

## PROVINCIAL NOTICE 38 OF 2016

## UBUHLEBEZWE MUNICIPALITY

**GENERAL & NUISANCE BYLAWS**

1 <sup>ST</sup> DRAFT DATE	30 <sup>th</sup> June 2014
ADOPTION BY COUNCIL	4 <sup>th</sup> December 2014
PROMULGATION DATE	9 <sup>th</sup> February 2016

**UBUHLEBEZWE MUNICIPALITY****GENERAL & NUISANCE BYLAWS**

Note: Words applying to any individual shall include persons, companies and corporations, and the masculine shall include females as well as males and the singular shall include the plural and vice versa],

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## CHAPTER 1

### 1. DEFINITIONS

In these Bylaws, unless the context otherwise indicates:-

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

**“Area”** means the area of jurisdiction of the Ubuhlebezwe Municipal Council;

**“Authorized Officer”** means:

- (a) a traffic officer or warden appointed in terms of the National Road Traffic Act, 1996 (Act No 93 of 1996)
- (b) a member of the services as defined in section 1 of the South African Police Services Act, 1995 (Act No 58 of 1995)
- (c) a peace officer contemplated in section 34 of the Criminal Procedure Act, 1977 (Act No 51 of 1977)
- (d) any other official duly authorized by the council

**“Municipal Manager”** means the person duly appointed by the Council or the person temporarily acting as such or his duly appointed representative;

**“Council”** means the Ubuhlebezwe Municipality or its successors in title, and includes the council of that municipality or its executive committee or any other body acting by virtue of any power delegated to it in terms of legislation, as well as any officer to whom the executive committee has delegated any powers and duties with regard to these bylaws;

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

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

**“Nuisance”** without limiting the generality thereof, means any condition, thing, act or omission which is offensive or injurious or which tends to prejudice the safety, good order, peace or health of the area or part thereof or the rights or reasonable comfort, convenience, peace or quiet of any neighbourhood within the area and includes any act, exhibition, or publication, contrary to public decency or morals, and in relation to noise includes any sound which disturbs or impairs the convenience or peace of any person;

**“Occupier”** means and includes any person in actual occupation of any land or premises or having the charge or management thereof, without regard to the title under

which he occupies it, and in the case of premises subdivided and let to various lodgers or tenants, the person receiving the rent payable by lodgers or tenants, whether on his own account or as agent for any person entitled thereto or interested therein;

**“Owner”** in relation to any premises means –

- a) the person in whose name the title to those premises is registered in terms of the Deeds Registries Act 1937 (Act No. 47 of 1937) as amended, and includes the holder of the stand licence;
- b) the person in whose name the certificate of sectional title to those premises is registered in terms of the Sectional Titles Act 1986 (Act No. 95 of 1986) and in addition includes the owner (as defined in the said Act), the body corporate and the developer in relation to such premises;
- c) if such person or holder is dead, insolvent, mentally disordered or defective, a minor or under any legal disability, the person in whom the administration of that person’s or holder’s estate is vested, whether as executor, trustee, liquidator, guardian or in any other capacity whatsoever; or
- d) if the premises are under lease, the registration whereof is in law necessary of such lease, the lessee;

When an owner as herein defined is absent from the Republic or his whereabouts are unknown, the expression “owner” includes an agent of such owner or any “unit” (as defined in the Sectional Titles Act 1986(Act No. 95 of 1986)) of such premises;

**“Premises”** shall include any public place and any land privately owned, all buildings, rooms, tenements, sheds, huts or other structures or erections and also yards or lands in connection therewith and shall also include any “unit” (as defined in the sectional Titles Act, 1986 (Act No. 95 of 1986)) thereof;

**“Public Place”** means any public street or place, public places of entertainment, place of public gathering or place in the public eye but shall exclude any Public Amenities as defined in the Council’s Bylaws relating to Public Amenities;

**“Public Vehicle”** shall include any motor car, cab, taxi, bus or other vehicle hired or let for the conveyance of passengers;

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

**“Vehicle”** means any conveyance that is capable of transporting one or more persons, except a wheelchair or similar device used for the conveyance of a handicapped person.

## **CHAPTER 2**

### **2. STREETS AND PUBLIC PLACES**

#### **2.1 Breaches of the Peace**

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

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

### **Indecent behavior**

2.1.2 A person commits an offence if in or in view of a street or public place he-

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

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

- (a) defecates or urinates except in a facility provided by or on behalf of the Council for the purpose;
- (b) enters a toilet reserved or set aside for the members of the opposite sex;
- (c) spits;
- (d) is under the influence of intoxication liquor or imbibes or ingests such liquor in circumstances which, in the opinion of an Authorized Officer or, render it likely that such a person will become under the influence of such liquor whilst in any place to which these bylaws apply;
- (e) is under the influence of or administers a dependence producing substance as defined in the Drugs and Drug Trafficking Act, 1992 (Act No. 140 of 1992) to himself or another person; or
- (f) commits any indecent or immoral gesture or acts willfully and obscenely exposes himself.

### **Obscene or offensive language**

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

### **Indecent or offensive literature and representations**

2.1.5 A person commits an offence if in a street or public place or in view of a street or a public place he-

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

## Loitering

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

## Dangerous acts

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

- (a) activates, handles or uses any material, object or thing which is likely to cause injury to a person or intimidate him or to damage property or does so in a manner likely to result in such injury, intimidation or damage;
- (b) introduces or handles any material, object or thing or any liquid or solid substance which by its nature or by reason of the manner of its introduction or handling creates a new source of danger to persons or property or is likely to do so;
- (c) lights, uses or benefits from a fire other than in or on a facility provided by the Council for that purpose;
- (d) attaches any object to or suspends any object from a canopy, bridge, verandah or other projection or pillar, pole or post;
- (e) discharges a fire arm, air gun, air pistol, fireworks except in accordance with the councils Fireworks Bylaws, or uses a sling-shot or catapult;
- (f) performs any other act which may cause injury to a person or damage to property;

unless he is authorized or permitted by law to do so or does so with the written permission of an Authorized Officer and in accordance with any conditions imposed by him.

## OFFENCES RELATING TO LITTER

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

- (a) abandons, disregards, discharges or spills or causes or allows to be discharged or spilt any rubbish or other waste material or thing, whether liquid or solid, except in a receptacle provided for that purpose;
  - (b) removes from a receptacle provided for the disposal of refuse or any refuse disposal bag any of its contents and causes the same to be discharged from such a receptacle.
- (2) A person who causes or incites another person to perform any of the acts described in subsection (1) shall also be guilty of an offence.
  - (3) Any material thing that a person drops or allows to fall without being immediately retrieved by him shall for the purpose of subsection (1)(a) be deemed to have been discarded by him.
  - (4) Any material or thing found in a street or public place in circumstances giving rise to suspicion that an offence has been committed under subsection (1)(a)

and which bears the name of a person or which there is a reasonable suspicion that it is or was the property or under the control of that person shall for the purposes of subsection (1)(a) be deemed to have been abandoned or disregarded by that person until the contrary is proved.

- (5) A person who sweeps or in any other way introduces any rubbish or waste material or thing into the street or public place shall be deemed to have disregarded it there for the purposes of subsection (1)(a)
- (6) A person who has been observed by an Authorized Officer to contravene the provision of paragraph (a), or (b) of subsection (1) may be directed by him to remove the rubbish, material or thing or to place it in a receptacle provided by or on behalf of the Council and failure to comply with such direction shall constitute an offence.

### Clearing of Sidewalks and Verges

- 2.2.2
- (1) An occupier of premises which is a factory as defined in subsection (3) or in or on which there is carried on any business, occupation or trade shall at all times while any activity is being carried on in the factory or while the premises are open for business or the occupation or trade is being carried on or during business hours, whichever is applicable, keep sidewalks or verges abutting on or adjoining the premises, including the gutter and curb, free of litter and keep the same in a clean and satisfactory state and to this end remove all litter there from.
  - (2) The occupier referred to in subsection (1) shall cause all litter removed in terms of that subsection to be placed in refuse receptacles provided by or on behalf of the Council or, with the written consent of the Authorized Officer, to be disposed of in a manner approved of by him.
  - (3) For the purpose of subsection (1) the expression “**factory**” shall bear the meaning given to it by the Occupational Health and safety Act, 1993 and the regulations there under.

### OBSTRUCTIONS

#### Obstructions: Offences

2.3.1 A person commits an offence if in the Street or public place he-

- (a) leaves anything unattended, having introduced or placed it there, so as to cause or be likely to cause an obstruction to persons or vehicles as defined in the National Road Traffic Act, 1996 (Act No. 93 of 1996);
- (b) carries, deposits, handles or introduces anything so as to be likely to obstruct or interfere with the free movement of persons or vehicles or with the use of the street or public place by persons or vehicles or to cause injury to any person or damage to any property;
- (c) deposit on its surface anything for the purpose of or in the course of loading or unloading a vehicle or of delivering the same to premises having access to such

- street or public place for a longer period than is reasonably necessary for that purpose;
- (d) obscure a road traffic sign as defined in the National Road Traffic Act, 1996 (Act No. 93 of 1996)
  - (e) hangs or suspends anything above the surface thereof or causes to allow anything to protrude above such surface or to encroach upon it;
  - (f) gather with or causes a gathering of other persons in a place or manner as to be likely to obstruct or restrict or interfere with the movement of persons or vehicles or the use or enjoyment of the street or public place by persons or vehicles;
  - (g) performs any other act which has or is likely to have a result described in paragraph (b) above;

### **Disposal of property found in street or public place**

- 2.3.2
- (1) When anything has been left in a street or a public place in contravention of section 2.3.1 (a) an Authorized Officer may remove it to a store established by the Council for that purpose; provided that if such thing is in the opinion of an Authorized Officer of no commercial value he may dispose of the same in such manner as he deems fit and the person who has committed the offence shall be liable to the Council for the cost of such disposal as determined by such officer
  - (2) Things which have been removed to a store in terms of subsection (1) shall be released to any person who, within seven days after such removal or within such longer period as may be allowed by the Authorized Officer in charge of such store, satisfies him that he is its owner or is entitled to its possession, after payment of the cost of removal and storage as determined by such an officer in accordance with the prescribed tariff of charges; provided that such officer may cause things which are of a perishable nature and have not been claimed before they have become offensive or a danger to health, to be destroyed or otherwise disposed of in such a manner as he deems fit or to be removed to a municipal landfill site;
  - (3) Things which have not been released or disposed of in terms of subsection (2) shall be sold in such manner and after such notice as the Authorized Officer in charge of the store deems fit, having regard for their nature;
  - (4) The proceeds of any sale in terms of subsection (3) shall first be applied in payment of-
    - (a) the cost of removal and storage as determined in terms of subsection (2);
    - (b) any costs which may have been incurred attempting to trace the owner;
    - (c) the cost of the sale;and the balance shall be forfeited to the Council if not claimed within one year from the date of sale by the person who established his legal right thereof to the satisfaction of the Authorized Officer in charge of the store.
  - (5) if the proceeds of the sale are not sufficient to meet the costs referred to in subsection (4) the owner of the things sold and the person who committed the offence in terms of these bylaws in relation thereto shall be jointly and severally liable to the Council for payment of the unsatisfied balance.



- (6) If the things cannot be sold in terms of subsection (3) the Authorized Officer in charge of the store may dispose thereof in such manner as he deems fit and the provisions of subsection (5) shall mutatis mutandis apply in respect of any cost incurred in effecting such disposal.
- (7) The exercise of any powers conferred by this section shall not render the Council or any Authorized Officer liable for any loss or theft of or any damage to anything in terms of subsection (1).

### **Obstruction caused by plants**

- 2.3.3 (1) If a tree, stump or other plant growing on any premises which abut onto a street or public place or any portion of such plant-

- (a) obstructs the view of the driver of any vehicle in such street or public place;
- (b) obstructs or causes a nuisance to persons using such street or public place; or
- (c) obscures a Road Traffic Sign,

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

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

## **BEGGING, GAMBLING AND VAGRANCY**

### **Begging and gambling**

- 2.4.1 A Person commits an offence if in a street or public place-

- (a) he-

- (i) begs for money or goods or asks for or solicits anything, whether by gesture, word or otherwise;
  - (ii) gambles or plays any game for gain, whether monetary or otherwise;
- (b) he causes or induces another to commit an offence under paragraph (a)(i) on his behalf.

### **Vagrancy**

- 2.4.2 No person who leads a vagrant life and who has no ascertainable and lawful means of livelihood or leads an idle, dissolute, or disorderly life shall remain in a street or public place.

## Camping and Sleeping

2.4.3 A person commits an offence, if in a street or a public place or premises or property owned by or under the control of the Council not intended for such purpose he-

- (a) Camps, sleeps or uses any portion thereof for the purpose of habitation, except with the express permission of the Council;
- (b) lies and sleeps on any seat provided for the use of the public.

## DISPLAYS, GATHERINGS, MEETINGS AND PROCESSIONS

### Gatherings, Meetings and processions

- 2.5.1
- (1) No person shall in a street or public place convene, hold, organize or take part in any gathering, meeting or procession without the prior written permission of the Municipal Manager, which shall not unreasonably be withheld.
  - (2) Application for permission in terms of subsection (1) shall be made in writing to the Municipal Manager not less than fourteen days prior to the date of commencement of the event to which the application relates, and shall be accompanied by the fee as prescribed in the councils tariff of charges. The Municipal Manager may at his sole discretion accept a late application on good grounds shown.
  - (3) Any application shall, in addition to such other information as the Municipal Manager may require-
    - (a) specify the nature and purpose of the event and its date, time and duration as well as the place at or the route over which it is to be held;
    - (b) contain the full names, addresses, designations and telephone numbers of the conveners, holders, organizers and sponsors of the event;
    - (c) supply details of the participants and any speakers;
    - (d) furnish details of equipment, machinery or vehicles to be used, as well as of any musical instruments, loudhailers, loudspeakers, radio or other devices which produce, reproduce or amplify sound.
  - (4) The Municipal Manager may refuse an application made in terms of subsection (1) if he has reasonable grounds for believing that the event is likely to result in a breach of any law or in public disturbance or riot, damage to property, nuisance, obstruction to pedestrian or vehicular traffic, interference with the amenities of the area or to be offensive to public morals or decency or to give rise to a danger to public health or safety.
  - (5) In granting permission in terms of subsection (1) the Municipal Manager may impose such conditions and restrictions as he deems necessary to avoid the result described in subsection (4), including the imposition of a prohibition on the use of any of the equipment, machinery or vehicles or any of the devices referred to in subsection (3)(d), and in order to ensure compliance with the provisions of these Bylaws and all other laws, including a requirement that there be furnished-

- (a) a deposit or guarantee to cover damage to property of the Council and private property owners, and the cost of the removal of litter caused by or deposited during the event;
  - (b) a public liability policy in terms of which the council and owners of private properties can lodge claims for any damage to property caused during or as a result of the event, and for the removal of litter caused by or deposited during the event;
- (6) An applicant who is aggrieved by a decision of the Municipal Manager in terms of subsection (5) may appeal to the Mayor on giving notice in writing setting forth the grounds of appeal within two working days of receipt of notice of that decision. The Mayor, in consultation with the full-time councillors shall consider the appeal and inform the Municipal Manager and the applicant of the decision taken, which decision shall be final.
- (7) Any permission given in terms of this section shall be subject to the provision of section 46 and 53 of the Internal Security Act, 1982 (Act No. 74 of 1982) in terms of which the consent of the South African Police Service is also required.
- (8) Any person, who convenes, holds or organizes an event in respect of which permission has been granted in terms of this section who contravenes or fails to comply with a condition or restriction imposed in terms of subsection (5) shall be guilty of an offence.
- (9) Any person who while present at or during an event in respect of which permission has been granted in terms of this section who in any manner causes a disturbance or commits an offence and who fails or refuses to leave after having been required to do so by an Authorized Officer or a member of the Police Service shall be guilty of an offence.
- (10) Any person who is present at or during an event in respect of which permission is required in terms of this section who is warned by an Authorized Officer or member of the Police Service that such permission has not been obtained or that conditions or restrictions imposed in terms of subsection (5) have been contravened and who thereafter fails to leave the scene of the event or to cease participation therein when required to do so, shall be guilty of an offence.

## **STREET COLLECTIONS**

### **Street Collections**

- 2.7.1 (1) No person, other than a person appointed for the purpose by a welfare organization as defined by Section 1 of the National Welfare Act, 1978 (Act No. 100 of 1978) or charitable organizations which are exempt from registration in terms of the said Act, or a fund raising organization as defined in the Fund Raising Act, 1978 (Act No. 107 of 1978) which has been authorized by the Council to cause a collection of money to be taken on its behalf in any public place, shall collect or attempt to collect money in any public place.

- (2) every welfare organization or charitable organization which are exempt from registration as a welfare organization or fund raising organization desiring to obtain the authority of the Council for any such collection on its behalf shall make a written application to the Municipal Manager therefore, and shall, with such application forward the following documents:
  - (a) its certificate of registration under the National Welfare Act, 1978 (Act No. 100 of 1978) or the Fund Raising Act, 1978 (Act No. 107 of 1978) or exemption certificate issued in terms of either of these Act's, or any amendment thereof where applicable;
  - (b) A copy of its balance sheet for the preceding financial year;
  - (c) A certificate, signed by the chairman and secretary, giving the name of its treasurer.
  
- (3) The Municipal Manager, upon receipt of any such application, may either grant the application or refuse it. If granted, the authority shall be subject to the following conditions:
  - (a) That the collection shall only be made on the date or dates and within the times specified in the authority;
  - (b) that the collection shall only be made in sealed collection boxes belonging to and supplied by the Council;
  - (c) that the proceeds of the collection shall forthwith be handed to the treasurer of the institution and utilized by him solely for the purpose of defraying the cost of the maintenance, conduct and management of the institution;
  - (d) That no person under the age of sixteen years shall be appointed to make such collection.

## **USE OF AMPLIFICATION DEVICES / EQUIPMENT**

### **Amplification devices / equipment**

- 2.8.1
- (1) No person shall, without the prior consent, in writing, of the Council use or permit to be used any megaphone, loudspeaker or other devices for the reproduction or amplification of sound in or upon any public place for the purpose of making announcements, advertising or doing any thing of that nature.
  
  - (2) the Council may refuse to grant such consent if it has reasonable grounds for believing that the use of any such megaphone, loudspeaker or other device will or is likely to-
    - (a) cause a nuisance;
    - (b) obstruct or interfere with vehicular or pedestrian traffic in any public place or endanger or cause annoyance or discomfort to any person or persons;
    - (c) be offensive to public morals or decency;
    - (d) results in public disturbances or riots or damage to property, or
    - (e) interferes with the amenities and conveniences of the public in general.

- (3) the Council may withdraw its consent if it appears that any of the conditions mentioned in (2) exists.

### **CHAPTER 3 PRIVATE PREMISES**

#### **KEEPING OR MANAGEMENT OF A BROTHEL**

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

#### **PRIVATE PREMISES: GENERAL WORKS**

##### **Private premises**

- 3.2.1 (1) A person commits an offence if on any premises he-
- (a) excavates or removes soil or other material in a position in relation to a boundary of the premises with other premises or a street or a public place so as to or to be likely to remove lateral support from the premises or that street or public place or to create a source of danger to life or damage to property;
  - (b) being the owner or occupier of the premises allows any well, pond, reservoir, swimming pool, pit, hole, excavation or earthworks or any tree or other vegetation on such premises to be in such a condition or to be so unprotected as to constitute a danger to the safety of persons and property;
  - (c) causes or allows anything to project from the premises over or into a street or public place, except in an area zoned for industrial purposes under a town planning scheme, and to an extent necessarily consistent with the use to which the premises are put;
  - (d) being the owner or occupier of such a premises, deposits, stores or causes, allows or permits to be deposited or stored or to accumulate so as to be visible from a street of public place abandoned, derelict or disused furniture, machinery, vehicles or other objects or plants thereof or scrap metal or other derelict or waste materials;
  - (e) without the consent of the owner or occupier thereof attaches or places anything to or on any premises or in any way defaces such premises, whether by the use of chalk, ink, or paint or by any means whatsoever, unless he is authorized by any law to do so.

- (2) An Authorized Officer may order a person who has contravened or is contravening paragraph (c) or (e) of subsection (1) to remove the thing to which the contravention relates from the premises concerned within a specified time and if he fails to do so the provisions of Section 2.3.2 shall mutatis mutandis apply.

### Site development works and other earthworks

- 3.2.2
- (1) For the purpose of this section the expression “**site development works**” shall mean any earth works upon premises the result of which would permanently change the level of any portion of the surface of the ground upon the premises.
  - (2) No person shall carry out, or cause or permit to be carried out, any site development works in the following areas unless he has obtained the prior written approval of the Authorized Officer and, in the case of subsection (2)(i) hereunder, the Department of Water Affairs and Forestry
    - (i) any area, subject to inundation by floodwaters resulting from any watercourse with a known and defined channel and with a catchment area exceeding one square kilometer from a storm with a frequency of more than 1 in 50 years.
    - (ii) any part of the area, other than the area referred to in paragraph (i) above, if the proposed permanent change in level at any point is to exceed 1500mm.
  - (3) Site development work in the areas referred in subsection (2)(ii) will not require the prior written approval of an Authorized Officer if:
    - (i) the permanent change in level of any portion of the surface of the ground does not exceed 1500mm, and
    - (ii) all banks are created as a result of such site development works – whether they be cut or fill – have their surfaces sloped at an angle of not more than 26° to the horizontal.
  - (4) No person shall raise or lower, or cause or permit to be raised or lowered, the ground level within an area that is subject to a sewer and drain servitude (or a Municipal Service Servitude) without the prior written approval of the Council.
  - (5) Every person requiring approval for the kind of earthworks referred to in subsection (2) and (4) above shall submit a written application therefore, in duplicate, to the Authorized Officer on forms obtained from him.
  - (6) in cases where it is proposed to execute site development works, or earthworks as referred to in subsection (4), in conjunction with building works and the proposals have been fully documented and described as part of a building application made in terms of the National Building Regulations made under The National Building Regulations and Standards Act, 1977 (Act No. 103 of 1977) and such building application has been approved, no separate application need be made or fee paid in respect of the site development works, or earth works as

referred to in subsection (4), as shown on the approved plan relating to the building application.

- (7) In all cases other than those referred to in subsection (6), application for approval shall be made in terms of subsection (5) and such application shall be accompanied by the prescribed fee and the following documents:
  - (i) four complete sets of drawings showing full details of all purposed site development works or earthworks to a scale of 1:100 or to a larger scale that shall be either 1:50; 1:20 or 1:10;
  - (ii) four copies of a block plan, to a scale of not smaller than 1:500, reflecting the applicable information as set out in Part A of the regulations referred to in subsection (6);
  - (iii) such other drawings or details as the Authorized Officer may require, which in the case of applications under subsection (2)(i) shall include details of the effect, if any, that the proposed works will have on the natural watercourse and the levels and the extent of flooding on any other properties.
- (8) The fee in respect of any application in terms of this section shall be as prescribed by the Council from time to time.
- (9) Upon the approval of an application the Authorized Officer shall, when conveying his decision to the applicant in writing, return two sets of each of the block plan and working drawings.
- (10) Should the application be refused the Authorized Officer shall, in conveying his decision to the applicant, state his reason for such refusal.
- (11) The owner of any site in respect of which written approval has been given for proposed site development works, shall be responsible for ensuring that the works conform in all respects to the approval given and within 14 days of the completion of such works he shall advise the Authorized Officer that the works have been completed.
- (12) Any approval given in terms of this section shall lapse if the work has not started within 6 months of the date of approval of the work is not completed within 12 months of the date of approval.
- (13) Should approval have lapsed in terms of subsection (12) the Authorized Officer may at any time thereafter serve a written notice upon the owner requiring him to restore the site concerned to its former condition within a period to be specified in such notice, which period shall not be less than 30 days from the date of such notice, and such owner shall thereupon comply with such notice.
- (14) Whenever any site development contemplated by subsection (2) or any works contemplated by subsection (4) have been carried out without the necessary prior approval in terms of this section first having been obtained, it shall be presumed, until proved to the contrary, that the owner of the land upon which works have been carried out is the person who carried out such works.

- (15) In the event of a breach of this section the Authorized Officer may, after the person responsible for the breach has failed to comply with the terms of the notice calling on him to remedy the breach, do all things necessary to do so and the Council may recover the costs of doing so from such person.

NOTE: Where the approval of Council is required, the owner of the site shall, if the Council so requires, ensure that all site development earthworks are designed and supervised by a professional engineer or other approved competent person.

## CHAPTER 4

### MUNICIPAL PROPERTY AND PROPERTY UNDER THE CONTROL OF THE COUNCIL

#### General offences

- 4.1 (1) A person commits an offence if in relation to any property in the ownership or possession of or under the control of the Council, whether movable or immovable, and including any street or public place, he-
- (a) permits, or causes to be done any act which may, in the opinion of the Council, cause soil or sand erosion;
  - (b) permits, cause to be done, any cutting, removing or interfering with the natural vegetation, which may, in the opinion of the Council, result in damage to, or destruction of the natural vegetation;
  - (c) he discards any waste, or refuse, or any unsightly material on such property;
  - (d) willfully or negligently damages or destroys such property or any part of it;
  - (e) removes any earth, sand, shale, stone, turf or any other material or part thereof;
  - (f) breaks, cuts, destroys or removes any bush, shrub, tree or other plant or removes any branch, flower, leaf or other plant thereof;
  - (g) attaches to or places on or next to such property any thing, including any advertisement bill, pamphlet, placard or poster or other illustrative, written or printed matter, or hangs or suspends any thing on or from it;
  - (h) defaces any such property whether by the use of chalk, ink or paint or any other means whatsoever;
  - (i) extinguishes any lamp or light or displaces or removes any barricade, enclosure, fence, lamp, light, notice or sign;
  - (j) makes any excavation in or disturbs the surface of such property;
  - (k) climbs or sits upon, hangs onto or mounts any such property;
  - (l) introduces any object or material or erects any structure on such property;
  - (m) enters such property or remains there;
  - (n) allows, causes or permits any other person to commit any of the aforesaid acts;

unless he does so in the performance of a lawful right or duty or with the prior consent of an Authorized Officer in accordance with the provisions of any law: Provided that nothing contained herein shall prevent the owner or occupier of the premises from planting and maintaining grass and plants on that portion of the verge of the street which abuts on such premises so long as the lawful



passage of the vehicular and pedestrian traffic and the lawful parking of vehicles is not thereby obstructed and the grass and plants are properly maintained and do not give rise to a nuisance.

- (2) Any person who is convicted of an offence under subsection (1) shall pay to the Council the cost of remedying any loss or damage suffered by the Council as a result of the commission of that offence and the cost of the removal and the disposal of any material, object or structure involved in the commission of the offence and for this purpose the provisions of Section 2.3.2 shall apply.
- (3) The Authorized Officer referred to in subsection (1) -
  - (a) may require an applicant to furnish information in support of the application and a deposit or security for the cost of removal of the things to which the application relates and the repairs of any damage caused thereby;
  - (b) may impose such conditions or restrictions as he deems necessary or desirable;
  - (c) shall refuse consent if he is of the opinion that the act to which the application relates will or may be unlawful or will or may cause offence to any person or to a section of the community.
- (1) If the thing is not removed in compliance with a condition imposed in terms of subsection (3) or should such removal result in any damage to the property, the cost of such removal or of the repair of the damage shall be recoverable by the Council as a civil debt from the person to whom consent was given to the extent that any deposit or security furnished in terms of subsection (3)(a) proves inadequate.

## CHAPTER 5

### NUISANCES: GENERAL

#### Offences

5.1.1 A person commits an offence if in a street or public place or on any premises he by act or omission causes or creates a nuisance or allows a nuisance to arise or exist in circumstances which are under his control: Provided the foregoing shall not apply to the extent that a person acts lawfully in the exercise of a right or in the performance of a duty.

#### NUISANCES: IN STREETS AND PUBLIC PLACES

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

- (a) plays any game or indulges in any pastime such as but not limited to the use of roller skates, roller blades or roller balls, in a manner leading to the danger or annoyance of inhabitants or pedestrians;
- (b) exposes, hangs up or lays out to dry any article of clothing or other object.

#### NUISANCES ON PREMISES

#### Burglar alarms

- 5.3.1. (1) The occupier of premises in which the burglar alarm system has been installed shall be guilty of an offence if it continues to sound either continuously or intermittently for more than ten minutes after it has been activated by any causes whatsoever, and such a system shall be deemed to be sounding intermittently for the purposes of this subsection so long as it continues to sound at any interval without the intervention of a new cause; Provided that it shall be a good defense to a charge of contravening this subsection to prove that he was absent from the premises, or that an automatic cut-off mechanism fitted to such a system has failed to operate for reasons beyond the control of the occupier and without negligence on his part.
- (2) When a burglar alarm system has been installed in any premises the occupier of the premises shall, unless a mechanism referred to in the provision of subsection (1) has been fitted, either erect and maintain at the main entrance to the premises a notice specifying the names and telephone numbers of persons who have access to the premises at all times for the purpose of deactivating the system or shall arrange for an automatic response to an alarm to operate at all times.

#### **Air-conditioning appliances**

- 5.3.2 The owner or occupier of a portion of a building who has installed therein or who maintains and operates an air-conditioning appliance shall ensure that such appliance is so installed, maintained and operated as to preclude-
- (a) the generation of noise, smell or vibration which constitutes a nuisance to the public, including any other occupier of that building and any premises in the neighbourhood;
  - (b) the discharge or generation of condensation onto a street or public place so as to be a source of danger or nuisance to the public.

#### **Nuisances arising from the uses of premises**

- 5.3.3 (1) No occupier of premises shall-
- (a) use them for a purpose;
  - (b) cause, allow or permit their use for a purpose;
  - (c) organize or allow or permit an activity, event or function therein save for birthday, engagement, wedding or similar one- off celebrations, which is contrary to the Town Planning Scheme Clauses and, or which by its nature or otherwise or by reason of its consequences creates or is likely to create a **nuisance, disturbing noise or noise level**;

Provided that nothing herein stated shall prevent the owner or legal occupier of any premises, including those used for residential purposes, from engaging in the following activities:-

- (1) any authorized building or contract work undertaken by himself or on his behalf:

- (2) participating in any hobby or activity involving any item owned or used by him which may require the use of electrical appliances such as an angle grinder, sanding machine and the like provided that the use of such appliance does not cause interference to the television reception to any household or other premises in the neighborhood, that every precaution possible is taken to minimize noise there from and the duration of use thereof and that such activity is not for or related to any business conducted from the premises or elsewhere;

Provided further that such building or contract work and the use of electrical appliances for such hobby or activity is confined to the hours of 08:00 to 18:00.

***Provided further that no nuisance, or disturbing noise, shall be permitted to continue in use on any private premises after the following times:***

- ***Sundays to Thursdays inclusive- 22:00; and***
- ***Fridays and Saturdays- 00:00(Midnight)***

- (2) Notwithstanding the provision of sub-bylaw (1) paragraph 2 above, whenever an Authorized officer is of the opinion that the person engaged in a hobby or actively is misusing the freedom given him in terms of the paragraph or is of the opinion that a contravention of subsection (1) is being committed he may instruct the occupier of the premises or any person responsible for or participating in the use, activity or function to take such steps as he specifies to abate the nuisance or to avoid the creation of a nuisance or, if this can only be achieved by the cessation of the use, activity, event or function, to bring it to an end forthwith or within a time prescribed by him. Should the owner or person responsible for or participating in the use, activity, event or function fail to abide by any notice or instruction given by an Authorized Officer, such officer may, provided he has witnessed the nuisance and failure to abide first hand, issue a notification in terms of section 341 of the Criminal Procedures Act, 1977 (Act No. 51 of 1977) upon the owner, occupier or person responsible.

### **Lighting of fires**

- 5.3.4 (1) No person shall on any premises light a fire for the purpose of or burn or attempt to burn any rubbish or refuse or any grass or any other vegetation without taking adequate precautions to prevent the uncontrolled spread of fire or the creation of a nuisance, whether as a result of the production of ash, flames, fumes, heat, smoke, or otherwise.
- (2) Should any person persist with the burning of any matter without taking any effective precautionary measures as described in sub-bylaw (1) above and where such burning is the subject of complaints being lodged with the Council, the Council, through its Authorized Officer shall be entitled to enter upon the property on which the burning is taking place in order to extinguish the fire and to charge the person concerned with an offence.

**Disposal of carcasses**

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

**Removal of weeds, undergrowth and bush**

- 5.3.6 (1) No person shall permit any rank grass, undergrowth or bush, declared weeds or invader plants as listed in the Contravention of Agriculture Recourses Act, 1983 (Act No. 43 of 1983), to grow upon any premises or vacant land occupied by him. Any person shall, when served with a notice signed by the Municipal Manager or other Authorized Officer, requiring him to do so, destroy or cut down and remove or cause to be removed any such rank grass, undergrowth or bush, declared weeds or invader plants within a time to be stated in such notice and in a method as stated in the Conservation of Agricultural Recourses Act, 1983 (Act No.43 of 1983)
- (2) If such owner or occupier fails to comply with such written notice he shall be guilty of a breach of this bylaw and, in addition the said Council shall take such steps as it may deem necessary to carry out on behalf of the said owner or occupier, the requirements of the said notice and may recover the cost thereof from the said owner or occupier in accordance with the Councils tariff of charges.

**Control of mosquitoes, flies, rats and vectors**

- 5.3.7 (1) It shall be the duty of every occupier or, in the case of premises used in common by a number of occupiers, the owner of the premises, to prevent mosquitoes, flies, rodents or other vermin from developing or being harbored thereon and any such occupier or owner who fails to comply with the provisions hereof shall be deemed to have contravened this bylaw.
- (2) The occupier or owner of premises shall, on being served with a notice signed by the Authorised Officer, carry out such measures as may be specified therein for the removal of conditions favorable to the prevalence or multiplication of mosquitoes, flies, rodents or other vermin, or their harboring within the time to be specified in the notice.
- (3) If the occupier or owner refuses to carry out the measures specified in the notice under this bylaw or fail to do so within the time specified, the Authorised Officer may arrange for such measures to be carried out and the cost incurred in so doing shall be recoverable by the Council from the person upon whom the notice is served at a charge specified in the Council's Tariff of Charges.

**CHAPTER 6****Offences, Penalties and Presumptions****Presumptions**

- 6.1 (1) When an employee of a person in the course of his employment performs any act or is guilty of an omission which constitutes an offence under these bylaws, the employer shall also be deemed to have performed the act or to be guilty of the omission and he shall be liable on conviction to the penalties mentioned in section 6.2 unless he proves to the satisfaction of the Court that -
- (a) in performing the act of being guilty of the omission the employee was acting without his knowledge or permission;
  - (b) all reasonable steps were taken by him to prevent the act or omission in question;
  - (c) it was not within the scope of the authority or the course of the employee to perform an act of this kind in question

**Offences and Penalties and Appeals**

- 6.2 (1) The provisions of the council's bylaws relating to Offences, Penalties and Appeals shall apply mutatis mutandis to these bylaws.

**Non-discrimination**

- 6.3 (1) Subject to the provision of subsection (2) hereof, no provisions of these bylaws shall be applied so as to discriminate between persons on the grounds of race, religion, or gender nor shall it be so construed as to have the effect of authorizing such discrimination.
- (2) Notwithstanding the provisions of subsection (1) hereof, discrimination on the grounds of gender may expressly be authorized in terms of any provision of these Bylaws which prescribes the wearing of appropriate apparel in a public place or imposes a restriction upon the entry of a person into any public ablution,