) Foot stones shall consist of one solid piece;
 - (j) Memorial work shall be constructed or made of a durable material with a life expectancy of at least 25 years;
 - (k) No person shall do any work, chiselling or other work upon any memorial work not connected with the fixing of work in its position in the cemetery except where such work is expressly permitted in terms of these by-laws;
 - (l) In all cases where any memorial work rests on a base –
 - (i) such a memorial work shall have a foundation as prescribed by the official-in-charge;
 - (ii) such memorial work shall be set with cement mortar.