



Ekurhuleni
METROPOLITAN MUNICIPALITY

EKURHULENI METROPOLITAN MUNICIPALITY

PUBLIC HEALTH BY-LAWS

[COUNCIL RESOLUTION: A-ET (01-2009) dated 23 September 2009]

[Date of Commencement: 27 November 2009]

By-law

To set minimum environmental health standards to prevent disease, prolong life, protect and promote the health and well-being of people in the municipal area and to provide for matters incidental thereto.

BE IT ENACTED by the Council of the Ekurhuleni Metropolitan Municipality, as follows:-

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CHAPTER 1

INTERPRETATION AND FUNDAMENTAL PRINCIPLES

Definitions and interpretation

1. (1) In these By-laws, unless the context otherwise indicates –

“adequate” when used to describe a standard or manner in which anything required by these By-laws must be done, means the standard or manner that, in the opinion of an environmental health practitioner, is sufficient to safeguard public health, and to achieve the purpose and apply the principles of these By-laws and “adequately” has a corresponding meaning:

“approved” when used to describe a particular object, measure or material, means an object, measure or material which has been approved in terms of section 12 as being adequate in specified circumstances to prevent, or reduce to a level acceptable to the Council, the risk of any public health hazard or public health nuisance occurring, continuing or recurring:

“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

“communicable diseases” means any disease which can be communicated directly or indirectly from any animal or through any agent to any person or from any person suffering there from or who is a carrier thereof, to any other person;

“Council” means –

- (a) the Ekurhuleni Metropolitan Municipality established by Provincial Notice No. 6768 of 2000 dated 01 October 2000, as amended, exercising its legislative and executive authority through its municipal Council: or
- (b) its successor in title; or
- (c) a structure or person exercising a delegated power or carrying out an instruction, where any power in these By-laws has been delegated or sub-delegated, or an instruction given, as contemplated in section 59 of the Local Government: Municipal System Act, 2000 (Act No. 32 of 2000); or
- (d) a service provider fulfilling a responsibility under these By-laws, assigned to it in terms of section 81 (2) of the Local Government: Municipal System Act, or any other law, as the case may be;

“dwelling” means any house, room, shed, hut, tent, cave, container, shelter, vehicle boat or any other structure or place whatsoever, any part of which is used or appears intended for use by any human being for sleeping or in which any human being dwells or sleeps and “room” has a corresponding meaning;

“environmental health” the identification, evaluation and control of all those factors in the environmental (biological, physical and chemical) that may have a deleterious effect on the health and well-being of people in the municipal area

“environmental health practitioner” means an official appointed by the Council, and who is duly registered as an environmental health practitioner with the Health Professions Council of South Africa in terms of section 33 (1) of the Medical Dental and Supplementary Health Professions Act, 1974 (Act No. 56 of 1974);

“exemption certificate” means a certificate issued in terms of section 10;

“hot water” means water which has a minimum temperature of 55°C at the point of discharge;

“municipal area” means the area under the jurisdiction of the Council;

“municipal manager” means a person appointed as such by the Council in terms of section 82 of the Local Government: Municipal Structure Act, 1998 (Act No. 117 of 1998);

“National Building Regulations and Building Standards Act” means the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977);

“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 paragraph (a), (b) or (c);

“organ of state” means an organ of state as defined in section 239 of the Constitution of the Republic of South Africa Act, 1996 (Act No. 108 of 1996)

“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 paragraph (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;

“permit” means a public health permit issued by the Council in terms of the section 11;

“person” means a natural person or a juristic person, and includes an organ of state;

“pest” means any animal , reptile, insect or mammal, which may create a public health hazard or public health nuisance if it is present in significant numbers and without limitations, includes rats, mice, flies, mosquitoes, bed bugs, fleas, lice, termites and cockroaches;

“potable water” means water that complies with the requirements set out in SABS 241: Water for Domestic Suppliers;

“premises” means –

- (a) any land without any buildings or other structure on it;
- (b) any building or other structure and the land on which is situated;
- (c) any land which adjoins land referred to in paragraph (a) or (b) and any building or other structure on the adjoining land, if that land, building or structure is occupied or used in connection with any activity carried out on the premises referred to in paragraph (a) or (b) ; or
- (d) any land on which a caravan park or camping ground situated; or

(e) any vessel, vehicles or movable structure which is used for a scheduled use;

“prescribed fee” means a fee determined by the Council by resolution in terms of section 75A of the Local Government: Municipality System Act, 2000 (Act 32 of 2000) as amended;

“public health” means the art and science which aims at preventing disease, prolonging life and promoting health through the organized efforts of society and includes 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) the circumstances referred to in section 5(3)
- (b) unsanitary conditions
- (c) circumstance which make it easier for a communicable disease to break out or spread;
- (d) circumstances which make food or drinks, including water for domestic consumption, unhygienic or unsafe to eat or drink; and
- (e) circumstances which allows 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 which creates conditions that significantly increase the risk of a public health hazard occurring or which compromises any aspect of public health to an extent that is more than trivial or insignificant, and without limitation, includes those circumstances in which a public health nuisance is considered to exist in terms of Schedule 1;

“public place” means any road, street, thoroughfare, bridge, overhead bridge, subway, foot pavement, footpath, sidewalk, lane, square, open space, garden park, path, bus or taxi rank, servitude or enclosed space vested in the Council and includes any road, place or thoroughfare which is in the undisturbed use of the public or which the public have the right to use, and includes a public place as defined in the Tobacco Control Amendment Act 12 of 1999.

“Rationalization of Local Government Affairs Act” means the Gauteng Rationalization of Local Government Affairs Act, 1998(Act No.10 of 1998);

“scheduled use “means a use listed in Schedule 2.

- (2) Unless the context otherwise indicates, any word or expression which is defined in any Chapter, has the same meaning wherever it is used in these By-laws.
- (3) If any provision in these By-laws vests or imposes any power, function or duty of the Council in or on an employee of the Council and such power, function or duty has in terms of section 81 (2) of the Local Government: Municipal System Act, 2000, or any other law, been assigned to a service provider, the reference to such employee must be read as a reference to the service provider or, where applicable, an employee of the service provider authorized by it.

Purpose

- 2. The purpose of these By-laws is to enable the Council to set minimum environmental health standards to prevent disease, prolong life, protect and promote the health and well-being of people in the municipal area by -
 - (a) providing, in conjunction with any other applicable law, an effective legal and administrative framework within which the Council can -

- (i) Manage and regulate activities that have the potential to impact adversely on public health; and
 - (ii) require premises to be properly maintained and managed; and
- (b) defining the rights and obligations of the Council and the public in relation to this purpose

CHAPTER 2

PUBLIC HEALTH

Part 1: Public health principles

Principles

3. (1) Every person has a constitutional right to an environment that is not harmful to his or her health or well-being and to have access to sufficient water and the Council has a constitutional duty to strive, within its financial and administrative capacity, to promote a safe and healthy environment.
- (2) The risk of a public health hazard occurring, continuing or recurring must be eliminated wherever reasonably possible, and if it is not reasonably possible to do so, it must be reduced to a level acceptable to the Council.
- (3) Any person who owns or occupies premises in the municipal area must ensure that it is used for and maintained in a manner that ensures that no public health hazard or public health nuisance occurs on the premises.
- (4) Any person who wishes to undertake an activity which creates a risk to public health that is more than trivial or insignificant must -
- (a) take all reasonable measures to eliminate that risk, and if that is not reasonably possible, to reduce the risk to a level acceptable to the Council; and
 - (b) bear the costs of taking those measures and of any reasonable costs incurred by the Council in ensuring that the risk is eliminated or reduced to an acceptable level.
- (5) The Council must regulate all activities and administer all matters for which it is legally responsible in a manner that -
- (a) avoids creating a public health hazard or a public health nuisance;
 - (b) does not make it easier for any human or animal disease to spread;
 - (c) does not give rise to unsanitary or unhygienic conditions;
 - (d) prevents unsafe food or drink from being eaten or drunk;
 - (e) avoids creating conditions favourable for infestation by pests; or
 - (f) wherever reasonably possible, improves public health in the municipal area.
- (6) In dealing with matters affecting public health the Council must -
- (a) adopt a cautious and risk-averse approach;
 - (b) prioritise the collective interest of the people of the municipal area, and of South Africa, over the interests of any interest group or sector of society;
 - (c) take account of historic inequalities in the management and regulation of activities that may have an adverse impact on public health and redress these inequalities in an equitable and non-discriminatory manner;
 - (d) adopt a long-term perspective that takes account of the interests of future generations; and

- (e) take account of, and wherever possible without compromising public health, minimize any adverse effects on other living organisms and ecosystems.

Application of principles

- 4. The public health principles set out in section 3 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 carrying on of activities likely to impact on, public health in the municipality area; or
 - (c) exercising a public power or function or performing a public duty in the municipal area which is likely to have a significant effect on public health in that area.

Part 2: Public health hazard and public health nuisances

Prohibition on causing public health hazards

- 5. (1) No person may create a public health hazard anywhere in the municipal area.
- (2) Every owner or occupier of premises must ensure that a public, health hazard does not occur on those premises.
- (3) An owner or occupier of premises creates a public health hazard if:
 - (a) the premises are infested with pests breeding on the premises;
 - (b) there are conditions on the premises which are conducive to the spread of a communicable disease or which may cause a non-communicable disease;
 - (c) there is any unsanitary condition in any part of the premises; or
 - (d) any water supply for domestic consumption on the premises is unsafe for human consumption.

Camping permits

- 6. No person shall, without the written permission of Council, occupy or permit to be occupied for human habitation a caravan, tent or other shelter of any description on un-serviced land except on an authorised camping or caravan site.

Duty to report public health hazards

- 7. The owner or occupier of premises who knows of a public health hazard on those 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 paragraph (a), take reasonable steps to reduce the risk to public health and forthwith report the existence of the public health hazard to the Health and Social Development Department in writing.

Prohibition on causing a public health nuisance

- 8. (1) No person may cause a public health nuisance anywhere in the municipal area.
- (2) Every owner or occupier of premises must ensure that a public health nuisance does not arise on those premises.

CHAPTER 3

POTENTIALLY HAZARDOUS USES OF PREMISES AND ENFORCEMENT

Definitions

“vicinity” the area as seen in the context of the problem which could range from adjacent premises up to an entire neighbourhood.

Part 1: Potentially hazardous uses

Duty to list potentially hazardous uses

9. If the Council reasonably believes that any premises have been, or are likely to be, used for a purpose or in a manner that has caused, or is likely to cause, a public health hazard or to create a public health nuisance unless reasonable measures are taken to avoid the risk or to reduce it to an acceptable level, the Council must list the activity concerned in Schedule 2 and must prescribe measures that must be taken to avoid the risk or reduce it to a level acceptable to the Council.

Scheduled uses

- 10 (1) Any person who uses premises in a manner or for a purpose listed in Schedule 2 must comply with every provision specified in the Chapter of these By-laws relating to that use, unless that person has been granted an exemption in terms of section 11 from complying with any such provision.
- (2) Any person who uses premises in a manner or for a purpose that is listed in Part A of Schedule 2, must obtain a permit in terms of section 12 before commencing that use and must comply with the terms and conditions of that permit.

Exemption Certificates

11. (1) Any person who wants to undertake a scheduled use on any premises but wishes to be exempted from complying with any requirement of these By-laws relating to the use concerned, may apply to the Council in accordance with section 14 for an exemption certificate.
- (2) The Health and Social Development Department may grant an exemption certificate, subject to such condition as it may impose, if an environmental health practitioner is satisfied that -
 - (a) the measures taken to avoid or reduce the risk to public health arising from the scheduled use are equivalent to or better than the measures required by the relevant requirement of these By-laws; and
 - (b) the scheduled use in respect of which the exemption is required, is not likely to cause a public health hazard or a public health nuisance.

Public health permits

12. (1) Any person who wants to undertake a scheduled use that is listed in Part A of Schedule 2, must apply to the Council's environmental health section in accordance with section 14 for a public health permit.
- (2) The Council may issue a public health permit to the owner or occupier of any premises, if an environmental health practitioner is satisfied that the use for which the permit is required is not likely to cause a public health hazard or a public health nuisance.
- (3) A public health permit -

- (a) must be issued subject to conditions aimed at reducing the risk to public health created by the scheduled use, to a level acceptable to the Council
- (b) may exempt the permit holder from complying with any relevant provision of these By-laws, if the Council reasonably believes that the permit requires the permit holder to take measures to avoid or reduce the risk to public health arising from the activity that are equivalent to, or better than, the measures required by the relevant provision of these By-laws; and
- (c) may approve any measure or material in connection with the activity authorised by the permit that must be approved in terms of these By-laws.

Approval of measures, object and materials

13. (1) The Council may approve, provided that the said approval is not in conflict with any other legal requirement, any object or material used, or any measure taken, in specified circumstances as being adequate to eliminate the risk of any public health hazard or public health nuisance occurring, continuing or recurring, or to reduce that risk to a level acceptable to the Council.
- (2) An object, material or measure referred to in subsection (1) may be approved by the Council in -
- (a) a public health permit; or
 - (b) guidelines prescribed by the Council in terms of subsection (3)
- (3) The council may publish guidelines in the Provincial Gazette which describe -
- (a) appropriate measures that can be taken and objects and materials that can be used, to eliminate the risk of any public health hazard or public health nuisance occurring, continuing or recurring, or to reduce that risk to a level acceptable to the Council; and
 - (b) the circumstances in which taking these measure or using these objects or materials are acceptable to the Council.

Application procedure

14. (1) Any person who wants to obtain an exemption certificated or a permit must apply to the Council's environmental health section in writing in a form attached as Annexure 1, prior to undertaking the schedule use concerned.
- (2) When the Council receives an application contemplated in subsection (1), it must ensure that the relevant premises concerned are inspected by an environmental health practitioner as soon as reasonably possible.
- (3) Before deciding whether or not to approve an application contemplated in subsection (1), the Council -
- (a) must ensure that any persons in the vicinity of the premises whose health or well-being may be affected if the premises are used for the scheduled use concerned, have been consulted and have had an opportunity to make representation; and
 - (b) may require the applicant to provide any further information which the Council considers relevant to enable it to make an informed decision.
- (4) In deciding whether or not to issue an exemption certificate or a permit, and what terms and conditions, if any, to include in it, the Council must apply the public health principles set out in section 3.

General terms applicable to certificates and permits

15. (1) An exemption certificate or a permit-

- (a) is not transferable from one person to another; and
 - (b) applies only to the premises specified in that certificate or permit.
- (2) Every exemption certificate or permit must -
- (a) specify the address and other relevant details regarding the location of the premises concerned;
 - (b) describe the premises concerned;
 - (c) describe the activity concerned;
 - (d) specify terms and conditions imposed, if any, and
 - (e) indicate the expiry date

An applicant must pay a prescribed fee, if determined by the Council, in respect of an application for a permit or exemption certificate and such fee must accompany 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 fees have been paid.

Suspension, cancellation and amendment of exemption certificates and permits

16. (1) An environmental health practitioner may by written notice to the holder of an exemption certificate or permit, suspend, amend or cancel that certificate or permit, after having informed such holder of the reasons for such an exemption certificate and permit being cancelled or suspended.
- (2) An environmental health practitioner may suspend or cancel an exemption certificate or permit with immediate effect -
- (a) the environmental health practitioner 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, or
 - (b) the holder of such certificate or permit fails to comply with a compliance notice contemplated in section 32 of the Rationalization of Local Government Affairs Act. in which is stated that such certificate or permit may be suspended or cancelled without further notice if the holder fails to comply with that notice.
- (3) An environmental health practitioner may suspend or cancel an exemption certificate or permit after having given the holder thereof a reasonable opportunity of making representations as to why the permit or exemption certificate should not be suspended or cancelled if -
- (a) the environmental health practitioner 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
 - (c) the holder of such certificate or permit contravenes or fails to comply with any relevant provision of these By-laws.
- (4) An environmental health practitioner may amend an exemption certificate or permit by endorsing such certificate or permit or by written notice to the holder thereof, if the environmental health practitioner reasonably believes that it is necessary to do so to protect public health or to take account of changed circumstances since the exemption certificate or permit concerned was issued.

Part 2: Enforcement, remedial work and costs

Demolition orders

17. (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 of any other law, apply to any court having jurisdiction for an order directing any person to demolish the building or structure or authorizing the Council to do so and to recover the costs of doing so from the owner or the occupier of the premises concerned, 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 14 day's notice in writing of its intention to make the application and has considered any representations made within that period.

Right of entry and remedial work

18. The Council may, subject to the provisions of any other law, enter any premises and do anything on the premises that it reasonably considers necessary -
- (a) to ensure compliance with these By-laws or with any compliance notice issued in terms of section 32 of Rationalization of Local Government Affairs Act;
 - (b) to reduce, remove or minimize any significant public health hazard, or
 - (c) to reduce, remove or minimize any public health nuisance.

Cost orders

19. (1) The Council may recover any costs reasonably incurred by it in taking measures contemplated in section 16 from any person who was under a legal obligation to take those measures, including -
- (a) a person on whom a compliance notice referred to in section 18 (a) that required those steps to be taken, was served;
 - (b) the owner or occupier of the premises concerned; or
 - (c) any person responsible for creating a public health hazard or a public health nuisance.
- (2) The municipality manager or delegated official may issue a cost order requiring a person who is liable to pay costs incurred by the Council in terms of subsection (1), to pay those costs by a date specified in the order and such order constitutes prima facie evidence of the amount due.

CHAPTER 4

SANITARY SERVICES

Compulsory connection to municipal sewage system

20. Every owner of premises to which a municipal sewage service is available, must ensure that all waste drainage pipes from any bath, wash-hand basin, toilet, shower, kitchen sink, washing machines and dish washers are connected to the municipality sewer in an approved manner.

Prohibition against obstruction of sanitary service

21. No person may prevent, obstruct or interfere with any sanitary service provided by the Council.

Requirements in respect of toilet facilities

22. Every owner of premises must ensure that the number of toilets provided on those premises comply with the provisions of the National Building Regulations and Building Standard Act or any other applicable legislation.

Toilets for workers

23. (1) Every contractor must provide his or her workers with toilet facilities as prescribed by the National Building Regulations and Building Standards Act.
- (2) No temporary toilet may be erected or placed on any pavement or other public place without the written approval of Council.

Prohibition against use of a bucket toilet under the same roof as a dwelling

24. No person may provide, erect, retain or use any bucket toilet inside, or under the same roof, as a dwelling.

Condition of toilets, urinals, backyards and refuse areas

25. Every owner or occupier of any premises must keep every backyard; refuse area, toilet, and urinal in a sanitary condition and good state of repair.

Separate storage of urine

26. (1) Any owner or occupier required by the Council to provide for the separate storage of urine, due to the size, extent of occupation or use of any premises, must comply with any notice issued by the Council calling on him or her to provide an adequate urine tank or an adequate number of urine buckets on the premises.
- (2) Every owner or occupier referred to in subsection (1) must use the urine tank or urine bucket exclusively for the reception of urine.

Provision of tank for waste liquids in areas without sewers

27. (1) Any owner of premises not connected to a public sewer or not provided with other adequate measures for the disposal of waste liquid, must provide the premises with a tank big enough to contain the slops, bath water or other waste water produced on the premises during a period of 48 hours.
- (2) Subject to the provisions of subsection (3), premises referred to in subsection (1), must be equipped either with -
- (a) an overhead tank placed in a way that its contents can be gravity fed into the Council's or other approved waste removal vehicle, or
- (b) an adequate filter, pump and indicator, with outlet pipes constructed and placed in a way that the tank may be easily emptied and cleansed.
- (3) The provisions of subsection (2) do not apply if -
- (a) adequate arrangements have been made for dispersing waste water produced on the premises, other than urine, over land associated with the premises concerned; and
- (b) the waste water is dispersed in a way that will not create a public health nuisance.

Pumping of contents of underground tank to surface tank

28. Any occupier of premises on which both underground and overhead tanks are provided for the storage of waste water, must pump the contents of the underground

tank to the overhead tank immediately prior to the overhead tank being emptied by the Council.

Blocked or defective outlet pipes

29. Every owner or occupier of premises must keep any drainage system free from obstruction and in a good state of repair.

Prohibition against urine in slops tanks

30. No person may discharge or allow any urine or excrement to be discharged into a slops tank situated on any premises.

CHAPTER 5

PRIVATE SEWAGE WORKS

Permit for provision of service for the removal of human excrement or urine

31. No person may provide any service for the removal or disposal of human excrement and urine on any premises except in terms of a permit authorizing that service.

Permit for installation of sewage works

32. No person may, on any private premises, install, alter, re-site, operate or maintain any septic tank, filter installation or other works for the disposal of sewage, except in terms of a permit authorizing that activity.

Maintenance of sewage works

33. Any person operating a sewage works must ensure that it is maintained in a sanitary condition and good state of repair at all times.

Disposal of sewage, sewage effluent and wastewater without causing a public health nuisance and/or hazard

34. No person may dispose of sewage or waste water from any bath, wash-hand basin, toilet, shower, kitchen sink, swimming pool, washing machines, dish washers and refuse receptacles in a way or in a location that may-
- (a) cause dampness in or on any premises;
 - (b) endanger the quality of any water supply, surface water, stream or river, or
 - (c) create a public health nuisance and/or hazard.

Compulsory use of Council's sewage removal service

35. Every occupier of premises must use the sewage removal service prescribed by the Council for those premises.

CHAPTER 6

WATER

Definitions

- 36 In this Chapter, unless the context otherwise indicates -

“domestic consumption” in relation to water, means the use of water for –

- (a) human consumption
- (b) preparing or manufacturing food or drink for human consumption;
- (c) cleaning vessels or utensils used in the preparation or manufacture of food or drink for human consumption; or

- (d) any other domestic purpose.

“effluent” means any waste water which may be generated as a result of undertaking any scheduled use or any activity which is likely to cause a public health nuisance.

Pollution of sources of water supply

37. No person may pollute or contaminate any catchment area, river, canal, well, reservoir, filter bed, water purification or pumping works, tank, cistern or other source of water supply or storage in a way that creates a public health nuisance or a public health hazard.

Dangerous wells, boreholes and excavations

38. Every owner or occupier of premises must ensure that any well, borehole or other excavation located on his or her premises -
- (a) is fenced, filled in or covered over in a way that adequately safeguards it from creating a public health nuisance or public health hazard; and
 - (b) is not filled in a way, or with material, that may cause any adjacent well, borehole or underground water source to be polluted or contaminated to an extent that may create a public health nuisance or a public health hazard.

Provision of adequate water supply

39. Every owner of premises must provide every resident on the premises with an adequate and readily available potable water supply at all times.

Use of water from source other than the municipal supply

40. No person may use, or permit to be used; any water obtained from a source other than the municipal water supply for domestic consumption, unless the water concerned has been approved for that purpose and complies with standards of potable water.

Furnishing of particulars of the source of water

41. (1) Any owner or occupier of premises on which well, borehole, spring, dam, river or other water source is located, the water of which is used for domestic consumption, must within 14 days of receiving a notice from the Council calling on him or her to do so, provided the Council with all particulars of the water source reasonably available to the owner or occupier.
- (2) An owner or occupier of premises contemplated in subsection (1), must, if requested to do so by the Council, and at his or her own cost, furnish to the Council a certificate of chemical analysis and bacteriological investigation issued by an analyst, as defined in the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972), in respect of any water supply on that premises used for domestic consumption.
- (3) If water from a borehole is used for domestic consumption, a certificate of analysis as contemplated in subsection (2) must be submitted to Council annually or at any time on request of an environmental health practitioner.

Notice of the sinking or digging of boreholes or wells

42. (1) No person may sink or dig, or cause or permit to be sunk or dug, a well or borehole, to obtain water, unless -
- (a) it is done so in accordance with any relevant law; and
 - (b) he or she has given the Health and Social Development Department at least 14 days' written notice of his or her intention to do so.

- (2) The notice referred to in subsection (1)(b), must state the proposed location and the purpose for which the water is to be used.

Storm water runoff from premises which may impact on public health

43. (1) Every owner or occupier of premises must erect adequately designed, constructed and maintained hydraulic and hydrological structures on those premises -
- (a) to divert the maximum storm water runoff, which could be expected within a period of 24 hours with an average frequency of recurrence of once in 100 years, from any part of the premises on which any waste, likely to create a public health nuisance, is or was handled, produce, stored, dumped or spilled
 - (b) to collect all polluted runoff water from any part of the premises on which waste, likely to create a public health nuisance is or was handled, produced, stored, dumped or spilled, for reuse, treatment or purification;
 - (c) to separate all effluent from storm water systems;
 - (d) to prevent the erosion or leaching of material from any slimes dam, ash dam and any dump or stock-pile on the premises, and to contain any eroded or leached material in the area where it originated;
 - (e) to prevent any waste or waste water from entering any borehole, well, spring, vlei or water course; and
 - (f) to prevent any adverse impact on the quality of surface and ground water occurring , due to the location of any dump, stock-pile, dam, drain, canal, conduit, sewer or any other structure on the premises.
- (2) An owner or occupier of premises -
- (a) must keep all water passages open and free of obstruction from matter which may impede the flow of water or effluent;
 - (b) may not locate any dump within the one hundred year flood line of any water resource;
 - (c) may not use coal, coal discard, carbonaceous material or any other material for the construction of any slurry, evaporation, or catchment dam, or any embankment, road or railway in a way likely to create a public health nuisance;
 - (d) must construct bund walls around any tank, or group of tanks, containing any substance that can create a public health nuisance, of a size that is capable of containing the volume of the largest tank plus an additional 10% in the event of any unlawful or accidental discharge from the tank or group of tanks; and
 - (e) must clean any industrial surface area so as to prevent the pollution of storm water which may result in adverse impact on the quality of any surface or ground water.

Containment of waste water

44. Any dam, conduit or channel used for the containment of waste water must have a free board of at least 0.5 meters above the highest level of precipitation which could be expected within a period of 24 hours with an average frequency of recurrence of one in 100 years.

CHAPTER 7

OFFENSIVE TRADES

Definitions

45. In this Chapter, unless the context otherwise indicates -

“effluent” means any waste water which may be generated as a result of undertaking any scheduled use or an activity which is likely to cause a public health nuisance;

“offensive trade” means of any business listed below or business which involves an activity listed below:

- (a) Panel beating or spray painting ;
- (b) operating a hazardous waste recycling plant including oil and petroleum product recycling;
- (c) scrap yard or scrap metal dealing;
- (d) blood boiling, bone boiling, tallow melting, fat melting or fat extracting, soap boiling , tripe boiling or cleaning, skin storing , bone storing, hide boiling, skin curing, blood drying, gut scraping, leather dressing , tanning or glue or size making,
- (e) charcoal burning, brick burning, lime burning;
- (f) manure making or storing or compost making;
- (g) parchment making;
- (h) manufacturing malt or yeast;
- (i) cement works, coke-ovens or salt glazing works;
- (j) sintering of sulphurous materials;
- (k) viscose works;
- (l) ore or mineral smelting, calcining, puddling or rolling of iron or other metal, conversion of pig iron into cast iron, reheating, tempering, hardening, forging, conversion or compounding of carbon with iron or other metal
- (m) Work of a knacker
- (n) Slaughtering of animals
- (o) Fish mongering and fish frying
- (p) Manufacture of flock and rags.
- (q) Animal bristle and hair storing and sterilizing.
- (r) Manufacture of chemicals.
- (s) Fell-mongering
- (t) Storage of raga.
- (u) Wood saw-dust.
- (v) Iodoform.
- (w) works for the production of carbon bisulphide, cellulose, lacquer, cyan or its compounds, hot pitch or bitumen, pulverized fuel, peridine, liquid or gaseous sulphur chlorides;
- (x) works for the production of amly acetate, aromatic ethers, butyric acid, caramel, enamelled wire, compounds, sulphurous paints, ultramarine, zinc chloride or zinc oxide; or
- (y) the refining or processing of petrol, oil or their products;
- (z) Any other work or trade of an offensive nature which, with the sanction of the Council may add to the list.

“offensive trader” means any person who owns, conducts or carries on an offensive trade.

Permit requirement

46. No person may conduct an offensive trade in or any premises, except in terms of a permit authorizing such trade.

Requirements for premises

47. No person may conduct an offensive trade in or on any premises unless -
- (a) the floors of the premises are constructed of cement concrete or a similar impervious material, brought to a smooth finish;
 - (b) the floors of the premises are adequately graded and drained for the disposal of effluent to an approved disposal system;
 - (c) the inside walls, except where glazed or glass brick or glazed tiles are used, are plastered, brought to a smooth finish and painted with a light-coloured, washable paint;

- (d) the surface of any backyard or open space is paved with concrete or similar impervious material, brought to a smooth finish;
- (e) the premises are provided with adequate light and ventilation as prescribed in the National Building Regulations and Building Standards Act;
- (f) an adequate supply of running potable water is provided;
- (g) an adequate number of portable containers constructed of iron or another non-absorbent material, equipped with closely fitting lids, are provided for the removal of all waste and waste water from the premises;
- (h) adequate means are provided for the disposal of all effluent arising from the manufacturing or other process performed on the premises;
- (i) adequate accommodation is provided for the storage of all finished products, articles or materials which are used in the manufacturing or other process and which may –
 - (i) discharge offensive or injurious effluent or liquid, or
 - (ii) decompose in the course of the work or trade;
- (j) adequate means are provided to control the discharge in the open air of any noxious, injurious or offensive gas, fume, vapour or dust produced during any handling, preparation, drying, melting, rendering, boiling or grinding process or storage of material,
- (k) adequate sanitary fixtures are provided as prescribed in the National Building Regulation and Building Standards Act;
- (l) a perimeter wall made of brick or some other impervious material, with a minimum height of 2 meters, is constructed around the premises.
- (m) all gates to the premises are of solid construction with a minimum height of 2 metres;
- (n) all perimeter walls and gates adequately screen activities on the premises from public view;
- (o) all materials are stacked or stored on the premises below the height of the perimeter screening;
- (p) adequate separate change-rooms for male and female employees must be provided containing -
 - (i) an adequate metal locker for every employee;
 - (ii) a wash-hand basin provided with a supply of running hot and cold potable water; and
 - (iii) an adequate supply of soap and disposable towels at every wash-hand basin;
- (q) if no change-room has been provided in terms of paragraph (p) –
 - (i) a wash hand basin with a supply of running hot and cold potable water, must be provided in an accessible position, and
 - (ii) an adequate metal locker must be provided for every employee in the work area.

Duties of offensive traders

48. Every offensive trader must -

- (a) maintain the premises in a clean, hygienic and good condition at all times;
- (b) maintain all walls and floors of the premises in a manner and condition that prevents the absorption of any waste or waste water;
- (c) maintain all machinery, plant, apparatus, furniture, fitting, tools, implements, vessels, containers, receptacles and vehicles in a clean, hygienic and good condition at all times;
- (d) prevent any waste accumulating on the premises and provide proof when required of safe disposal of recycled or hazardous related waste materials,
- (e) prevent the emission of noxious, injurious or offensive gases, fumes, vapours or dust generated during any handling, preparation, drying,

- melting, rendering, boiling or grinding process or storage of any material on the premises; and
- (f) provide and maintain effective measures to preclude the open attraction of pest and to prevent the breeding thereof.

Liquid refuse from bone and tripe boiling

49. (1) Every bone boiler and every tripe boiler must adequately cool all waste water before it is discharged into any sewer or other receptacle.
- (2) The cooling process referred to in subsection (1), must take place in a manner that prevents the generation of any noxious and injurious effluent.

Liquids, tanks and tubs in leather making

50. Every fell-monger, leather dresser or tanner must -
- (a) renew and dispose of the liquid from every tank or other receptacle used on the premises to wash or soak any skin or hide, other than a lime pit, at adequate intervals and in an adequate manner,
- (b) clean the entire tank or other receptacle every time it is emptied;
- (c) clean every tub or other receptacle used to contain a solution of the material known as "puer"

Storage of rags, bones and waste

51. No trader in rags, bones or waste may place or store, or cause or permit to be stored, rags, bones or waste in any part of the premises concerned which is -
- (a) inhabited by people; or
- (b) not adequately ventilated.

CHAPTER 8

HAIRDRESSING, BEAUTY AND COSMETOLOGY SERVICE

Definitions

52. In this Chapter, unless the context otherwise indicates -
- "body piercing" means the piercing of the skin for the purpose of inserting any foreign object;
- "cosmetology or beauty service" includes, but is not limited to anyone or more of the following services:
- (a) Manicure, pedicure, nail technology, or the application of false or artificial nails or nail extensions, whatever the substance used;
- (b) eyebrow shaping and plucking including the application of false or artificial eyebrows or eyelashes and tinting of eyelashes
- (c) cosmetic and camouflage make up of the face and its features, whether by permanent, semi permanent or temporary means;
- (d) facial skin care;
- (e) removal of unwanted or superfluous hair from any part of the body by any means, other than shaving, including by means of waxing, chemical depilatories, electrical or mechanical means, whether or not any apparatus, appliance, heat, preparation or substance is used in any of these operations;
- (f) body piercing and tattooing for cosmetic purposes;
- (g) massaging;
- (h) body bronzing by means of ultraviolet radiation or any similar method, or
- (i) body contouring including all forms of slimming;

“hairdressing” includes, but is not limited to, any one or more of the following services:

- (a) Shampooing and cleansing , conditioning and treating hair;
- (b) chemical reformation of the hair including permanent waving, relaxing and straightening of the hair;
- (c) hair colouring , including tinting, dyeing and colouring by means of permanent, semi-permanent or temporary means, including the use of colour rinses, shampoos, gels or mousses and lightening by means of tints, bleaches, highlights or high lifting tints or tones;
- (d) hair cutting and shaping
- (e) barbering services including shaving and singeing of hair; or
- (f) the adding to hair of natural and artificial hair and hair extensions, board work, pastiche, wig-making or the performing of any operation specified in paragraphs (a) to (e) on a wig or hairpiece to be worn by any person; or
- (g) trichology and trichological treatment of the hair including the treatment of abnormalities and disorders of the hair;

“salon” means any place where any or more of the following services are performed for gain:

- (h) hairdressing service;
- (i) cosmetology on beauty services;
- (j) body piercing and tattooing; or
- (k) massaging services;

“salon service” means any one or more or a combination of the practices or services generally and usually performed by a person rendering service in the hairdressing, cosmetology or beauty service industry including any massage, body piercing and tattooing service

Permit requirement

53. No person may operate a salon except in terms of permit authorizing that activity

Requirement for premises

54. No person may operate a salon on any premises which do not comply with the following requirements:
- (a) adequate lighting and ventilation, as prescribed in the National Building Regulations and Buildings Standards Act, must be provided;
 - (b) all shelves, fixtures and table tops on which instruments are placed must be constructed of an approved material that is durable, non-absorbent, and easy to clean;
 - (c) water and toilet facilities must be provided as prescribed in the National Building Regulations and Building Standards Act;
 - (d) adequate, separate facilities, with a supply of running potable water, must be available for the washing of hair and hands;
 - (e) an approved system for the disposal of waste water must be provided;
 - (f) adequate storage facilities must be provided;
 - (g) the walls and floors must be constructed of a material that is easy to clean and which prevents cut hair from being dispersed, and
 - (h) the premises may not be used for the storage and preparation of food or for sleeping unless any area for that purpose is clearly separated by an impervious wall.
 - (i) adequate separate change-rooms for males and females, where five or more persons of the same sex are employed, must be provided containing –
 - (i) an adequate metal locker for every employee;
 - (ii) a wash-hand basin provided with a supply of running hot and cold potable water; and
 - (iii) an adequate supply of soap and disposable towels at every wash-hand basin;

- (j) if no change-rooms has been provided in terms of paragraph (i) –
 - (i) a wash hand basin with a supply of running hot and cold potable water, must be provided in an accessible position; and
 - (ii) an adequate metal locker must be provided for every employee in the work area.

Duties of salon operators

55. Any person operating a salon must -

- (a) maintain the premises, tools, equipment and clothing in a hygienic and good condition at all times;
- (b) equip the premises with an adequate means to disinfect and sterilize instruments and equipment that may come into direct contact with any customer's hair or skin;
- (c) provide employees on the premises with approved protective clothing and equipment;
- (d) collect all hair clippings and other waste in an approved container after every service;
- (e) store or dispose of waste in an approve manner;
- (f) adequately train any person working on the premises on health and hygiene matters;
- (g) not permit any animal on the premises unless it is guide dog accompanying a blind person, and
- (h) ensure that any employee working with the public with an open wound on their hands or with a communicable skin condition to take the necessary precautions.
- (i) ensure that every person working in the salon complies with the requirements of this section and section 55 and 56.

Required minimum health standards for the operation of a salon

56. Any person operating or employed in, a salon must take the following measures:

- (a) adequately disinfect all the instrument after each use;
- (b) adequately sterilize the following instruments after each use;
 - (i) any instrument used for body piercing or tattooing
 - (ii) any instrument which has come in contact with blood or any other body fluid;
- (c) wash and clean all plastic and cloth towels after each use;
- (d) dispose of all disposable gloves or other disposable material after each use;
- (e) wash all aprons and caps daily;
- (f) wash his or her hands with soap and water or disinfectant before and after rendering each service to a client;
- (g) wear disposable gloves when providing one of the following salon services:
 - (i) any chemical services;
 - (ii) any hair implant;
 - (iii) body piercing; and
 - (iv) tattooing;
- (h) wash all walls, floors, chairs and other surfaces in the premises at least once a day with a disinfectant or household detergent;
- (i) dispose of all waste water, sharp instruments, bloodied and otherwise contaminated towels and towelling paper in an approved manner;
- (j) store razors, blades, needles and other sharp instruments separately in a 'sharp instrument' container;
- (k) adequately treat any injury or wound which may occur on the premises

- (l) clean and disinfect all surface that have been contaminated by blood after each service;
- (m) keep an approved first aid kit on the premises at all times as prescribed by the Occupational Health and Safety Act 1993 (Act No. 85 Of 1993);
- (n) All tubes and needles must be stored in single service, sterile, sealed autoclave bags that must be opened in the present of the client.

Prohibition against the use of salon premises for other purposes

- 57. (1) Any person operating a salon must ensure that the premises are used exclusively for that purpose.
- (2) Any person who wants to prepare any beverage for customers on the premises of a salon, must provide a separate area, equipped with a facility for cleaning crockery and utensils, for that purpose

**CHAPTER 9
SECOND-HAND GOODS**

Definitions

- 58. In this Chapter, unless context otherwise indicates -
 “second-hand goods business” means any business in which used goods and materials are sold, including, without limitation –
 clothing, furniture, scrapped motor vehicles, footwear, timber, building bricks or blocks, building material or fittings, machinery, drums, tins, bottles, packing cases, boxes, crates or other containers, metal, rags, plastic bags, paper or any other material, which has previously been used; and bones or tallow.

Requirements for premises

- 59 No person may operate a second-hand goods business in or on any premises which do not comply with the following requirements:
 - (a) any section of the premises where second-hand goods are stored and handled must be enclosed by walls constructed of brick, rock or concrete, with a minimum height of two meters;
 - (b) all gates to the premises must be of solid construction with a minimum height of two meters;
 - (c) all materials must be stacked or stored below the height of the perimeter screening;
 - (d) adequate lighting and ventilation, as prescribed in the National Building Regulations and Building Standards Act must be provided;
 - (e) all storage areas must be paved with cement, concrete or other approved impervious material;
 - (f) all backyard surface and open spaces of the premises must be graded and drained to allow for the effective run-off of all precipitation;
 - (g) adequate sanitary fixtures for both sexes employed on the premises must be provide, as prescribed in the National Building Regulations and Building Standard Act;
 - (h) an adequate number of refuse containers must be provided.
 - (i) adequate separate change-rooms for males and females, where five or more persons of the same sex are employed, must be provided containing -
 - (i) an adequate metal locker for every employee;
 - (ii) a wash-hand basin provided with a supply of running hot and cold potable water; and
 - (iii) an adequate supply of soap and disposable towels at every wash-hand basin;

- (j) if no change-rooms has been provided in terms of paragraph (i) –
- (k)
 - (i) a wash hand basin with a supply of running hot and cold potable water, must be provided in accessible position; and
 - (ii) an adequate metal locker must be provided for every employee in the work area.

Duties of second-hand goods traders

60. Any person who conducts a second-hand goods business must -
- (a) store second-hand goods in a backyard, building or open space that is constructed of an approved material in such a manner as to prevent the harbourage of rodents or other vermin and pests;
 - (b) ensure that no water accumulates in any article stored on the premises;
 - (c) ensure that goods are stored in such a manner as to prevent the pollution of the surrounding environment which includes but is not limited to air, water or soil.
 - (d) keep the premises in a clean, neat and sanitary condition at all times;
 - (e) immediately on receipt, disinfect all furniture, soft furnishings, clothing, bedding or other fabrics in an adequate manner;
 - (f) keep any other articles separate from articles which have been disinfected; and
 - (g) label all articles which have been disinfected in a conspicuous place on each article.

CHAPTER 10

ACCOMMODATION ESTABLISHMENTS

Definitions

61. In this Chapter, 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;
- “dormitory” means a sleeping room in which sleeping accommodation is provided for four or more persons.

Permit requirement

62. No person may operate an accommodation establishment except in terms of a permit authorizing that activity.

Requirements for premises of accommodation establishments

63. No person may operate accommodation establishments on premises which 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 that will allow-
 - (i) less than 11,3m³ of free air space and 3,7 m² of floor space for each person over the age of 10 years; and
 - (ii) less than 5,7m³ 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, out building, garage, stable, tent, storeroom, lean-to, shed, kitchen, dining room, food preparation area, 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 clothing and other possessions;
 - (iii) every bed in a dormitory must be so placed that its sides are at least one meter away from any part of any other bed;
- (d) an accommodation establishment must be provided with -
- (i) an area of the preparation and cooking of food, adequate for the use of and easily accessible to any occupier residing in the accommodation establishments;
 - (ii) adequate separate wash-up facilities; and
 - (iii) where meals are provided to persons housed in the accommodation establishment, 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; (Such establishment to comply with the provisions of R918 of the National Building Regulations and Building Standards Act.).
- (e) (i) an accommodation establishment must be provided with one or more showers, each suitably placed in a separate compartment, easily accessible to every occupier, and fitted with waste pipes which comply with the provisions of the National Building Regulations and Building Standards Act.
- (ii) a bath fitted with a waste pipe may be substituted for each shower referred to in subparagraph (i)
- (iii) the facilities referred to in subparagraphs (i) and (ii) must be designated for the different sexes;
- (f) an accommodation establishment must be provided with sanitary fixtures as prescribed in the National Building Regulations and Building Standards Act 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 and passages must be provided with adequate ventilation and lighting as prescribed in the National Building Regulations and Building Standards Act;
- (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 approved containers must be provided for the storage of dirty articles used in connection with an accommodation establishment, pending removal to be laundered; and
- (ii) if articles used in connection with an accommodation establishment are laundered on the premises, a separate approved washing, drying and ironing areas 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, towels, blankets, pillows and other articles used in connection with an accommodation establishment, must be provided;
- (l) (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 which comply with the provisions of paragraphs (a), (b) and (c) for each employee; and
 - (ii) if employees are not provided with meals in the accommodation establishment, food preparation and dining facilities that comply with the provisions of paragraph (d).
- (n) adequate changing facilities must be provided for no-resident employees;
- (o) adequate ablution and sanitary facilities, which comply with the provisions of paragraphs (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,
- (q) all walls, floors and roofs must be constructed in a manner which prevents wind or rain entering an accommodation establishment or dampness entering the interior surfaces of any wall or floor;
- (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 accommodation establishment when the windows are closed.

Duties of operators of accommodation establishments

64. Every person who conducts an accommodations establishment must -

- (a) keep the premises and all furniture, fittings, appliances, equipment, containers, curtains, covers, hanging 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 an accommodation establishments in the manner provided in section 62 (j);
- (g) store all clean linen, towels, blankets, pillows and other articles used in connection with the accommodation establishment in the manner provided in section 62 (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 provided in section 62(p).
- (k) must ensure compliance with R918 of the National Building Regulations and Building Standards Act if food is provided to the occupants.

CHAPTER 11

DRY-CLEANING AND LAUNDRY ESTABLISHMENTS

Definitions

65. In this Chapter, unless the context otherwise indicates -

“dry-cleaning or laundry business” means any business in which clothes or other fabrics are cleaned with water or other solvents, or clothes or fabrics are ironed,

“dry-cleaning or laundry receiving depot” means premises used for the receipt, storage and dispatch of clothes or other fabrics in connection with a dry cleaning or laundry business.

Premises for dry-cleaning or laundry business

66. No person may conduct a dry-cleaning or laundry business on premises which do not comply with the following requirements:

- (a) a work-room or area used for housing dry-cleaning machines, washing-machines, ironing boards, presses and other fixed or movable equipment, with a minimum unobstructed floor area of 2,5 m² per person employed on the premises, must be provided;
- (b) adequate separate areas for marking clean and dirty articles must be provided with –
 - (i) tables with an impervious surface;
 - (ii) adequate washable containers for dirty articles; and
 - (iii) hanging rails and shelves constructed of an impervious material in the area for marking clean articles;
- (c) a separate room or area with separate designated counters, with impervious surface, must be provided for the receipt and dispatch of articles; and
- (d) a store-room or facility for the storage of packing material and other articles must be provided and equipped with adequate packing shelves of which the lowest shelf must be at least 250 mm above floor level;
- (e) adequate separate change-rooms for males and females, where five or more persons of the same sex are employed, must be provided containing –
 - (i) an adequate metal locker for every employee;
 - (ii) a wash-hand basin provided with a supply of running hot and cold potable water, and
 - (iii) an adequate supply of soap and disposable towels at every wash-hand basin,
- (f) if no change-rooms has been provided in terms of paragraph (e) -
 - (i) a wash hand basin with a supply of running hot and cold potable water, must be provided in an accessible position; and
 - (ii) an adequate metal locker must be provided for every employee in the work area;
- (g) a tea kitchen with a single-basin stainless steel sink, with a supply of running hot and cold potable water, must be provided;
- (h) separate toilets for males and females must be provided which comply with the provisions of the National Building Regulations and Building Standards Act;
 - (i) every toilet and change-room must be clearly gender designated;
 - (j) all internal walls must be constructed of an impervious material, brought to a smooth finish and painted with a light-coloured washable paint;
 - (k) all ceilings must be dust-proof, smoothly finished, and painted with a light-coloured washable paint;

- (l) all floor surfaces must be constructed of cement or some other adequate impervious material, brought to a smooth finish and property drained;
- (m) the minimum height from floor to ceiling of any room or area must be 2,4 meters;
- (n) adequate lighting and ventilation, as prescribed by the National Building Regulations and Building Standards Act must be provided;
- (o) all machinery and equipment must be equipped with adequate suction fans to remove any noxious gas, steam and hot air from any room and to release it in the open air in an adequate manner;
- (p) all machinery and equipment must be placed so that there is free access to all areas around and underneath each machine or item of equipment, to enable those areas to be adequately cleansed; and
- (q) a separate pre-rinsing area must be provided on any premises where nappies are laundered.

Premises for dry-cleaning or laundry receiving depots

67. No person may operate a dry-cleaning or laundry receiving depot on premises which do not comply with the following requirements:
- (a) A separate room or area with a minimum width of two meters must be provided for the receipt and dispatch of articles;
 - (b) fifty percent of the floor space of the room referred to in paragraph (a) must be unobstructed;
 - (c) a wash-hand basin with a supply of running potable water must be provided;
 - (d) an adequate supply of soap and disposable towels must be provided at every wash-hand basin;
 - (e) all internal wall and ceiling surface must be constructed of an impervious material, brought to a smooth finish and painted with a light-coloured washable paint;
 - (f) all floor surfaces must be constructed of cement or other impervious material, brought to a smooth finish;
 - (g) lighting and cross-ventilation, as prescribed by the National Building Regulations and Building Standards Act, must be provided;
 - (h) adequate washable containers for storing dirty articles must be provided;
 - (i) adequate quantities of hanging rails or impervious shelves for the storage of clean articles must be provided;
 - (j) adequate designated counters, with impervious surfaces, must be provided separately for the receipt and dispatch of dirty and clean articles; and
 - (k) an adequate metal locker must be provided for every person employed in the receiving depot.

Premises for coin-operated laundries

68. No person may operate a coin-operated laundry on premises which do not comply with the following requirements:
- (a) separate toilet and hand washing facilities for the different sexes, as prescribed in the National Building Regulations and Building Standards Act, must be provided;
 - (b) an adequate area must be provided where ironing is done on the premises; and
 - (c) any machine on the premises must be installed in accordance with any applicable law.

General requirements for dry-cleaning and laundry business

69. Any person conducting a dry-cleaning or laundry business or in charge of premises on which dry-cleaning, laundry or receiving depot exists, must -
- (a) keep the premises, all fittings, equipment, appliances, machinery, containers and business vehicles in a clean, hygienic and good condition at all times;
 - (b) separate dirty articles from clean articles at all time, including when in transit;

- (c) use a change-room solely for changing;
- (d) ensure that every person who handles clean or dirty articles wears adequate protective clothing at all times
- (e) keep protective clothing in a clean and sound condition at all times;
- (f) store protective clothing in a locker when it is not being worn;
- (g) affix the name and business address, in clear lettering, to the outside of any business vehicles;
- (h) ensure that the premises are not directly connected to any food premises, new clothing shop, hairdresser or any other area from which contamination might occur;
- (i) comply with the requirements of the following legislation at all times:
 - (i) the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993);
 - (ii) the National Environmental Management: Air Quality Act, 2004 (Act 39 of 2004)
- (j) place all piping in the building, not chased into the walls, at least 100 mm away from all walls or floors and comply with the provisions of the National Building Regulation and Building Standards Act;
- (k) insulate all steam piping with an adequate material, and
- (l) dispose of all waste water in an approve manner.

CHAPTER 12

SWIMMING POOLS AND SPA-BATHS

Definitions

70. In this Chapter, unless the context otherwise indicates -

“spa-bath keeper” means a structure constructed of an approved material, provided with a controlled circulating water supply and used for bathing, excluding a spa bath situated at a private home which is not used for commercial purpose;

“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 a children’s swimming and paddling pool, but excluding a swimming pool at a private home which 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

71. No person may operate a swimming pool or spa bath in or on any premises which do not comply with the following requirements:

- (a) readily accessible change-rooms, showers and toilet facilities must be provided separate for each sex in compliance with the National Building Regulations and Building Standards Act;
- (b) every swimming-pool must be surrounded by a wall or fence as prescribed by the National Building Regulations and Building Standards Act or be covered with a SABS approved pool net;
- (c) the surface of the floor area surrounding any 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;
- (e) if so instructed in writing by an environmental health practitioner, an oxygen or air breathing apparatus must be provided, and
- (f) an adequate number of refuse receptacles must be provided on the premises.

Duties of spa-bath keepers

72. 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 kit in a prominent, easily accessible and protected position;
- (c) purify, treat and maintain the spa-bath water to an adequate quality 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 test results; and
- (f) maintain a daily record of the spa-bath water quality.

Duties of swimming pool keepers

73. 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 kit in a prominent, easily accessible and protected position;
- (c) be qualified and proficient in life saving, rendering first aid, use of a resuscitation appliance, the operation of the swimming pool and testing and maintaining the safety of swimming pool water;
- (d) ensure that the swimming pool 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 swimming pool and interpreting the tests results, and
- (g) maintain a daily record of the swimming pool water quality.

Water supply

74. (1) Unless the prior written approval of an environmental health practitioner has been obtained, 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 water level in a swimming pool or spa-bath.
- (2) An environmental health practitioner must -
- (a) take samples of a swimming pool or spa-bath water, at intervals which he or she considers appropriate for the purpose of a chemical analysis or bacteriological examination of that water;
 - (b) submit the samples to an analyst authorized in terms of section 12 of the Foodstuffs, Cosmetics and Disinfectants Act, Act 54 of 1972 to conduct an analysis.

Safety of water

75. 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,

- (d) if a disinfectant other than chlorine is used, the residual level must be equivalent in effect to the requirements of paragraph (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.

Order and behaviour

76. No person may -
- (a) interfere with a spa-bath keeper or swimming pool keeper in the execution of his or her duties;
 - (b) allow any dog or other pet belonging to him or her or under his or her care to enter or to remain within the premises of a spa-bath or swimming pool, unless it is a guide dog accompanying a blind person;
 - (c) enter or remain in any premises of a spa-bath or swimming pool if he or she knows or suspects that he or she may be suffering from any communicable or contagious disease; and
 - (d) urinate, defecate, spit or blow his or her nose in a spa-bath or swimming pool.

CHAPTER 13

CHILD-CARE SERVICE

Definitions

77. In this Chapter, unless the context otherwise indicates -
- **“adequate” and “suitable”** means adequate or suitable as the case may be, in the opinion of the Head of Health or an Environmental Health Practitioner.
 - **“approved”** means approved by the Head of Health Services in a municipality or an Environmental Health Practitioner, regard being had to the reasonable public health requirements of the particular case, or to the physical and mental health of the children, as the case may be.
 - **“best available method”** means the method available that will best prevent disease.
 - **“child”** means a child admitted to a pre-school institution in terms of these Guidelines.
 - **“domestic staff” or “general worker”** means staff employed in a pre-school institution for cleaning, cooking and other related work.
 - **“head of municipal health services”** means the person appointed by the council as such
 - **“health certificate”** means a health certificate issued in terms of these By-laws
 - **“health certificate holder”** means a natural person or a partnership, or an association of person, to whom a health certificate has been issued in terms of section 3 of By-Laws.
 - **“municipal health service”** means services as defined in section of the National-Health Act. 61 of 2003
 - **“municipality or council”** means a Metropolitan Municipality, District Municipality, Local Municipality as defined in section 155 of the Constitution of RSA, Act 108 of 1996, or as defined in Municipal Structures Act, No. 117 of 1998.
 - **“pre-school institution”** means any undertaking or institution involving the custody, care or tuition or any combination of these functions, during the whole or part of the day on all or any of the days of the week of children under the age of seven years, or

the building or the premises maintained or used for the purpose of conducting such undertaking

- **“registered Body”** means the state Department or municipality authorize to issue a registration certificate
- **“registration certificate”** means a certificate issued by the authorized state department.

Application of Guidelines

78. These guidelines shall apply to all pre-school institutions. The Head of Municipal Health Services or an Environmental Health Practitioner when implementing these guidelines shall apply the principle of best available method.

Health Certificate

- 79 (a) No person or body of persons shall conduct a pre-school institution unless such person or body of persons is in possession of a health certificate to the effect that the premises, general health facilities and services to which such health certificate relates, comply with these By-laws, such certificate shall state:
- (i) the number and both minimum and maximum age of the children permitted to be kept on such premises.
 - (ii) the hours during which such pre-school institution may operate.
- (b) The head of municipal Health Services shall issue the Health certificate contemplated in paragraph (a) if he/she is satisfied that the these by-laws are complied with.
- (c) A health certificate issued is not transferable.

Requirements of Premises for Accommodation of Children between three and seven years

80. (1) General
- (a) (i) A room adequate in size to be used for the purpose of isolating a sick child must be provided.
 - (ii) Such room must have a minimum area of 6m² and where more than 50 children are cared for this room must be a minimum of 12m² to be used as an office as well.
 - (iii) Such room be provided with a wash hand basin and at least one 25 litter closed container with potable water.
 - (iv) An approved first aid kit must be provided
 - (v) A bed or stretcher or other approved sleeping equipment must be provided.
- (b) Adequate storage facilities for food, stretches, sleeping mats, bedding, linen, indoor and outdoor play equipment must be provide.
- (c) Separate storage facilities for the personal belongings of each child and staff member must be provided.
- (d) Sanitary and ablution facilities for children shall have:-
- (i) Ready access between the outdoor play area and the toilet facilities.
 - (ii) There must be one toilet pan or bucket for every twenty children which must be provided with a lid to be kept closed at all times except for the time it is being used.
 - (iii) Each toilet pan or bucket must be emptied and sanitized after each use thereof
 - (iv) The toilet pan or bucket must be emptied into an approved toilet which is either a pit latrine or other approved closet.

- (v) There must be hand washing facilities with water next to the toilets pans or bucket.
 - (vi) There must be one wash hand basin for every 20 (twenty) children
 - (vii) The wash hand basin and buckets for the toilets must be of a suitable size and height for the children.
 - (viii) The toilet pan/bucket must be placed in such a way as to be enclosed and screened from the public.
 - (ix) An adequate number of bins with self closing lids for disposal of paper, towels, tissues and other waste articles must be provided.
 - (x) A minimum of one towel for each child's individual use must be provided unless the Head of Health Services or an Environmental Health Practitioner permits the use of disposable paper towels.
 - (xi) Individuals pegs or nodes for each child's towel which shall be placed 225 mm apart and within child's reach and marked in such a manner as to be easily recognized by each child must be provided.
 - (xii) A reasonable supply of toilet paper, tissue and soap available to the children must be provided.
 - (xiii) There must be a supply of about 25l of potable water in the toilet and at wash hand basins.
- (e) Sanitary and ablution facilities for staff:
- (i) Shall have one toilet and one wash hand basin for every 15 persons or part thereof.
 - (ii) Shall have 25l of water supply soap, toilet paper and clean towel.
 - (iii) Shall have a bin with self closing lid or other approved disposal unit installed in each water closet intended to be used by females.
- (f) Separate approved laundry facilities on the premises; unless laundering is done on other approved premises must be provided.
- (g) Indoor Play Area
Child care premises on which children under school going age are cared for, must be provide with an indoor play area as follows:-
- (i) The building or structure may be of wood and iron and be constructed to be securely placed and be able to provide protection from the weather such as strong winds, rain and other conditions.
 - (ii) The interior walls must be brought to a smooth finish and insulated with approved material.
 - (iii) No plastic or cardboard may be used in the construction of the structure.
 - (iv) The floor surface must be constructed of an impervious material such as concrete and brought to a smooth finish.
 - (v) The structure must be rodent proof.
 - (vi) The windows and doors must be positioned to be able to provide cross ventilation and natural lighting.
 - (vii) The windows of all playrooms and isolation areas shall be so designed and installed as not more than 750 mm from the ground.
 - (viii) The indoor play area shall provide at least 1,5m² of free floor space per child.
 - a) separate indoor play areas shall be provided for the following age groups: under 3 years, 3-7 years and after school children.
 - (ix) The interior part of the roof must be provided with insulating material.

(h) Outdoor Play Area

- (i) An outdoor play area which is free of any excavations, projection, levels or any surface which is dangerous or may constitute a safety hazard shall be provided.
- (ii) A minimum outdoor play area of 2m² per child shall be provided.
- (iii) If no outdoor area is available an approved additional indoor area of 1,5m² per child shall be provided
- (iv) The premises shall have an approved fence and lockable gates to prevent a child leaving the premises on its own and to prevent the entrance of animals or unauthorized person.
- (v) Separate outdoor play area should be provided for the following different age groups: Under 3 years, 3-7 years and after school children.

80. (2) Requirements of premises for Children under two years

(a) Indoor area

- (i) A nursery for playing eating and sleeping purposes where a minimum indoor area of 1,5m² per child is provided.
- (ii) Cots shall be arranged so that there shall be a minimum space of 500 mm between cots
- (iv) Adequate heating facilities to be provided in the indoor area.
- (v) If children aged two years and over are accommodated a separate indoor area must be provided for this group that is able to provide 1,5m² per child of available floor space.

(b) Outdoor area

- (i) The outdoor area for children under two years must be a minimum of 2m² per child for the use of perambulators play pens and outdoor activities.
- (ii) In high density areas where the pre-school is situated in a building, the outdoor area of 1,5m² per child must be provided.
- (iii) If a nursery school which has been registered is conducted on the same premises as a pre-school institution for ages 3-7 years, the nursery and the pre-school institution must be separated.
- (iv) An after school care centre shall not be permitted on the same premises as a pre-school institution, unless in completely separate facilities or unless conducted at different times.

(c) Kitchen

- (i) In addition to the requirement for the kitchen referred to in R918 of 30 July 1999 if bottles and teats are used for feeding of children the kitchen shall be increased if in the opinion of the Environmental Health Practitioner it is necessary to have a separate area for milk kitchen purpose.
- (ii) The milk kitchen shall have the following:-
 - a) Approved containers for washing bottles and the other for rinsing with adequate, potable water.
 - b) A separate cooling facility for the storage of milk and milk bottles.
- (iii) There must be adequate storage facilities for food line perambulators and other equipment
- (iv) Separate storage facilities for the personal belongings of each child and staff members.
- (v) Sanitary ablution facilities for children under two years shall have the following:-
 - a) Ready access to the Nursery school or indoor play area of the nursery.

- b) A separate sluice area with a minimum size of 3m² and which shall have a container with a tight fitting lid for soiled nappies.
 - (i) The sluice area must have a hand washing facility provided with water in a 25l container
 - (ii) Approved chamber pots which can be emptied in an approved toilet must be provided which are accessible and suitable for use by children.
 - (iii) There must be one chamber pot for every five (1:5) children.
 - (iv) Disposable and approved material for cleaning of children wearing nappies must be provided.
 - (v) A minimum of one towel and one face cloth for each child's use must be provided.
 - (vi) Individual pegs or hooks placed at 225 mm apart individually marked must be provided for each child.
 - (vii) There must be an adequate number of bins with self closing lids for disposal of paper, paper towels, tissues and other waste.

After school care facilities

81. An after school care centre shall not be permitted on the same premises as a pre-school institutions, unless in completely separate facilities or unless conducted at different times.

General duties and liabilities for compliance with regulations

82. The health certificate holder shall ensure that the children are at all times properly cared for and supervised and shall:
- (i) Maintain every part of the child care service, including any outdoor area and all structure and equipment in good repair and in a clean and hygienic condition at all times.
 - (ii) Ensure that all persons on or in the premises are clean in person and clothing and are in good state of health.
 - (iii) Ensure that no person shall smoke or use any tobacco product in the presence of children.
 - (iv) Ensure toys, books and other indoor play materials intended for day-to-day use are available in the indoor play areas and suitably stored so as to be within easy reach of the children.
 - (v) Ensure that the children are at all times under the direct supervision of the specified number of adults in the following ratio:
 - (a) One adult supervisor for every 6 babies between 0-18 months.
 - (b) One adult supervisor for every 12 children between 18 months and 3 years
 - (c) One adult supervisor for every 20 children between 3 and 5 years
 - (d) One adult supervisor for every 30 children between 5 and 6 years
 - (e) One adult supervisor for every 35 children of school going age
 - (vi) If transport to or from a child care service is provided - shall ensure that:
 - (a) The children are supervised by at least one adult apart from the driver during transport.
 - (b) The doors of the vehicle are lockable and cannot be opened from the inside by the children
 - (c) No children are transported in the front seat of the vehicle
 - (d) No babies are placed under the seat of a vehicle
 - (e) The vehicle is not overloaded in terms of any applicable law.

- (f) The transport of children are not allowed in the boot of any vehicle
- (g) The driver of the vehicle is licensed to transport passengers as stipulated in the National Road Traffic Act, No 93 of 1996
- (h) The vehicle is licensed and is in a road worthy condition
- (i) That when children are transported in the back of an enclosed light commercial vehicle, care shall be taken to ensure that no exhaust fumes enter the enclosed area, and that the said enclosed area is sufficiently ventilated.
- (j) If meals are provided an approved two weekly menu is displayed at place visible to the parents.
- (k) Meals provided shall be nutritionally balanced and of adequate volume to satisfy the energy needs of the children in each age group.
- (l) Ensure that all perishable foodstuffs, other than unfrozen fruit and vegetables are stored in cooling facilities able to maintain 0°C or 7°C for milk.

Resting and Play Equipment

83. Suitable juvenile seating accommodation and tables shall be provided for each child:
- (i) adequate and approved individual resting or sleeping equipment shall be provided for the separate use of each child
 - (ii) An approved blanket for the individual use of each child shall be provided.
 - (ii) Adequate, approved and safe indoor and outdoor play equipment shall be provided for the children's use.

Medical care for Children

84. (1) The parent or guardian of the child who becomes ill or has suffered an injury requiring medical attention shall be notified as soon as possible.
- (2) Whenever a child becomes ill or has suffered an injury requiring medical attention, medical assistance shall be summoned for which purpose a telephone shall be easily available.
- (3) Any child who falls ill or has suffered any injury shall receive the necessary care and treatment in the sick bay area, so designated.
- (4) In the event of a communicable diseases, the municipality shall be notified immediately.
- (5) The child-care provider shall ensure that all children have completed basic immunization schedules as deemed necessary.
- (6) The provisions of the Regulations R2438 of 20 October 1987, promulgated under the Health Act, 63 of 1977 regarding communicable diseases and notification of notifiable medical conditions shall apply to child care services.
- (7) All child-care service providers shall be trained in basic first aid.

Safety Measures

85. The following measures shall be taken on premises on which child-care services are conducted -
- (a) Children shall be adequate protected against fires, hot water installations electrical fitting and appliances, heating appliances and any other article or substances which may be dangerous or cause harm to any child.
 - (b) Any slats or rails forming part of an enclosure, security gate, play pen, bed, cot or any other object or structure whatsoever, shall not be more than 75 mm apart and shall be suitably installed and maintained in a good state of repair and if painted only non-toxic paint shall be used.
 - (c) All medicines, pesticides, detergents and other harmful substances shall be stored so as not to be accessible to any child and be under lock and key at all times.
 - (d) No noxious or poisonous or dangerous plant or shrub shall be permitted on the premises and no animals or birds be kept on the premises without the approval of the Environmental Health Practitioner.

- (e) No person known or suspected to be suffering from infections or contagious disease and no person so suffering, shall be allowed on the premises while in the opinion of the Environmental Health Practitioner or medically trained person, such person is capable of communicating such infections or contagious disease.
- (f) No padding pool, swimming pool or other structure shall be permitted in any child-care service without an approved fencing and safety net.
- (g) The sandpit shall be covered with an approved covering material when not in use.
- (h) The provisions of the Regulation regarding the exclusion of children from day-care services on account of infectious diseases made in terms of the National Health Act, Act 61 of 2003 as amended shall apply to all child-care services.
- (i) Any other reasonable measures that may in the opinion of the Environmental Health Practitioner be necessary to protect the children from any physical danger shall be taken by the child-care service on instruction of the environmental Health Practitioner.
- (j) The premises must comply with fire regulations by providing at least two doors on opposite sides.

Application for admission

- 86. (1) The health certificate holder shall ensure that an application form containing the following information is completed by the parent or guardian of a child on admission to child care service.
 - (a) The child's name and date of birth
 - (b) Name, address and telephone number of the parent or guardian
 - (c) Place of employment and telephone number of the parent or guardian
 - (d) Name address and telephone number of a responsible person other than the parent or guardian who may be consulted in emergencies
 - (e) Name, address and telephone number of the child referred to, in such form, shall be entered thereon.
- (2) The relevant date of admission and discharge of the child's doctor and permission to consult him.
- (3) All application forms shall be retained for a minimum of 3 years.

Registers

- 87. (1) An admission and discharge register of all children admitted to and discharged from the child care service shall be kept
- (2) A register of attendance shall be kept in which the presence or absence of children shall be noted daily
- (3) Such attendance register shall include the children's respective dates of birth

Medical Report

- 88. A report containing the following health data shall be obtained from the parent or guardian in respect of each child admitted and cared for:
 - (a) Information concerning the child's general state of health and physical condition.
 - (b) Operations, illness and any communicable disease which the child has suffered and the relevant dates.
 - (c) Details of required immunizations
 - (d) Details of allergies and any medical treatment such child may be undergoing.

Food Preparation

- 89. (1) An area adequate in size and separate from indoor play area where food is to be handled, prepared, stored or provided to children or for any other purpose shall be provided.

- (2) Such area shall comply with the provisions of Regulations R918 promulgated in terms of the Health Act 63 of 1977 as amended and be provided.

Right of entry and inspection of premises and records

90. Any duly authorized officer of the council may for any purpose connected with the application of these by-laws at all reasonable times and without notice, enter any premises upon which a pre-school institutions is conducted or upon which such officer has reasonable grounds for suspecting the existence of such pre-school and make such examination, enquiry and inspection thereon as he may deem necessary.

Journal

91. Any person who provides a child-care service must keep a journal, in which any important or outstanding event, including any accident on the premises or during transportation of children, and any explanations is recorded.

Suspension or termination of operations

92. The health certificate holder shall notify the council of the suspension or termination of the operations of the pre-school institution to which such health certificates relates or in the event of any occurrence as specified in section 3(2).

Offences

93. (1) Any person who fails to give, or refuses access to any official of the council duly authorized by these by-laws or by the council to enter upon and inspect any premises, if the official requests entrance to such premises, or obstructs or hinders such official in the execution of his/her duties in terms of this by-laws, or who fails or refuses to give information that he/she may lawfully be required to give to such official, or who gives to such official false or misleading information, knowing it to be false or misleading, or who unlawfully prevents any other person from entering upon such premises, shall be guilty of an offence.

Any person who –

- (a) fails or refuses to comply with any provision of these by-laws or any conditions imposed by the Head of Health Services in terms of section 2;
 - (b) being a health certificate holder, allows –
 - (i) a greater number of children than the number stated on the health certificate to be enrolled or to be present in the pre-school institution to which the health certificate relates;
 - (ii) any child whose age is more or less than the maximum or minimum ages of the children who may be kept on the premises concerned, in terms of the health certificate, to be enrolled at or to be present in such pre-school institution; or
 - (iii) such pre-school institution to be operated during hours not stated on such health certificate, shall be guilty of an offence and liable, on conviction, to a fine not exceeding R500 or imprisonment for a period not exceeding 12 months, or both, and in the event of a continuing offence shall be guilty of a separate offence and liable as aforesaid for every day or part of a day during which the offence continues.
- (2) Presumptions
- If at any prosecution in terms of these by-laws, it is alleged –
- (a) that the owner, lessee or occupier of the premises conducts a pre-school institution at such premises, he/she shall prima facie be deemed

- to have conducted a pre-school institution at the said premises, unless the contrary is proved, or
- (b) that any child was of a certain age, such child shall be deemed, prima facie, to have been that age, unless the contrary is proved

Withdrawal of health certificate

94. The Council may at its discretion withdraw a health certificate issued in terms of these by-laws, should such health certificate holder be convicted of a breach of the provisions of the by-laws.

CHAPTER 14

KEEPING OF ANIMALS

Definitions

95. In this Chapter, unless the context otherwise indicates -

“agricultural holding” means the same as defined in the applicable Town Planning Scheme;

“animal” means any cattle, sheep, goat, horse, mule, donkey, pig, rabbit, reptile, insects and wild animal;

“aviary” means an enclosure used for the keeping of birds, other than poultry but does not include a portable cage;

“battery system” means the method of keeping poultry or rabbits in cages in either single rows or tier formation within a building or structure;

“cattery” means premises in or upon which –

- (a) boarding facilities for cats are provided ; or
- (b) cats are bred for commercial purposes;

“enclosure” in relation to an animal, means any kraal, pen, paddock, cage or other fenced or enclosed area erected to confine an animal from escaping or roaming freely on the remainder of the premises;

“keeper” means –

- (c) in relation to any animal, the owner of the animal or any other person responsible for feeding and caring for the animal;
- (d) in relation to a battery system cattery, kennels, pet parlour or pet shop means the person who owns the business of which if it forms part of and the person in charge of the premise in which the animals are kept;

“kennels” means premises in or upon which –

- (a) boarding facilities for dogs are provided;
- (b) dogs are bred for commercial purposes;
- (c) dogs are kept for the purposes of being trained or hired out with or without handlers; or
- (d) dogs are kept for commercial security purpose;

“livestock” means horse, cattle, sheep, goats, pigs, mules, donkeys and poultry.

“pet” means a domestic animal, reptile, insect, bird or poultry kept in a household for companionship or amusement:

“pet parlour” means any premises where beauty treatment is given to pets by washing, drying, brushing, clipping, trimming or by attending to their nails or teeth;

“pet shop” means the premises on which the business of keeping and selling of pets is carried out;

“poultry” means fowls, ducks, Muscovy ducks, geese, turkeys, pigeons, peacocks and domestic guinea-fowls;

“poultry house” means an roofed-over building or structure in which poultry is kept, other than one in which a battery system is operated;

“poultry run” means any unroofed wire mesh or other enclosure in which poultry is kept, whether or not it is attached to a poultry house;

“proclaimed township” means an approved township as contemplated in section 79.103, 111 and 14(14) of the Town Planning and Township Ordinance, 1986, (Ordinance No. 15 of 1986), or a township approved in terms of any prior law relating to townships;

“rabbit hutch” means any roofed-over building or structure in which rabbits are kept, other than one in which a battery system is operated;

“rabbit run” means any unroofed wire mesh or other enclosure in which rabbits are kept, whether or not it is attached to a rabbit hutch;

“stable: means any building or structure used to accommodate livestock other than poultry;

“wild animal” means an animal of a species that is not generally domesticated and without limitation includes all animals indigenous to South Africa other than domesticated guinea- fowls.

Part 1: General provisions relating to the keeping of animals

Application of Chapter

96. (1) Subject to the provisions of subsection (2), the provisions of this Chapter do not apply to -
- (a) any agricultural show where animal are kept on a temporary basis; and
 - (b) any laboratory where animals are kept for research purposes.
- (2) The provisions of section 144 apply to the keeping of animals at any agricultural show and at research laboratory.
- (3) No person may, subject to the provision of section 121, keep or allow to be kept, any animal other than an approved pet on an erf in a proclaimed township, provided the keeping of such pet does not create or constitute a nuisance
- (4) If at any time it appears to an authorized official that the keeping of poultry or rabbits on an erf or agricultural holding, in respect of which a permit has been granted, is likely to constitute a nuisance or danger to the public health, that official may -
- (a) cancel the permit; or
 - (b) prohibit the keeping of such poultry or rabbits.
- (5) An authorized official must serve a notice on the permit holder or the owner of the erf or agricultural holding concerned, informing him or her of a decision in terms of subsection (1) and instruct the owner to comply with the requirements within the period stated in such notice, which must be at least 48 hours.

- (6) An authorized official must as soon as a permit has been cancelled, notify the permit holder of that fact in writing.
- (7) An authorized official may, subject to the foregoing provisions of this section, issue a new permit if he is satisfied that the reason for the cancellation no longer exists or that there is no reason why a new permit should not be issued.

Part 2: Keeping of cattle, horses, mules and donkeys

Requirements for premises

97. (1) No person may keep any cattle, horse, mule or donkey in a stable or enclosure that does not comply with the following requirements:
- (a) Every wall and partition of the stable must be constructed of brick, stone, concrete or other durable material;
 - (b) the internal wall surfaces of the stable must be constructed of smooth brick or other durable surface brought to a smooth finish;
 - (c) the height of the walls to the wall plates of the stable must –
 - (i) if the roof is a pitched roof be 2,4 metres;
 - (ii) if the roof is a flat roof be 2,7 metres;
 - (iii) if the roof is a lean to roof be a mean height of 3 metres with a minimum of 2,4 metres on the lowest side;
 - (iv) in the case of a stable which has an opening along the entire length of one of it's long sides be not less than 2 metres;
 - (d) the stable must have a floor area of at least 9m² for each head of cattle, horse, mule or donkey accommodated in it;
 - (e) lighting and ventilation must be provided by openings or glazed opening windows or louvers totalling at least 0,3 m² for each animal to be accommodated in it except in the case of a stable open along the entire length of one of its long sides;
 - (f) the lowest point of every opening , window or louvers must be at least 1,8 metres, above floor level;
 - (g) the floor of the stable must be constructed of concrete or other durable and impervious material brought to a smooth finish graded to a channel and drained in terms of section 121;
 - (h) an enclosure must have an area of at least 10m² for each head of cattle, horse, mule or donkey accommodated in it and the fencing must be strong enough to prevent the animals from breaking out;
 - (i) no enclosure or stable may be situated within –
 - (i) 15 metres of the boundary of any land, property, dwelling or other structure used for human habitation; or
 - (ii) 50 metres of any water resource or water supply intended or used for human consumption; and
 - (j) there must be a water supply adequate for drinking and cleaning purposes next to every stable or enclosure.

Duties of keeper of cattle, horses, mules and or donkeys must –

98. Any person who keeps any cattle, horse, mule or donkey must -
- (a) maintain the premises, and any equipment, apparatus, container or receptacle used in connection with keeping the animal, in a clean and sanitary condition and in good repair,
 - (b) provide portable manure storage receptacles of an impervious material and with close fitting lids;
 - (c) keep every manure storage receptacle on a platform constructed of concrete or other durable and impervious material near the stable or enclosure;
 - (d) if these is so much manure and bedding that storage receptacles are impractical, provide a manure container or area complying with the following requirements:

- (i) The manure container or area must be roofed and enclosed by three walls constructed of brick, concrete or other durable material plastered to a smooth finish, and
 - (ii) the floor must be of smoothly finished concrete that is inclined so that it drains to a water channel along the full length of the open side, which is at least 150 mm in a diameter and is kept filled with water
- (e) remove all the manure from the stable and enclosure at least once every 24 hours and place it in the manure storage receptacles or manure container or area until it is removed from the premises;
 - (f) remove the contents of the manure storage receptacles or manure container or area from the premises at least one every second day and dispose of the manure in a way which will not create a public health nuisance;
 - (g) remove all bedding from the stable at least once a week and store it in the manure receptacles or manure container or area until it is removed from the premises;
 - (h) store all saddles, bridles, harnesses and other equipment or articles use in connection with the keeping of the animals, in a storeroom or other adequate storage facility;
 - (i) store all feed in a rodent-proof storeroom and all loose feed in rodent-proof receptacles with close fitting lids; and
 - (j) Take adequate measures to keep the premises free of pests and to prevent offensive odours arising from the keeping of cattle, horses, mules and donkeys.

Part 3: Keeping of goats and sheep

Application

99. The provision of section 99 and 100 also apply to the temporary keeping of a goat on any premises for the provision of milk for medical reasons

Requirements for premises

100. (1) No person may keep goats or sheep in –
- (a) an enclosure which does not comply with the following requirements:
 - (i) the minimum overall floor area must be 30m²; and
 - (ii) at least 1,5 m² of floor space must be provided for every goat or sheep accommodated in it, or
 - (b) a stable which does not comply with the following requirements:
 - (i) every wall must be constructed of brick, stone, concrete or other durable material;
 - (ii) every wall must be at least 2 metres in height and have a smooth internal finish;
 - (iii) the floor must be constructed of concrete or other durable and impervious material brought to a smooth finish and graded to a channel drained in terms of section 121;
 - (iv) at least 1,5 m² of floor space must be provided for every goat or sheep accommodated in it with an overall minimum floor area of 6 m²; and
 - (v) lighting and ventilation opening totalling at least 0.15 m² per goat or sheep must be provided.
- (2) No person may keep goats or sheep in an enclosure or stable within -
- (a) 15 metres of any boundary of any land, dwelling, building or other structure used for human habitation; or
 - (b) 50 metres of any water resources or water supply intended or used for human consumption.

- (3) Every person must provide a water supply adequate for drinking and cleaning purposes situated next to or in every enclosure or stable used to accommodate goats or sheep.

Duties of keeper of goats and sheep

101 Any person who keeps goats or sheep must -

- (a) maintain the premises and any equipment, apparatus, container or receptacle used in connection with keeping the animal in a clean and sanitary condition and in good repair;
- (b) provide portable manure storage receptacles of an impervious material and with close fitting lids;
- (c) keep every manure storage receptacle on a platform that enables the surface underneath the receptacle to be cleaned;
- (d) remove all manure from the enclosure or stable at least once every seven days and place it in the manure storage receptacles;
- (e) remove the contents of the manure storage receptacles from the premises at least once every seven days and dispose of the manure in a way that will not create a public health nuisance; and
- (f) store all feed in a rodent-proof storeroom and all loose feed in rodent-proof receptacles with close fitting lids in the storeroom.
- (g) Take adequate measures to keep the premises free of pests and to prevent offensive odours arising from the keeping of goats and sheep.

Part 4: Keeping of poultry

Application

102. The provisions of sections 103(d), (f), (g) and 104(e), do not apply to any person keeping ten or less poultry.

Permit requirement

103. No person may keep more than 10 poultry on an erf in a proclaimed township or 100 poultry on premises zoned for agricultural purposes except in terms of a permit authorizing that activity.

Requirement for premises

104. No person may keep poultry in premises which do not comply with the following requirements:

- (a) In relation to a poultry house -
 - (i) every wall must be constructed of brick, stone, concrete or other impervious material and must have a smooth internal surface;
 - (ii) the floor must be constructed of concrete or other impervious material brought to a smooth finish;
 - (iii) the upper floor of a two or more story structure must be constructed of an impervious and easily cleanable material;
 - (iv) the minimum floor area must be -
 - (aa) 0,20 m² for each grown fowl, duck, muscovite duck or guinea fowl;
 - (bb) 0,5 m² for each grown goose, turkey or peacock; and
 - (cc) 0,14 m² for each grown pigeon; and
 - (v) the minimum aggregate floor area must be 4m²;
- (b) a poultry run, if provided, must be enclosed with wire mesh or other durable material;
- (c) in relation to a building or structure housing a battery system –

- (i) every wall, if provided, must be at least 2,4m high, must be constructed of concrete, stone, brick or other impervious material and must have a smooth internal surface;
 - (ii) If walls are provided, the building must be ventilated and lighted by means of mechanical ventilation and artificial lighting or by obtaining natural ventilation and light through openings or opening windows of an area not less than 15% of the floor area of the building or structure;
 - (iii) the floor must be constructed of concrete or other impervious material brought to a smooth finish and if required by an environmental health practitioner, the floor surface must be graded and drained by means of a channel drained in terms of section 121;
 - (iv) if no walls are provided, or the walls are made of metal, the floor must be provided with a curb at least 150 mm high around its edges;
 - (v) the cages of the battery system must be made of an impervious material; and
 - (vi) if required by an environmental health practitioner, a tray of an impervious material must be fitted under every cage for the collection of manure;
- (d) a water supply adequate for drinking and cleaning must be provided in or next to every poultry house and poultry run and in or next to a building or structure housing a battery system;
 - (e) no poultry house, poultry run, or building or structure housing a battery system, may be constructed within 3 metres of –
 - (i) any dwelling or other building or structure used for human habitation; and
 - (ii) any place where foodstuffs are stored or prepared for human consumption; or
 - (iii) the nearest boundary of any land;
 - (f) feed must be stored in an adequate rodent-proof storeroom,
 - (g) adequate washing facilities must be provided for the cleaning of the cages;
 - (h) If required by an environmental health practitioner, due to the amount of manure stored on the premises awaiting removal, a storage area complying with the following requirements must be provided:
 - (i) A roofed platform constructed of concrete or other impervious material;
 - (ii) the platform's outside edges must have a minimum curb of 100 mm high;
 - (iii) the platform must be graded and drained in terms of section 121; and
 - (iv) the roof of the platform must extend a minimum of 1 metre beyond the edges of the base of the platform.

Duties of keeper of poultry

105. Any person who keeps poultry must-

- (a) ensure that all poultry is kept within a poultry run or building or structure housing a battery system;
- (b) maintain the premises and any equipment, apparatus, container or receptacle used in connection with keeping the poultry, in a clean, sanitary condition and in good repair;
- (c) maintain the premises and every poultry house, poultry run or building or structure housing a battery system and all cages clean and free from pests;
- (d) ensure that the poultry do not disturb or hinder the comfort, convenience, peace or quiet of the public;
- (e) provide portable manure storage receptacles of an impervious material and with close fitting lids and keep the manure storage receptacles on a platform;
- (f) remove all manure and other waste from a poultry house and poultry run at least once every 48 hours and once every four days from a building or structure housing a battery system;
- (g) place the manure and other waste matter in manure storage receptacles;

- (h) remove the contents of the manure storage receptacles from the premises at least once every seven days and dispose of the manure in a way which will not create a public health nuisance; and
- (i) take adequate measure to keep the premises free of flies, cockroaches and rodents and to prevent offensive odours arising from the keeping of poultry on the premises.

Part 5: Keeping of rabbits

106. The provisions of section 107(b), (c), (d), (f) and (g), and 108(d), (f) and (g), do not apply to any person keeping ten or less rabbits.

Permit requirement

107. No person may keep more than 5 adult rabbits on an erf in a proclaimed township or more than 20 adult rabbits on premises zoned for agricultural purposes, except in terms of a permit authorizing that activity.

Requirements for the premises

108. No person may keep rabbits in premises which do not comply with the following requirements:
- (a) In relation to a rabbit hutch -
 - (i) every wall must be constructed of brick, stone, concrete or other impervious material and must have a smooth internal surface;
 - (ii) the floor surface must be –
 - (aa) constructed of concrete or other impervious material brought to a smooth finish;
 - (bb) situated at least 150 mm above ground level, and
 - (cc) graded to a channel drained in terms of section 143, if required by an environmental health practitioner,
 - (iii) adequate ventilation must be provided; and
 - (iv) the rabbit hutch must be adequate in size to allow free unobstructed movement of animals kept therein.
 - (b) any rabbit run must be enclosed with wire mesh or other durable material and constructed in a way that prevents the escape of rabbits from the run;
 - (c) in relation to a building or structure housing a battery system –
 - (i) every wall must –
 - (aa) be at least 2,4 meters high;
 - (bb) be constructed of concrete, stone, brick or other durable material; and
 - (cc) must have a smooth internal surface;
 - (ii) if walls are provided, the building or structure must be ventilated and lighted by means of natural openings or windows of an area not less than 15% of the floor area of the building or structure;
 - (iii) the floor must be constructed of concrete or other impervious material brought to a smooth finish, and if required by an environmental health practitioner, the floor surface must be graded to a channel drained in terms of section 121;
 - (iv) if no walls are provided, or walls are made of metal, the floor must be provided with curb at least 150 mm high around its outside edges; and
 - (v) every cage must be constructed of an impervious material and fitted with trays of an impervious material for the reception of manure;
 - (d) a water supply adequate for drinking and cleaning purposes must be provided in or next to every rabbit hutch or building or structure housing battery system;
 - (e) no person may erect a rabbit hutch, rabbit run or building or structure housing a battery system within five metres of -

- (i) any dwelling, building or other structure used for human habitation;
 - (ii) any place where foodstuffs are stored or prepared for human consumption; or
 - (iii) the nearest boundary of any land;
- (f) an adequate rodent-proof storeroom must be provided for the storage of feed, and
- (g) adequate washing facilities must be provided for the cleaning of cages.

Duties of keepers of rabbits

109. Any person who keeps rabbits must -

- (a) keep all rabbits within the rabbit hutch, rabbit run or building or structure housing a battery system;
- (b) maintain the premises and any equipment, apparatus, containers or receptacles used in connection with keeping rabbits, in a clean, sanitary condition and in good repair;
- (c) maintain the premises free from offensive odours and every rabbit hutch, rabbit run or building or structure housing a battery system and all cages clean and free from pests,
- (d) provide portable manure storage receptacles of an impervious material with close-fitting lids which receptacles must be kept on a platform;
- (e) remove all manure and any other waste matter from the rabbit hutch , rabbit run or building or structure housing a battery system, at least once every 48 hours;
- (f) keep the manure and waste in manure storage receptacles until it is removed from the premise; and
- (g) remove the contents of the manure storage receptacles from the premises at least once every seven days and dispose of the contents in a way which will not create public health nuisance.
- (h) take adequate measures to keep the premises free of pests.

Part 6: Keeping of birds other than poultry

Requirements for the premises

110. No person may keep any bird, other than poultry, in an aviary which does not comply with the following requirement:
- (a) the aviary must be constructed of durable rodent-proof material;
 - (b) adequate access must be provided for cleaning purpose;
 - (c) if the aviary is constructed above ground level, its base must be constructed of an impervious and durable material and must be situated a minimum of 300 mm above ground level;
 - (d) the aviary may not be situated within three metres of any building or structure, boundary fence or boundary wall; and
 - (e) a water supply adequate for drinking and cleaning purposes must be situated in or next to every aviary.

Duties of keepers of aviaries

111. Any person who keeps birds in an aviary must -

- (a) ensure that the aviary and the premises are kept in a clean condition and free from pests;
- (b) provide and use rodent-proof facilities for the storage of bird food; and
- (c) ensure that the birds do not disturb the comfort, convenience, peace or quiet of the public.

Part 7: Kennels and catteries

Requirements for premises

112. No person may use premises as kennels or cattery except in terms of a permit authorizing that activity and unless the premises comply with the following requirements:
- (a) every dog or cat must be kept in an enclosure which complies with the following requirements:
 - (i) the enclosure must be constructed of impervious materials and must provide adequate access for cleaning purposes;
 - (ii) the floor must be constructed of concrete or other impervious material brought to a smooth finish and graded to a channel 100 mm wide, extending the full width of the floor, which channel must be graded and drained into a gully connected to the Council's sewer by means of a pipe 100 mm in diameter; and
 - (iii) a curb 150 mm high must be provided along the edge of the channel, referred to in subparagraph (ii), to prevent any storm water runoff entering the channel; and
 - (iv) the enclosure must be adequate in size to allow free unobstructed movement of animals kept therein.
 - (b) subject to the provisions of paragraph (c) every enclosure referred to in paragraph (a), must be provided with an adequate roofed shelter that complies with the following requirements:
 - (i) every wall must be made of brick, stone, concrete or other impervious material;
 - (ii) every wall must have a smooth internal surface;
 - (iii) the floor must be made of concrete or other impervious material brought to a smooth finish; and
 - (iv) every shelter must have adequate access for cleaning and eliminating pests;
 - (c) a dog kennel which complies with the following requirements may be provided instead of the shelter contemplated in paragraph (b):
 - (i) the kennel must be constructed of an approved weatherproof and insulating material or other similar material;
 - (ii) the kennel must be movable;
 - (iii) the kennel must be placed on a base constructed of concrete or other impervious material with an easily cleanable finish; and
 - (iv) a sleeping board, which will enable the dog to keep dry, must be provided in any kennel that does not have a waterproof base;
 - (d) a concrete apron extending at least one metre wide around the edges of the enclosure must be provided;
 - (e) the apron must be graded and drained in a way that drains storm water away for the enclosure;
 - (f) a water supply, adequate for drinking and cleaning purposes, must be provided in or adjacent to the enclosure;
 - (g) any cage in which cats are kept must be constructed of durable impervious material and in a manner that it may be easily cleaned; and
 - (h) no shelter, enclosure or kennel may be situated within five metres of any –
 - (i) dwelling or other building or structure used for human habitation;
 - (ii) place where food is stored and prepared for human consumption; or
 - (iii) the boundary of the premises.

Food preparation areas

113. Any keeper of kennels or cattery who is so instructed by an environmental health practitioner must provide a separate room or roofed area for the preparation of food which complies with the following requirements:
- (a) The floor of the room or roofed area must be constructed of concrete or other impervious material brought to a smooth finish;
 - (b) the internal wall surfaces of the room or roofed area must be smooth and easily cleanable;
 - (c) adequate washing facilities for food bowls and utensils must be provided; and
 - (d) a rodent-proof storeroom must be provided for the storage of food.

Duties of a keepers of kennels or catteries

114. Any person operating kennels or a cattery must -
- (a) maintain the premises, equipment and every vessel, receptacle or container and sleeping board used in connection with the kennels or cattery in a clean, sanitary condition and in good repair;
 - (b) provide portable storage receptacles, of an impervious material with close fitting lids, for the storage of dog and cat faeces;
 - (c) remove all faeces and other waste matter from the enclosure and shelter at least once every 24 hours and place it in the receptacles referred to in paragraph (b);
 - (d) remove the contents of the storage receptacles from the premises at least twice every seven days and dispose of it in a manner that will not create a public health nuisance;
 - (e) store all loose food in receptacles, with close fitting lids, in the food store;
 - (f) provide adequate refrigeration facilities to store perishable foods on the premises;
 - (g) provide adequate separate refuse receptacles, with close fitting lids, on the premises for refuse other than faeces;
 - (h) keep any sick dog or cat isolated from any other animals; and
 - (i) maintain the premises free from offensive odours and every enclosure, shelter, kennel, cage or food store clean and free from pests.
 - (j) ensure that no dog or cat disturbs the comfort, convenience, peace and quiet of the public.

Part 8: Pet shops and pet parlours

Requirements for premises

115. No person may operate a pet shop or pet parlour in or on any premises which do not comply with the following requirements:
- (a) Any wall and partition must -
 - (i) be constructed of brick, concrete or other impervious material;
 - (ii) have a smooth and easily cleanable internal surface; and
 - (iii) be painted with a washable paint or other adequate finish:
 - (b) all floors surface must be constructed of concrete or other impervious material brought to a smooth finish;
 - (c) all ceilings must be dust proof and easily cleanable;
 - (d) at least one wash hand basin, with a supply of running hot and cold potable water must be provided for employees and the ratio of wash hand basins to persons employed on the premises must not be less than 1:15
 - (e) the wash hand basins, referred to in subparagraph (d), must be drained in terms of section 121;
 - (f) adequate storage facilities must be provided;
 - (g) facilities for the washing of cages, trays and other equipment must be provided in the form of ether –
 - (i) a curbed and roofed over platform with a minimum surface area 1,5m² , raised at least 100 mm above the floor and constructed of concrete or

- (d) ensure that in any room in which the pets are kept –
 - (i) 50% of the floor space is unobstructed; and
 - (ii) the cages are placed a minimum of 800 mm from one another;
- (e) maintain the premises and every cage, tray, container, receptacle, basket and all apparatus, equipment or appliances used in connection with the pet shop or pet parlour, in a clean and sanitary condition, free from pests and in good repair;
- (f) provide overalls or other protective clothing for employees and ensure that the employees wear them when on duty;
- (g) provide isolation facilities in which every pet which is, or appears to be, sick must be kept while on the premises;
- (h) provide an adequate supply of potable water for drinking and cleaning purposes;
- (i) provide adequate ventilation to ensure the comfort and survival of the pets; and
- (J) ensure that the number of pets contained in each cage does not impede their free movement.

Part 9: Keeping of wild animals

Requirements for the premises

117. No person may, without the approval of the relevant nature conservation authorities, keep wild animals on premises which do not comply with the following requirements:
- (a) Every wild animal must be kept in an enclosure and/or housing constructed and equipped as follows:
 - (i) the enclosure and/or housing must satisfy the needs of the specific animal as specified by the relevant nature conservation authorities;
 - (ii) the enclosure and/or housing may not be situated within 50 metres of –
 - (aa) any boundary of the premises;
 - (bb) any dwelling, building or structure used for human habitation;
 - (cc) any dwelling, building or structure where food is stored, handled or prepared for human consumption; or
 - (dd) any water resource intended for domestic consumption;
 - (iii) an adequate supply of potable water for drinking and cleaning purposes must be provided; and
 - (iii) the enclosure and/or housing must be graded and drained in a way that does not pollute any water resource or create a public health nuisance,
 - (b) a separate room, equipped with a preparation table and wash-up sink, supplied with running potable water and drained in accordance with section 143, must be provided for the preparation of food;
 - (c) adequate facilities must be provided for washing any cages, trays, crate, refuse receptacles and food containers in the form of either –
 - (i) a curbed platform constructed of concrete or other impervious material brought to a smooth finish; or
 - (ii) a stainless steel sink or trough adequate in size to accommodate the equipment to be washed;
 - (d) both facilities referred to in paragraph (c) must be provided with a supply of running water adequate for drinking and cleaning and be drained in accordance with section 121;
 - (e) any area and room in which fodder and food are stored must be rodent-proof; and

- (f) the enclosure and/or housing must be adequate in size to allow free unobstructed movement of animals kept therein.

Duties of keepers of wild animals

118. Any person who keeps wild animals must -

- (a) maintain the premises in a clean and sanitary condition at all times;
- (b) clean all manure and food scraps from any enclosure and/or housing at adequate intervals;
- (c) prevent the soil beneath or around any enclosure and/or housing from becoming saturated with urine or polluted by any other matter or liquid; and
- (d) remove all bedding from any housing at least once every seven days and store it in a manure receptacle or manure container or area, until it is removed from the premises.

Part 10: Keeping of pigs

Requirements for premises

119 No person may keep pigs on premises which do not comply with the following requirements

- (a) Every wall must –
 - (i) be constructed of brick, stone, concrete or other durable material;
 - (ii) have a minimum height of 1,5 metres; and
 - (iii) have a smooth , impervious internal surface;
- (b) the floor area must provide at least 3m² for each pig accommodated in the pigsty, with an overall minimum floor area of 6m²;
- (c) the roof over any portion of a pigsty must have a minimum height of 1,5 metres;
- (d) except in the case of a roofed structure having one of its long sides completely open, the lighting and ventilation openings must –
 - (i) be situated opposite one another in the external walls, and
 - (ii) provide a minimum of 0,15 m² for each pig;
- (e) the floor must be –
 - (i) at least 150 mm above the surrounding ground level;
 - (ii) constructed of concrete or other durable and impervious material brought to a smooth finish; and
 - (iii) graded for the run-off liquids into an open channel outside the pigsty;
- (f) the open channel referred to in paragraph (e)(iii) must -
 - (i) be constructed of concrete or other durable and impervious material;
 - (ii) be a minimum of 100 mm in diameter; and
 - (iii) be drained in terms of section 121;
- (g) the pigsty must be strong enough to prevent the pigs breaking out,
- (h) the pigsty may not be situated within 100 meters of –
 - (i) the boundary of the premises;
 - (ii) any dwelling, building or structure used for human habitation;
 - (iii) any place where foodstuffs are stored or prepared for human consumption; or
 - (iv) any water resource intended for domestic consumption;
- (i) a roofed over concrete platform must be provided for -

- (i) the storage of all swill in containers; and
 - (ii) the preparation of pig feed;
- (j) the platform referred to in paragraph (i) must comply with the provisions of paragraph (e) and in addition, must have a curbing of a minimum height of 100 mm on each edge; and
- (k) a water supply, adequate for drinking and cleaning purpose, must be provided in or adjacent to the pigsty.

Duties of keepers of pigs

120. Every person keeping pigs must -

- (a) ensure that every pig is kept within a pigsty;
- (b) maintain the premises and any equipment, apparatus, containers and receptacles concerned in a clean and sanitary condition and in good repair;
- (c) provide portable storage receptacles, of impervious material and with close fitting lids, to store manure;
- (d) keep all manure storage receptacles on a platform that complies with the provisions of section 141 (j);
- (e) remove all manure from the pigsty at least once every 24 hours and place it in the manure storage receptacles;
- (f) remove the contents of the manure storage receptacles from the premises at least once every second day and dispose of the manure in a manner that will not create a public health nuisance;
- (g) provide a rodent-proof store-room of adequate size in which all feed, other than swill, must be stored; and
- (h) provide rodent-proof receptacles, with close fitting lids, in which to store all loose feed.

Part 11: Keeping of pets

Duties of keepers of pets

121. Any person who keeps pets must -

- (a) maintain the premises in a clean and sanitary condition at all times;
- (b) clean all manure and food scraps from any premises at adequate intervals;
- (c) prevent the soil beneath or around any premises from becoming saturated with urine or polluted by any other matter or liquid

Part 12: General provisions

Drainage

122. Any person keeping animals must ensure that all sinks, wash hand basins, baths, shower-baths, troughs, floor surfaces, channels and washing platforms required to be drained in terms of this Chapter, are drained in accordance with the provisions of the National Building Regulations and Building Standards

Requirements for keeping of bees

123. (1) No person may keep bees on any premises unless –

- (a) that person is the holder of a permit authorizing that activity; and
- (b) every bee hive is situated –
 - (i) a minimum of five metres from any boundary of the premises; and
 - (ii) a minimum of twenty metres from any public place or building used for human habitation or from any place used for the keeping of animals, poultry and birds;

- (c) the bees are kept in a approved bee hive, and
 - (d) the bee hive is –
 - (i) kept in an area inaccessible to children and animals;
 - (ii) kept in the shade at all times; and
 - (iii) supplied with a source of drinking water within five metres of the hive.
- (2) No person may dump or deposit any garbage, compost, grass cuttings or manure within five metres of any bee hive.

Illness attributable to animal, poultry or birds

124. (1) The illness of any person, which may be attributed to any animal, poultry or bird kept or handled by that person, must be report to an environmental health practitioner within 24 hours of diagnosis, by the person making the diagnosis.
- (2) An environmental health practitioner may order the removal of an animal, poultry or bird from premises if he or she reasonably believes that the animal poses a public health nuisance or public health hazard.

Keeping of and slaughtering animals for religious and ceremonial purposes

125. (1) A person intending to slaughter an animal in any place other than in recognizes abattoir must
- (a) notify the Council in writing, fourteen days prior to the event; and;
 - (b) submit prior written permission from the owner, tenant or person in control of the land where such a slaughtering will occur if the person who performs the slaughtering is not the owner, tenant or person in control of the relevant land; if the applicant is the owner, proof of ownership must be submitted with the application.
 - (c) obtain prior written permission from Council to conduct such a slaughtering.
 - (d) slaughter the animal in a position where the slaughtering cannot be observed by any person on neighbouring premises or any member of the public;
 - (e) use the meat derived from the slaughtered animal solely for the purpose of the religious or ceremonial feast;
 - (f) handle the meat in a hygienic manner at all times;
 - (g) dispose of any portions, faecal deposits and blood of the animal which are not used or consumed, in a manner which will not become a public health hazard or public health nuisance; and
 - (h) not keep such animal prior to slaughtering for a period in excess of 12 hours;
 - (i) ensure that the animal does not cause a noise nuisance or disturbing noise whilst being kept for slaughter or being slaughtered.
- (2) A person intending to slaughter an animal for religious and/or ceremonial purposes may require the service of an environmental health practitioner for post-mortem examination of the slaughtered animal at a cost determined by Council from time to time.

CHAPTER 15

CARAVAN PARKS AND CAMPING GROUNDS

Definitions

126. For the purposes of this chapter, unless the context otherwise indicates

“approved” means approved by the Council, regard being had to the reasonable public health requirements of the particular case:

“camp” or “camping” means the erection or use of a temporary or movable structure for the purpose of human occupation, including tents but excluding non-folding caravans;

“camping ground” means an area of land on which accommodation is provided for camping purposes, whether or not a charge is made for such accommodation;

“camp site” means an area or plot of ground within a camping ground for the accommodation of camper’s party:

“camper’s party” means a party of not more than six persons;

“caravan” means a vehicle, with or without means of self-propulsion, designed and permanently constructed for sleeping or dwelling purpose, or both, intended for travel, recreation and vocational purposes and having no foundation other than wheels which may be supplemented by stabilizing jacks. (Park Homes or any other similar structure or vehicles not normally permitted without a special permit are from this definition).

“caravan park” means an area of land on which accommodation is provided for three or more caravans, whether or not a charge is made for such accommodation:

“caravan site” means an area or plot of ground within a caravan park for the accommodation of a caravan and its towing vehicle, if any;

Requirements for Premises

127. (1) For each caravan or camp site there shall be provide a clearly demarcated and numbered level area of not less than 120 m² with a minimum width of 10m.
- (2) In addition to the area required in terms of sub-section (1), there shall be provided, for recreational purposes, an area equal to at least 25% of the gross usable area of the caravan park or camping ground.
- (3) Roadways not less than 5m in width, with a hardened surface, shall be provided so as to afford vehicle adequate access to all caravan or camp sites under all weather conditions, and such roads shall afford free access to a public road.
- (4) The caravan park or camping ground shall be properly and attractively laid out and landscaped, and it shall be a condition that the plan as approved by the Council shall be adhered to in every detail by the licensee.
- (5) Approved direction signs, indicating the water closets, urinals, ablution and other facilities required in the caravan park or camping ground in terms of these by-laws, shall be placed at approved points.
- (6) A fence not less than 2m high and meeting with the approval of the Council shall be provided to enclose the entire area of the caravan park or camping ground.

- (7) The entrance to the caravan park or camping ground, roadways, paths, water closets, urinals, ablution and other facilities, and fire fighting and first aid points, shall be adequately illuminated during the hours of darkness.
- (8) An adequate and constant supply of potable water, shall be available and one permanent stand pipe shall be provided in a convenient position for every four caravan or camp sites, and under every stand pipe tap there shall be a gully trap set in a dished and properly rendered surround and connected to an approved drainage system.
- (9) All bath, showers and wash hand basins shall be provided with an adequate and constant supply of hot and cold running water and shall be fitted with waste pipes suitably trapped and discharging over and into an external gully connected to an approved drainage system.
- (10) Every bathroom or shower cubicle shall have a door which is lockable from the inside and shall be provided with a built-in soap dish. In addition, every bathroom shall be provided with a seat and a wall hook or towel rail of at least 600 mm and every shower cubicle with a disrobing area suitably screened from the shower, a seat and a wall hook or towel rail of at least 600 mm.

Sanitary Facilities

128. The following separate water closet and urinal accommodation shall be provided.
- (1) *Males:* A minimum of one water closet and 750 mm of urinal space for every eight caravan or camp sites or part thereof. The bucket and channel of the urinal shall be of stainless steel or other approved material.
 - (2) *Females:* A minimum of two water closets and thereafter an additional water closet for every six caravan or camp sites or part thereof in excess of twelve sites. A bin with a self-closing lid shall be provided in each water closet.
 - (3) The internal wall surface of all bathrooms, shower cubicles and water closets shall be painted with a light coloured oil paint or shall be provided with a wall covering of an approved material.
 - (4) All water closets, urinals, ablution and other facilities shall be suitably designated and the entrances in the water closets, urinals and ablution facilities shall be screened from public view.
 - (5) An approved slop sink unit with an adequate and constant supply of cold running water shall be provided for caravanners and campers where chemical toilets receptacles shall be emptied and cleaned. The unit shall be installed within a separate compartment adjacent to an ablution block with access thereto for both sexes. The floor of such compartment shall be graded and drained to an approved drainage system.
 - (6) For every twenty caravan or camp sites or part thereof for the uses of caravanners or campers, a screened or enclosed drying yard and a laundry room equipped with a double bowl stainless steel laundry trough and an ironing board or table shall be provided. The laundry trough shall be provided with an adequate and constant supply of hot and cold running water and fitted with waste pipes suitably trapped and discharging over and into an external gully connected in an approved drainage system. An earthed 15 ampere socket outlet for a three-pin plug shall be fitted in the laundry room.
 - (7) For every twenty caravan sites or part thereof and for every ten camp sites or part thereof, there shall be provided under a roofed area, on an approved impervious floor, which shall be graded and drained to an approved drainage system, a double compartment wash-up sink unit for the washing of caravanners or camper's culinary utensils.

CHAPTER 16

EXHUMATIONS

Application to exhume a body or body ashes

129. Any person who intends to exhume or cause to exhume a body or body ashes shall comply with sections 28 and 30 of Chapter 6 of the Ekurhuleni Metropolitan Municipality Cemetery and Crematorium By-laws.

Exhumation requirements

130. The Director Municipal Health Services shall grant authorization for an exhumation to be conducted subject to compliance with the following requirements:
- (1) Handling of the mortal remains must be done by a registered undertaker.
 - (2) All persons engaged in the physical exhumation shall be provided with approved protective clothing such as durable hand gloves, overalls, gumboots and aprons of durable material and nose and mouth mask.
 - (3) An effective, approved disinfectant to be provided and effectively used to disinfect during and after exhumation.
 - (4) After exposing the coffin, and/or body remains, such coffin, body remains and soil surrounding it shall be effectively disinfected.
 - (5) If the coffin is still in a good state of repair it must not be opened and must be placed in a suitable container immediately after exhumation.
 - (6) if the deceased has not been buried in a coffin, or if the state of decomposition of the coffin and the remains render compliance with sub-section (5) impossible, the remains and the content of the grave must be placed in a suitable container immediately after exhumation.
 - (7) All used disposable protective clothing to be placed into refuse bags and be disposed of in an approved manner.

CHAPTER 17

OPERATION AND MANAGEMENT OF INGOMA – INITIATION SCHOOL

131. Definitions

- (1) “Abduction or kidnap” means taking a person forcefully without his consent or in the case of a minor without the consent or permission from parents or guardian.
- (2) “Circumcision” means the surgical removal of the foreskin including any external genitalia by traditional practitioner, medical practitioner or any person registered as such.
- (3) “Culture” means a traditional way of doing things and shall include habits, norms, mores, ethics and values.
- (4) “Health Officer” means a person who holds such qualifications which entitles him/her to be registered as a medical practitioner, or environmental health practitioner or nursing personnel and appointed to exercise the provision of these guidelines according to their professional practices.
- (5) “Initiate” means a person who has been admitted in the circumcision or initiation school for the purpose of being circumcised.

- (6) "Ngoma or Koma" means a cultural institution or place where circumcision is carried out and registered in terms of this document and circumcision school shall have the corresponding meaning.
- (7) "Police Officer" means any person appointed by the South African Police Service or the Council as a police or peace officer.
- (8) "Overseer" means a person who looks after initiates.
- (9) "Traditional Surgeon" means a traditional healer who performs the circumcision and includes any person who has been trained to do so and complies with the necessary requirements.
- (9) "Traditional Surgeon" means a traditional healer who performs the circumcision and includes any person who has been trained to do so and complies with the necessary requirements.

Reporting and registration of a Ngoma – Initiation school

- 132. (1) An accredited person who intends opening a Ngoma – Initiation School for the purpose of circumcision, shall submit a written application to the Council accompanied by a Certificate of Compliance completed by an Environmental Health Officer employed by Council.
- (2) The Council shall upon receipt of such a letter of intention to operate a Ngoma – Initiation School, issue the prescribed consent form as reflected in Annexure 2 and Annexure 3.
- (3) Such consent form shall be completed and submitted to the Council within a reasonable period not exceeding thirty days prior the commencement of a Ngoma – Initiation School. No Ngoma – Initiation School will commence before due process to inform the council have been acknowledge by the Council.

The Environmental Health Practitioner in the employment of the Council shall issue the applicant with a list of requirements which must be complied with before a registration certificate can be issued. (as reflected under schedule 3)

- (4) The environmental Health Practitioner shall after conducting an inspection of the proposed Ngoma grant a registration certificate conditionally or unconditionally.
- (5) A registration certificate shall be issued if minimum requirements pertaining to water, shelter and sanitation have been complied with.
- (6) No person shall open, operate or conduct any activity pertaining to the operation and management of a Ngoma – Initiation School without being registered with the Council.

Permission to conduct a Ngoma – Initiation school

- 133. Any medical practitioner, or traditional health practitioner and/or any person or traditional surgeon authorized in writing as competent by the Council may conduct male circumcision.

Admission to a Ngoma – Initiation School.

- 134 (1) Any male person who is eighteen (18) years of age or above may be admitted to a Ngoma – initiation School.
- (2) The parent or guardian of any male initiate who is below the age of eighteen (18) years must give a written consent before the male initiate being admitted to a Ngoma - Initiation School (See Annexure 2 for the prescribed consent form).

- (3) Any male person below the age 18 years, who submits himself to a Ngoma – Initiation school without the parent's consent, shall be detained temporarily before being admitted to a Ngoma – Initiation School.
- (4) The Council shall be informed accordingly and shall in turn receive the consent of the parents or guardians.
- (5) No person may abduct or kidnap any person to a Ngoma – Initiation School.
- (6) Any person who abduct or kidnaps any person to a Ngoma – Initiation School, shall be charge by the police officers for criminal acts.

Closure of an Ngoma – Initiation School

135. The Council may close any Ngoma which has been operating without being registered with the Council.

Establishment of a Ngoma – Initiation School advisory committee

136. (1) The Council shall establish a Ngoma – Initiation School advisory committee within its area of jurisdiction which shall receive all appeals and ensure the smooth management of the Ngoma – initiation schools.
- (2) The advisory committee may advise the Council to close any Ngoma – Initiation School if in its opinion the initiates' health is at risk.
- (3) Each of the following affected stakeholders shall have at least one representative on the initiation advisory committee:-
- (a) Medical, nursing, environmental health and emergency medical services.
 - (b) The South African Police or Metro Police.
 - (c) The Traditional Healers Association.
 - (d) The Department of Education.
 - (e) The civic association.
 - (f) The association for Ngoma fraternity.
 - (g) The local hospital.

Duties of a traditional surgeon at a Ngoma – Initiation School

137. (1) The traditional surgeon shall ensure that the initiates submit a premedical examination certificate prior to being admitted to a Ngoma – Initiation School. The certificate shall state clearly that the initiate is free from any medical condition which may cause unnecessary complications after the circumcision.
- (2) Any authorized traditional surgeon may conduct a Ngoma – Initiation School and shall immediately after that take the necessary measures to stop bleeding.
- (3) The traditional surgeon shall thereafter treat the initiates with medicines as recommended by the medical practitioner to stop unnecessary bleeding and to prevent any possible sepsis.
- (4) The removed body parts (e.g. foreskins) shall be disposed of as may be approved by an Environmental Health Practitioner.
- (5) The instruments used for circumcising must be used once per initiate unless sterilized accordingly.

Duration of a Ngoma – Initiation School.

138. (1) A Ngoma – Initiation School shall be conducted for a period of three to four months to allow healing.

- (2) A school calendar of the Department of Education shall be followed in the event that school –going initiates under the age of eighteen are admitted in a Ngoma and shall be conducted during the school holidays unless initiates are not in attendance of any formal education.

Treatment of initiates

- 139 (1) No initiate shall be subjected to any unnecessary suffering or punishment of any nature.
- (2) A Ngoma – initiation School teacher or any person are free to teach the initiates the Ngoma language, idioms and poems without any form of intimidation or interrogation.
- (3) No initiate shall be refused any water or food to the extent that it may result in starvation or dehydration.
- (4) Adequate sanitary facilities shall be provided for the initiates.
- (5) Initiates must be protected against extreme temperatures especially cold during winter.
- (6) Initiates who appear to be developing septic wounds shall be referred to the medical practitioner for further treatment.
- (7) A Ngoma – Initiation School shall identify at least one medical practitioner of their choice who shall assist them for referral purposes and in case of an emergency.

Cultural ethics and inspection of a Ngoma – Initiation School

- 140 (1) The Council, South African Police Service, and where necessary the Department of Education shall identify one or more persons with a medical, nursing or environmental health, background who are well conversant with the proceedings at a Ngoma to conduct regular visits to a Ngoma – Initiation School.
- (2) The health officer, medical officer or nurse shall during their visits take into consideration the environmental hygiene, medical and nursing aspects of a Ngoma – Initiation School and general health conditions of the initiates.
- (3) Such officers shall at all times keep themselves well informed or up to date with proceedings of a Ngoma – Initiation School to avoid any conflict which may arise.
- (4) Any matter which in the discretion of the said officer or nurse contravenes these By-laws shall be reported to the relevant authority.
- (5) No circumcision on females of any description shall be performed within the area of jurisdiction of the Council.

CHAPTER 18

AIR POLLUTION CONTROL

PART I

INTERPRETATION AND FUNDAMENTAL PRINCIPLES

Definitions

141. In this chapter, unless the context indicates otherwise-

“adverse effect” means any actual or potential impact on the environment that impairs, or would impair the environment or any aspect of it to an extent that is more than trivial or insignificant,

“air pollutant” means any substance (including but not limited to dust, smoke, fumes and gas) that causes or may cause air pollution;

“air pollution” means any change in the composition of the air caused by smoke, soot, dust (including fly ash), cinders, solid particles of any kind, gases, fumes, aerosols, and odorous substances.

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

“authorized person” means any person authorized by the Council to implement any provision of this by-law;

“best practicable means” means the most effective measures that can reasonably be taken to prevent, reduce or minimize air pollution, having regard to all relevant factors including, among others, local conditions and circumstances, the likelihood of adverse effects, the current state of technical knowledge and financial implications relative to the degree of environmental protection expected to be achieved by application or adoption of the measures;

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

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

“dark smoke” means:

- a) in respect of Part IV and V of this chapter, smoke which when measured using, a light absorption meter or obscuration measuring equipment has an obscuration of 20% or greater,
- b) in respect of Part VI of this chapter
 - (i) smoke which has a density of 60 Hartridge smoke units or more, provided that in relation to emissions from turbo-charge compressed ignition powered engines, it means a density of 66 Hartridge smoke units or more, or
 - (ii) smoke which has a light absorption coefficient of more than 2.125m^{-1} , provided that in relation to emissions from turbo-charge compressed ignition powered engines, it means a light absorption coefficient of more than 2.5m^{-1} .

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

“dwelling” means any building or other structure, or part of a building or structure, used as a dwelling, and any outbuildings ancillary to it, but excludes shacks and informal settlements:

“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;

“free acceleration test” means the method described in section 17(2) employed to determine whether vehicles are being driven or used in contravention of section 15(1);

“fuel-burning equipment” means any furnace, boiler, incinerator, or other equipment, including a chimney:

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

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

“living organism” means any biological entity capable of transferring or replicating genetic material, including sterile organisms and viruses’

“city 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);

“nuisance” means an unreasonable interference or likely interference caused by air pollution with:

- (a) the health or well being of any person or living organism; or
- (b) the use and/or enjoyment by an owner or occupier of his or her property and or environment:

“obscuration: means the ratio of visible light attenuated by air pollutants suspended in the effluent streams to incident visible light, expressed as a percentage;

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

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

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

“person” means a natural person or a juristic person;

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

“public road” means a road which the public has the right to use;

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

“vehicle” means any motor car, motor carriage, motor cycle, bus, motor lorry or other conveyance propelled wholly or partly by any volatile spirit, steam, gas or oil, or by any means other than human or animal power.

PART II

DUTY OF CARE

Person causing air pollution

142. (1) any person who is wholly or partially responsible for causing significant air pollution or creating a risk of significant air pollution occurring must take all reasonable measures:
- (a) to prevent any potential significant air pollution from occurring; and
 - (b) to mitigate and, as far as reasonably possible, to remedy any significant air pollution that has occurred.
- (2) The Council may, by resolution direct any person who fails to take measures required under subsection (1) -
- (a) to investigate, evaluate and assess the impact of specific activities and report thereon;
 - (b) to commence taking specific reasonable measures before a give date;
 - (c) to diligently continue with those measures;
 - (d) to complete them before a specified reasonable date; and
 - (e) Prior to making such resolution Council must give affected persons adequate opportunity to inform them of their relevant interests and to consult with any other organ of state.
- (3) Should a person fail to comply, or inadequately comply, with a directive under subsection (2), the Council may take reasonable measures to remedy the situation referred to in the directive.
- (4) Provided that if such person fails to take the measures required of him or her under subsection (1), the Council may recover all reasonable costs incurred as a result of it acting under subsection (3) from any of all of the following persons -
- (a) any person who is or was responsible for, or who directly or indirectly contributed to , the air pollution or the potential air pollution;
 - (b) the owner of the land at the time when the air pollution or the potential for air pollution occurred, or that owner's successor in title;
 - (c) the person in control of the land or any person who has or had a right to use the land at the time when -
 - (i) the activity or the process in question is or was performed or undertaken; or
 - (ii) the situation came about; or;
 - (d) any person who negligently failed to prevent -
 - (i) the activity or the process being performed or undertaken, or;
 - (ii) the situation from coming about.
- (5) If more than one person is liable under subsection (4), the liability may be apportioned among the persons concerned according to degree to which each was responsible for the harm to the environment resulting from their respective failures to take the measures required under subsection (1) and (2).

PART III

SMOKE EMISSIONS FORM PREMISES OTHER THAN DWELLINGS

Application

143. For the purpose of this Part, "premises" does not include dwellings.

Prohibition

144. (1) Subject to subsection (2), dark smoke shall not be emitted form any premises

for an aggregated period exceeding three minutes during any continuous period of thirty minutes.

- (2) This section does not apply to dark smoke which is emitted from fuel-burning equipment which occurs while the equipment is being started or while the equipment is being overhauled or repaired, or awaiting overhaul or repair, unless such emission could have been prevented using the best practicable means available.
- (3) If dark smoke is emitted in contravention of subsection (1) the owner, operator and/or the occupier of the premises shall be guilty of an offence.

Installation of fuel-burning equipment

145. (1) No person shall install, alter, extend or replace any fuel-burning equipment on any premises without the prior written authorization of the Council, which may only be given after consideration of the relevant plans and specifications.
- (2) Any fuel-burning equipment installed, altered, extended or replaced on premises in accordance with plans and specifications submitted to and approved, for the purpose of this section, by the Council shall be presumed until the contrary is proved to comply with the provisions of subsection (1)
 - (3) Where fuel-burning equipment has been installed, altered, extended or replaced on premises in contravention of subsection (1):
 - (a) the owner and occupier of the premises and the installer of the fuel-burning equipment shall be guilty of an offence;
 - (b) the Council may, on written notice to the owner and occupier of the premises, order the removal of the fuel-burning equipment from the premises at the expense of the owner and operator and within the period stated in the notice.

Operation of fuel-burning equipment

- 146 (1) No person shall use or operate any fuel-burning equipment on any premises contrary to the authorization referred to in section 145(1).
- (2) Where fuel-burning equipment has been used or operated on the premises in contravention of subsection (1)
 - (a) the owner and occupier of the premises and operator of the fuel-burning equipment shall each be guilty of an offence;
 - (b) The Council may on written notice to the owner and occupier of the premises:
 - (i) revoke its authorization under section 145(1); and
 - (ii) order the removal of the fuel-burning equipment from the premises at the expense of the owner and operator and within the period stated in the notice.

Presumption

147. In any prosecution for an offence under section 146 dark smoke shall be presumed to have been emitted from premises if it is shown that any fuel or material was burned on the premises and the circumstances were such that the burning would be reasonably likely to give rise to the emission of dark smoke, unless the owner, occupier or operator, as the case may be, shows that no dark smoke was emitted.

Installation and operating of obscuration measuring equipment

148. (1) An authorized person may give notice to any operator of fuel-burning equipment

or any owner or occupier of premises on which fuel-burning equipment is used or operated, or intended to be used or operated, to install, maintain and operate obscuration measuring equipment at his or her own cost, if:

- (a) unauthorized and unlawful emissions of dark smoke from the relevant premises have occurred consistently and regularly over a period of at least two days;
 - (b) unauthorized and unlawful emissions of dark smoke from the relevant premises have occurred intermittently over a period of at least fourteen days;
 - (c) fuel-burning equipment has been or is intended to be installed on the relevant premise which is reasonably likely in the opinion of an authorized person to emit dark smoke;
 - (d) the person on whom the notice is served has been convicted more than once under this Part III and has not taken adequate measures to prevent further contravention of the provisions of this Part; or
 - (e) the authorized person considers that the nature of the air pollutants emitted from the relevant premises is reasonably likely to create a hazard to human health or the environment.
- (2) A notice referred to in subsection (1) must inform the person to who it is addressed of:
- (a) that person's right to make written representations and to appear in person to present and dispute information and arguments regarding the notice, and must stipulate a reasonable period within which such must be done;
 - (b) that person's right of appeal under section 162;
 - (c) that person's right to request written reasons for issuing of the notice; and
 - (d) the measures that must be taken and the potential consequences if the notice is not complied with.

Monitoring and sampling

149. (1) An occupier or owner of premises, and the operator of any fuel-burning equipment, who is required to install obscuration measuring equipment in terms of section 150(1) must;
- (a) record all monitoring and sampling results and maintain a copy of this record for at least four years after obtaining the results;
 - (b) if requested to do so by an authorized person, produce the record of the monitoring and sampling results for inspection, and
 - (c) if requested to do so by an unauthorized person, provide a written report (in a form and by a date specified by the authorized person) of part or all of the information in the record of the monitoring and sampling results.

Exemption

150. (1) Subject to section 165 and on application in writing by the owner or occupier of premises or the operator of fuel-burning equipment, the Council may grant a temporary exemption in writing from one or all the provisions of this Part.
- (2) Any exemption granted under subsection (1) must state at least the following:
- (a) a description of the fuel-burning equipment and the premises on which it is used or operated;
 - (b) the reason for granting the exemption;
 - (c) the conditions attached to the exemption, if any;
 - (d) the period for which the exemption has been granted; and
 - (e) any other relevant information.

PART IV

SMOKE EMISSIONS FROM DWELLINGS

Restriction to emission of dark smoke

151. (1) Subject to section 146(2), no person shall emit or permit the emission of dark smoke from any dwelling for an aggregate period exceeding three minutes during any continuous period of thirty minutes.
- (2) Any person who emits or permits the emission of dark smoke in contravention of subsection (1) commits an offence.
- (3) Subject to section 188 and on application in writing by the owner or occupier of any dwelling, the Council may grant a temporary exemption in writing from one or all of the provisions of this Part.

PART V

EMISSIONS CAUSED BY OPEN BURNING

Open burning of material on any land

152. (1) Subject to subsection 4, any person who carries out open burning of any material on any land or premises is guilty of an offence, unless the prior written authorization of the Council, which may include the imposition of further conditions with the person requesting authorization must comply, has been obtained.
- (2) The Council may not authorize open burning under subsection (1) unless it is satisfied that the following requirements have been adequately address or fulfilled:
- (a) the material will be open burned on the land from which it originated;
 - (b) that person has investigated and assessed every reasonable alternative for reducing, reusing or recycling the material in order to minimize the amount of material to be open burned, to satisfaction of the Council;
 - (c) that person has investigated and assessed every reasonable alternative for removing the material for the land or premises, to the satisfaction of the Council;
 - (d) that person has investigated and assessed the impact that the open burning will have on the environment, to the satisfaction of the Council;
 - (e) a warning under section 10(1)(b) of the National Veld and Forest Fire Act, 1998 (Act 101 of 1998) has not been published for the region,
 - (f) the land on which that person intends to open burn the material is State land, a farm or smallholding, or land within a proclaimed township that is not utilized for residential purposes;
 - (g) the open burning is conducted at least 100 metres from any buildings or structure;
 - (h) the open burning will not pose a potential hazard to human health or safety, private property or the environment.
 - (i) That person has notified in writing the owners and occupiers of all adjacent properties of:
 - (i) all known details of the proposed open burning; and
 - (ii) the right of owner and occupiers of adjacent properties to lodge written objections to the proposed open burning with the Council within 7 days of being notified; and
 - (j) the prescribed fee has been paid to the Council.

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

PART VI

EMISSION FROM COMPRESSED IGNITION POWERED VEHICLES

Prohibition

153. (1) No person may on a public road drive or use, or cause to be driven or used, a compressed ignition powered vehicle that emits dark smoke.
- (2) If dark smoke is emitted in contravention of subsection (1) the owner and the driver of the vehicle shall each be guilty of an offence.
- (3) For purposes of this section the registered owner of the vehicle shall be presumed to be the driver unless the contrary is proven.

Stopping of vehicles for inspection and testing

154. (1) In order to enable an authorized person to enforce the provisions of this Part, the driver of vehicle must comply with any reasonable direction given by an authorized person:
- (a) to stop the vehicle; and
 - (b) to facilitate the inspection or testing of vehicle.
- (2) Failure to comply with a direction given under subsection (1) is an offence.
- (3) When a vehicle has stopped in compliance with a direction given under subsection (1), the authorized person may:
- (a) inspect and test the vehicle at the roadside, in which case inspection and testing must be carried out:
 - (i) at or as near as practicable to the place where the direction to stop the vehicle is given; and
 - (ii) as soon as practicable, and in any case within one hour, after the vehicle is stopped in accordance with the direction; or
 - (b) conduct a visual inspection of the vehicle and, if the authorized person reasonably believes that an offence has been committed under section 153(2), instruct the driver of the vehicle, who is presumed to be the owner of the vehicles unless he or she produces evidence to the contrary, in writing to take the vehicle to a testing station, within a specified period of time, for inspection and testing in accordance with section 155.

Testing procedure

155. (1) An authorized person must use the free acceleration test method in order to determine whether a compressed ignition powered vehicle is being driven or used in contravention of section 153(1).

- (2) The following procedure must be adhered to in order to conduct a free acceleration test:
 - (a) when instructed to do so by the authorized person, the driver must start the vehicle, place it in neutral gear and engage the clutch;
 - (b) while the vehicle is idling, the authorized person must conduct a visual inspection of the emission system of the vehicle;
 - (c) when instructed to do so by the authorized person, the driver of the vehicle must in less than one second smoothly and completely depress the accelerator throttle pedal of the vehicle, provided that the authorized person may do so himself or herself if the driver fails or refuses to comply with the authorized person's reasonable instructions;
 - (d) while the throttle pedal is depressed, the authorized person must measure the smoke emitted from the vehicle's emission system in order to determine whether or not it is dark smoke;
 - (e) the driver of the vehicle may only release the throttle pedal of the vehicles when the engine reaches cut-off speed, or when directed to do so by the authorized person.
 - (3) if, having conducted the free acceleration test, the authorized person is satisfied that the vehicles:
 - (a) is not emitting dark smoke, then the authorized person must furnish the driver of the vehicle with a certificate indicating that the vehicles is not being driven or used in contravention of section 153(1); or
 - (b) is emitting dark smoke, the authorized person must issue the driver of the vehicle with a repair notice in accordance with section 156.
156. (1) A repair notice must direct the owner of the vehicle to repair the vehicle within a specified period of time, and to take the vehicle to a place identified in the notice for re-testing before the expiry of that period.
- (2) The repair notice must contain inter alia the following information:
 - (a) the make, model and registration number of the vehicle;
 - (b) the name, address and identity number of the driver of the vehicle; and
 - (c) if the driver is not the owner, the name and address of the vehicle owner.
 - (3) A person commits an offence under this Section if that person fails:
 - (a) to comply with the notice referred to in subsection (1)
 - (b) the re-test referred to in subsection (1).
 - (4) It shall not be a defect in proceedings under subsection (3) to aver that the driver of the vehicle failed to bring the repair notice to the attention of the owner of that vehicle.

PART VII

EMISSIONS THAT CAUSE A NUISANCE

Prohibition

157. Any occupier or owner of premises from which a nuisance emanates, or where a nuisance exists, is guilty of an offence.

Abatement notice

158. (1) An authorized person may serve abatement notice on any person whom the authorized person reasonably believes is likely to commit or has committed an offence under section 159, calling upon that person:

- (a) to abate the nuisance within a period specified in the notice;
 - (b) to take all necessary steps to prevent a recurrence of the nuisance; and
 - (c) to comply with any other conditions contained in the notice.
- (2) For the purpose of subsection (1), an authorized person may form a reasonable belief based on his or her own experience that an air pollutant was emitted from premises occupied or owned by the person on whom the abatement notice is to be served.
- (3) An abatement notice under subsection (1) may be served:
- (a) upon the owner of any premises, by:
 - (i) delivering it to the owner or if the owner cannot be traced or is living abroad that person's agent; or
 - (ii) transmitting it by registered post to the owner's last known address, or the last known address of the agent; or
 - (iii) delivering it to the address where the premises are situated, if the owner's address and the address of the agent are unknown;
 - (b) upon the occupier of the premises, by:
 - (i) delivering it to the occupier;
 - (ii) transmitting it by registered post to the occupier at the address at which the premises are situated.
- (4) Any person who fails to comply with an abatement notice served on that person in terms of subsection (1) is guilty of an offence.
- (5) In addition to any other penalty that may be imposed, a court may order a person convicted of an offence under subsection (4) to take steps the court considers necessary with an period determined by the court in order to prevent a recurrence of the nuisance.

Steps to abate nuisance

159. At any time, the Council may at its own cost take whatever steps it considers necessary in order to remedy the harm caused by the nuisance and prevent a recurrence of it, and may recover the reasonable costs so incurred from the person responsible for causing the nuisance.

PART VIII

APPEALS

160. (1) Any person may appeal against a decision taken by an authorized person under this by-law by giving written notice of the appeal, in which the reason for the appeal are stated, to the city manager within 30 days of the date on which that person receive notification of the decision.
- (2) Pending confirmation, variation or revocation of decision in terms of subsection (4), any person appealing a decision in terms of subsection (1), unless the Council provides otherwise:
- (a) must nonetheless substantively comply with any obligations that may have been imposed as a result of the decision that is the subject of the appeal; and
 - (b) may not exercise any rights that may have accrued as a result of the decision that is the subject of the appeal application, provided that no other person may exercise any right that may accrue either.
- (3) Within 14 days of receipt of the notice of appeal, the city manager must:

- (a) submit the appeal to the appropriate appeal authority mentioned in subsection (5);
 - (b) take all reasonable measures to ensure that all persons whose rights may be significantly detrimentally affected by the granting of the appeal application, including any persons registered as interested and affected parties, are notified in writing of the appeal application and advised of their right to :
 - (i) obtain a copy of the appeal application;
 - (ii) submit written objections to the application to the city manager within 30 days of date of notification
- (4) After the expiry of the 30 day period referred to in subsection (3)(b)(ii), the appeal authority must consider the appeal and any objections raised to it, and confirm, vary or revoke the decision.
- (5) When the appeal is against a decision taken by -
- (a) an authorized person other than the city manager, then the city manger is the appeal authority or
 - (b) the city manger, then the Council or such committee as it may delegate is the appeal authority.
- (6) An appeal authority must commence with an appeal within 60 days of receiving notification and must decide the appeal within a reasonable period.

PART IX

GENERAL PROVISIONS

161. (1) In the event of a conflict within any other by-law which directly or indirectly regulates air pollution, the provisions of this by-law shall prevail.
- (2) In the event of a conflict with the National Environment Management Air Quality Act, 2004 (Act 39 of 2004) the provisions of that Act will prevail within the area jurisdiction of the Council.

Offences and penalties

162. (1) Any person who contravenes section 151(2), 152(3), 153(2) or 157 of this by-law shall be liable of conviction to imprisonment not exceeding 30 days or to a fine or both a fine and imprisonment.
- (2) Any person who contravenes section 145(3), 146(2), 156(3)(a), 156(3)(b) or 158(4) of this by-law shall be liable of conviction to imprisonment not exceeding two (2) years or a fine or both a fine and imprisonment.
- (3) any person who contravenes section 157 of this by-law shall be liable on conviction to imprisonment not exceeding one (1) year or a fine or both a fine and imprisonment.
- (4) It is an offence to:
- (a) supply false information to an authorized person in respect of any issue pertaining to this by-law, or;
 - (b) refuse to co-operate with the request of an authorized person made in terms of this by-law and any person convicted of such offence shall be liable to imprisonment not exceeding 30 days or a fine or both a fine or imprisonment.

- (5) Where no specific penalty is provide, any person committing an offence in terms of this by-law is liable on conviction to imprisonment for a period not exceeding one (1) year or to a fine or both imprisonment and fine.
- (6) Failure to comply with a notice, direction or instruction referred to in this by-law constitutes a continuing offence.
- (7) Any person who commits a continuing offences shall be guilty of a separate offence for each day during which that person fails to comply with a notice, direction or instruction referred to in this by-law.
- (8) In addition to imposing a fine and/or imprisonment, a court may order any person convicted of an offence under this by-law:
 - (a) to remedy the harm caused;
 - (b) to pay damages for harm caused to another person or property, which order shall have the force and effect of a civil judgment; and
 - (c) to install and operate at person's own expense obscuration reading equipment in accordance with the provisions of section 150.

Exemptions

163. (1) The Council may grant a temporary exemption in writing from one or all of the provisions of Part III, IV and V, provided that the Council:
- (a) is satisfied that granting the exemption will not significantly prejudice the purpose referred to in section 144(1); and
 - (b) grants any exemption subject to conditions that promote the attainment of the purpose referred to in section 144(1).
- (2) The Council may not grant an exemption under subsection (1) until the Council has:
- (a) taken reasonable measures to ensure that all persons whose rights may be significantly detrimentally effected by the granting of the exemption, including but not limited to adjacent land owners or occupiers, are aware of the application for exemption and how to obtain a copy of it;
 - (b) provide such person with a reasonable opportunity to object to the application, and
 - (c) duly considered and taken into account any objections raised.

CHAPTER 19

HEALTH CARE WASTE

164.

Definitions

In this Chapter, unless the context otherwise indicates –

“generator” means any person or institution which generates health care waste;

“genotoxic waste” means highly toxic waste that may have mutagenic, teratogenic or carcinogenic properties and includes certain cytostatic drugs as well as vomit, urine or faeces from patients treated with cystotatic drugs, chemicals and radioactive material;

“hazardous waste” means waste that has the potential, even in low concentrations, to have a significant adverse effect on public health and the environment because of its inherent toxicological, chemical and physical characteristics.

“health care waste means waste generated by any person or institution which includes general health care waste and or health care risk waste”.

“health care general waste means that portion of health care waste which is not hazardous

“health care risk waste; means that portion of health care waste which is hazardous and includes infections waste, pathological waste, genotoxic waste, chemical waste, waste containing heavy metals, radioactive waste, and any other waste which is considered hazardous in terms of the Waste Management Series: Document 1: Minimum Requirements for the handling, classification and disposal of Hazardous Waste, 2nd Edition as published by the Department of Water Affairs and Forestry.

“waste containing heavy metals” means waste which includes, but is not limited to, mercury waste from thermometers, blood pressure gauges, residues from density, cadmium from batteries, reinforced wood panels used in radiation proofing and drugs containing arsenic:

Separation at source and marking:

165. (1) Health care waste generators, transporters, treaters and disposers have a general duty of care in terms of these By-laws and any other relevant provincial and national legislation, to separate all health care risk waste at source and to handle, package, store and dispose of health care risk waste in a safe manner that poses no threat to human health or to the environment.
- (2) Without limiting the generality of the duty in subsection (1), generators must:
- (a) ensure that the generation of health care risk waste is minimized as far as possible at source
 - (b) separate health care waste into health care risk waste and health care general waste at point at which it is generated:
 - (c) store health care risk waste in purpose-manufactured, leak-proof, sealable containers and must ensure that such containers used to store sharps, razors, blades, needles and any other instrument which can cause cuts, punctures or injections, are rigid and puncture-resistant;
 - (d) ensure that the radioactive waste for which he/she is responsible, treated in accordance with the Hazardous Substances Act, 1973, (Act No. 15 of 1973)
 - (e) ensure that all the employees in their employ are adequately trained in the identification, separation, handling, storing of health care risk waste;
 - (f) take appropriate steps to ensure the health and safety of all the employees in their employ in terms of the Occupational Health & Safety Act;
 - (g) label all health care risk waste containers clearly in large, legible lettering with indelible ink with the following information:
 - (i) the name , address and contact telephone number of the generator
 - (ii) the words: DANGER – HEALTH CARE RISK WASTE; GEVAAR – GESONDHEIDSAFVAL, and INGOZI: INKUNKUMA YEZAMAYEZA and the international bio-hazard logo, and
 - (iii) the date on which the health care risk waste is removed from the premises of the generator.
 - (h) Prevent public access to health care risk waste containers which are in use;
 - (i) Store filled health care risk waste containers in controlled, secure areas which are reserved for the storage of health care risk waste;
 - (j) Make arrangements for the removal of health care risk waste from their premises and for the transportation of health care risk waste by a person who is registered in terms of section 168 of these By-laws as a transporter of health care risk waste;

- (k) Make arrangements for the disposal of the health care risk waste by a person/institution permitted to dispose of health care risk waste in terms of these By-laws of the Ekurhuleni Metropolitan Municipality or any other applicable legislation.
- (3) Generators may apply to Council for permission to handle, store and otherwise deal with health care risk waste in a manner which does not comply with the requirements as set out in subsection (2) above
- (4) The Council may in writing grant the permission referred to in subsection (3) subject to certain conditions.
- (5) Generators may transport dispose of health care risk waste generated on their premises, provide they do so in terms of this By-law;
- (6) Generators must:
 - (a) Maintain an up-to-date written record of all health care risk waste generated and removed from their premises in a format from time to time prescribed by Council;
 - (b) Obtain written notification from the disposer of the health care risk waste that the health care risk has been disposed of and upon receiving such notification; indicate in their written record that the health care risk waste has been disposed of by mentioning the name of the disposer and the date of disposal;
 - (c) Provide copies of the record referred to in (i) and the information in (ii) to Council on a six-monthly basis or at any other frequency as may from time to time be prescribed by Council.

Duty of transporters

166. (1) Transporters must remove health care risk waste from the premise of the generator, transport, store and deliver such health care risk waste to a site at which it will be disposed of in manner which poses no treat to human health or the environment.
- (2) Without limiting the generality of the duty referred to in subsection (1), transporters must:
- (a) not remove the health care risk waste from the containers in which the generator placed it;
 - (b) transport and store the health care risk waste in such way that no member of the public can gain access to the health care risk waste or the containers in which it is stored;
 - (c) transport the health care risk waste in vehicles which:
 - (i) comply with all applicable legislation as from time to time promulgated by National government or the Provincial Government of Gauteng or in the absence of such legislation
 - (ii) are capable of containing the health care risk waste;
 - (iii) are designed to prevent spillage;
 - (iv) are constructed of materials which are easy to clean and to disinfect;
 - (v) are capable of being secured in order to prevent unauthorized access.
 - (d) deliver health care risk waste only to a person and site permitted to dispose of health care risk waste in terms of section 169
- (3) Transporters may apply to Council for permission to remove, transport, store and deliver health care risk waste in a manner which does not comply with the requirements as set out in subsection (2) above

- (4) The Council may in writing grant the permission referred to in subsection (3) subject to certain conditions.
- (5) Transporters may dispose of health care risk waste provided they do so in terms of these By-laws
- (6) Transporters must maintain a written record in respect of each collection and delivery of health care risk waste, which they must update simultaneously with each collection and delivery. The record must be in the format as prescribed from time to time by Council and must be kept for a period of three years from date on which the health care risk waste is delivered to the disposal site. Transporters must keep a copy of the said record in the vehicle used for the transportation of the health care risk waste.

Disposal of Health Care Risk Waste

- 167 (1) Health care risk waste may only be disposed of by a person
- (a) Who holds a permit to operate a hazardous waste site in terms of section 20 of the Environmental Conservation Act, 73 of 1989,
 - (b) Who complies to all the terms and conditions attached to such a permit.
- (2) A person permitted in terms of subsection (1) to dispose of health care risk waste must do so at the site at which the permit permits him or her to dispose of health care risk waste and may not dispose of health care risk waste at any other place.
- (3) Persons who dispose of health care risk waste must:
- (a) maintain an up to date written record as required in terms of the National Waste Information System and any additional information as may from time to time be required by the Council of all health care risk waste received and disposed of at the site;
 - (b) keep such records for a period of three years or for such a period as may be prescribed in terms of the guidelines provided for compliance to the National Waste Information System, whichever the shortest.

Duty to register

- 168 (1) Every generator must register with the Council within 6 months of the coming into effect of these By-laws by completing and submitting a written notification to Council in the format prescribed from time to time.
- (2) Every transporter must register with the Council within 6 months of the coming into effect of these By-laws by completing and submitting a written notification to the Council in the format prescribed from time to time.
- (3) Generators and transporters must notify the Council of any changes to the information provided in terms of subsection (1) and (2) as soon as such changes take place.

Power of Environmental Health Practitioners

- 169 (1) Any environmental health practitioner in the employ of the Council may:
- (a) Enter sites and premises on which health care waste is being generated, handled, treated, stored or disposed of, or on which he or she suspects health care waste is being generated, handled, stored or disposed of,
 - (b) Gain access to vehicles on which health care waste is being contained or transported, or on which her or she suspects health care waste is being contained or transported.

- (2) Where an environmental health practitioner enters premises or a site or gain access to a vehicle in terms of subsection (1), he or she may, for the purpose of administering these By-laws, undertake any inspection or enquiry, including but not limited to:
- (a) inspecting premises, site or vehicle for the presence of health care risk waste;
 - (b) inspecting the manner in which health care risk waste is being, handled, stored, transported, treated or disposed of;
 - (c) requesting information regarding the health care risk waste from the person who is in charge of the health care risk waste or from the person in charge of the health care risk waste or from the person in charge of the premises, site or vehicle;
 - (d) examine extract or make copies of any health care risk waste records and request an explanation from the person in charge of the record, or from the person in charge of the site, premise or vehicle.

Offences:

170. Any person who contravenes any provision of the chapter or fails to comply with any notice given in relation hereto in terms of these By-laws, commits an offence.

CHAPTER 20

MISCELLANEOUS

Duties of Council:

171. In addition to any other duty of Council in terms of this By-law or any other applicable legislation, the Council must within its area of jurisdiction:
- (a) enforce the relevant portions of this By-law
 - (b) carry out water quality monitoring at all potable, industrial and commercial water sources;
 - (c) perform food control inspections, enquiries, monitoring and observation;
 - (d) monitor waste management;
 - (e) undertake health surveillance of properties
 - (f) undertake surveillance and prevention of communicable diseases, excluding immunizations;
 - (g) undertake effective vector control measures;
 - (h) prevent environmental pollution;
 - (i) monitor activities related to the disposal of the dead, and
 - (j) ensure chemical safety,

Offence and penalties

172. (1) Any person who –
- (a) contravenes or fails to comply with any provisions of these By-laws; or
 - (b) fails to comply with any notice issued in terms of or for the purposes of these By-laws; or
 - (c) fails to comply with any lawful instruction given in terms of or purposes of these By –laws; or
 - (d) obstructs or hinders any authorized representative or employee of the Council in the execution of his or her duties under these By-laws, is guilty of an offence and subject to subsection (2) below, liable on conviction to a fine or in default of payment to imprisonment for a period not exceeding six months and in the case of continuing offence, to a further fine not exceeding R500, or in default of payment to imprisonment not exceeding one day, for every day during the continuance of such offence after a written notice has been issued by

the Council and served on the person concerned requiring the discontinuance of such offence.

- (2) Any person convicted of a contravention of the provisions of Chapter 19 is liable to a fine of an amount not exceeding R10,000 or imprisonment for a period not exceeding 1 year and in case of a continuing offence, to a further fine not exceeding R100 per day, or default of payment to imprisonment not exceeding one day, for every day during the continuance of such offence after a written notice has been issued by the Council and served on the person concerned requiring the discontinuance of such offence.

Serving of notices

- 173 (1) A notice, order or other document is regarded as having been properly served if –
- (a) it has been delivered to the person concerned personally;
 - (b) it has been sent by registered post or speed post to the person to whom it is addressed at his or her 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 addressee's last known address;
 - (d) if the address of the person concerned in the Republic of South Africa is unknown, if it has been served on that person's agent or representative in the Republic of South Africa in the manner provided for in paragraph (a),(b) or (c); or
 - (e) if the address of the person concerned and of his or her agent or representative in the Republic of South Africa is unknown, if it has been posted in a conspicuous place on the premises to which it relates.
- (2) A notice, order or other document which may in terms of these By-laws be served on the owner of occupier of premises maybe addressed to the owner or occupier of the specified premises and need not bear the name of the owner or occupier.

Application to the State

174. These By-laws bind the State, including the Council.

Repeal

175. The By-law listed in Schedule 3 are hereby repealed.

Short title

176. These By-laws are called the Ekurhuleni Metropolitan Municipality Public Health By-laws, 2006.

SCHEDULE 1

PUBLIC HEALTH NUISANCE

General nuisance

1. An owner or occupier of premises creates a public health nuisance if he or she causes or allows-
- (a) any premises or part thereof to be of such a construction or in such a state as to be offensive, injurious or dangerous to health;
 - (b) any street, stream, pool, lagoon, ditch, gutter, watercourse, sink, cistern, water-closet, earth close, pail closet, urinal, cesspool, cesspit, drain, sewer, dung pit, slop tank, ash heap or dung heap to be so foul or in such a state or so situated or constructed as to be offensive or to be injurious or dangerous to health;

- (c) any stable, kraal, shed, run or premises used for the keeping of animals or birds and which is so constructed, situated, used or kept as to be offensive or to be injurious or dangerous to health;
- (d) any accumulation of refuse, offal, manure or other matter which is offensive or is injurious or dangerous to health;
- (e) any public building to be so situated, constructed, used or kept as to be unsafe or to be injurious or dangerous to health;
- (f) any dwelling to be occupied without proper and sufficient supply of potable water within a reasonable distance;
- (g) any factory or industrial or business premises not to be kept in a clean state and free from offensive smells arising from any drain, water closet, earth-closet, urinal or any other source, or not ventilated so as to destroy or render harmless and inoffensive as far as practicable any gas, vapour, dust or other impurity generated, or so overcrowded or so badly lighted or ventilated, as to be injurious or dangerous to the health of those employed therein or thereon;
- (h) any factory or industrial or business premises to cause or give rise to any smell or effluvia which is offensive or injurious or dangerous to health;
- (i) any building, room or structure to be used wholly or partly by a greater number of persons than will allow less than 11,3m³ of free air space and 3,7 m² of floor space for each person aged 10 years or more and 5,7 m³ of free air space and 1,9 m² of floor space for each person less than 10 years of age' or
- (j) the accumulation of filth, debris rubbish, glass, paper, rags, tins, lumber and the growing or presence of weeds, long grass or undergrowth which is unsightly or is likely to become a nuisance or injurious to health or cause an annoyance to the inhabitants of the neighbourhood,
- (k) any other activity, condition or thing declared to be a nuisance by the Minister in terms of the National Health Act, 2003 (Act 61 of 2003) or any other relevant health legislation.
- (l) Any other condition at or on a place or premises whatever, which in the opinion of Council is or can be detrimental, dangerous, inconvenient, offensive, injurious or dangerous to health, or which may in any other way cause a risk of disease, death or injuries.

Pest control

2. (1) An owner or occupier of premises creates a public health nuisance if –
 - (a) the premises are maintained in a manner that attracts or harbours rodents or other pests, or is conducive to the breeding thereof;
 - (b) flies are being attracted to, or can breed on, the premises, in significant numbers because –
 - (i) insufficiently rotted manure or any other organic material is being kept or used; or
 - (ii) any other substance that attracts flies is used or kept other than for the purposes of trapping or killing flies
 - (c) mosquitoes can breed in significant number on the premises because -
 - (i) containers in which mosquitoes can breed, such as tyres, bottles, crockery, and tins, have been left or are kept on the premises;
 - (ii) tanks, barrels and similar containers in which mosquitoes can breed are not fitted with mosquito-proof covers or mosquito gauze screens in a manner that prevents mosquitoes gaining access to water contained in them;
 - (iii) gutters and down pipes are sagging or clogged so that stagnant water can accumulate in them; or
 - (iv) approved measures have not been taken to prevent mosquitoes breeding in ponds, excavations, wells, swimming pools or any other stagnant water source on the premises.

- (2) The following measures are approved measures for the purposes of subsection (1)(c)(iv) -
- (a) draining accumulated water at least once every seven days;
 - (b) covering accumulated water with a larvicide at least once every seven days; and
 - (c) in the case of well, providing a mosquito-proof cover and a pump.

Air pollution

3. An owner or occupier of premises creates health nuisance if -
- (a) any waste on the premises is burned outside except in an approved appliance;
 - (b) ash, grit, soot or smoke is emitted from any chimney or appliance or from any other means on the premises in a manner or quantity that is sufficient to have an adverse impact on public health;
 - (c) the erection or destruction of a building or structure causes dust to be discharged into the surrounding atmosphere in a manner or quantity that is sufficient to have an adverse impact on public health; or
 - (d) Any dust is generated on, and emitted from the premises due to any activity or process and discharged into the surrounding atmosphere in a manner or quantity that is sufficient to have an adverse impact on public health.

Fouling and littering of public place and open spaces

- 4 (1) A person creates a public health nuisance if he or she throws, dumps, stores, keeps or drops refuse, rubbish, glass, tins, paper, car wrecks or parts of motor vehicles, dead animals, waste water of flushing water or other litter or waste, whether liquid or solid, on or in a street, road, bridge, through fare, open space, vacant stand, public place or erf, spruit or watercourse, or cause or permit it to be thrown, dumped or dropped there, or cause or permit any such liquid to flow into such place.
- (2) The person who has contravened sub item (1), must remedy, to the satisfaction of the environmental health practitioner, any damage to the environment which resulted from such contravention.

SCHEDULE 2

SCHEDULED USES

(Sections 1, 8, 9 and 11)

The activities and uses of premises listed in this Schedule are considered to pose an unacceptable risk to public health unless the measures specified in the relevant Chapter of these By-laws and where required, in a permit, are taken to avoid the risk or to reduce it to a level acceptable to the Council.

Part A: Activities for which a permit is required

Section	Activity
31	Provision of service to remove human excrement or urine
32	Installations of sewage works
46	Offensive trades
53	Hairdressing, beauty and cosmetology services
62	Accommodation Establishments

78	Child care services
104	Keeping of poultry
108	Keeping of rabbits
113	Dog Kennels and catteries
124	Keeping bees

Part B: Scheduled uses

Chapter	Scheduled use
4	Sanitary services
5	Private Sewage Works
6	Water
7	Offensive Trades
8	Hairdressing, Beauty and Cosmetology Services
9	Second-hand Goods
10	Accommodation Establishments
11	Dry Cleaning and Laundry Establishments
12	Swimming Pools and Spa-Baths
13	Child-care Services
14	Keeping of Animals
17	Operating and Managing an Initiation School for Boys

SCHEDULE 3:

REPEALED BY-LAWS

Name of By-laws	Promulgation	Enabling Legislation	Applicable Town	Extent of Repeal
Public Health By-Law	Administrators Notice 11 of 12/1/1949	Ord. 17 of 1939	Alberton; Benoni; Brakpan; Kempton Park, Nigel	Whole
	A. N. 148 of 21/02/51	Ord. 17 of 1939	Germiston; Lethabong; Springs	Whole
Council By-laws	1251 of 14/6/95	Ord. 17 of 1939	Boksburg	Whole
Standard Food Handling By-laws	A. N. 1317 of 16/8/72	Ord. 17 of 1939	Alberton; Benoni; Brakpan; Kempton Park; Lethabong; Nigel; Springs.	Whole
Food Handling By-laws	Board Notice 311 of 25/9/92	Ord. 17 of 1939	Germiston	Whole
Standard By-laws relating to Cafés; restaurants and eating houses	A. N. 492 of 27/4/77	Ord. 17 of 1939	Alberton; Benoni; Brakpan; Kempton Park; Lethabong; Nigel; Springs.	Whole
Standard Milk By-laws	A. N. 1024 of 11/8/71 as amended by A. N.	Ord. 17 of 1939	Alberton; Benoni; Brakpan;	Whole

	329 of 8/3/78		Germiston; Lethabong; Nigel; Springs.	
Standard By-laws relating to the Keeping of animals, Birds and Poultry; and Business involving the keeping of animals; birds; poultry or pets	A. N. 2208 of 31/10/85	Ord. 17 of 1939	Alberton; Benoni; Brakpan; Germiston; Kempton Park; Lethabong; Nigel; Springs.	Whole
Keeping of Bees By-laws	Board Notice 57 of 1992	Ord. 17 of 1939	Springs	Whole
Child Care Centre By-laws and Manual	L. A. Notice 4341 of 10/11/93	Ord. 17 of 1939	Germiston	Whole
Standard Health By-laws for pre-school Institutions	A. N. 81 of 23/12/92	Ord. 17 of 1939	Alberton; Brakpan; Kempton Park; Lethabong; Nigel; Springs.	Whole
Standard Health By-laws for Day care Mothers Services	L. A. Notice 4095 of 4/10/91	Ord. 17 of 1939	Alberton	Whole
By-law for crèches and crèche cum. nursery	P. R. GAZ. of 8/1/91	Ord. 17 of 1939	Benoni	Whole
Regulations regarding Housing Nuisances	L. A. Notice 3822 of 29/9/93	Ord. 17 of 1939	Benoni; Germiston	Whole
Noise Control By-laws	A. N. 1216 of 23/9/81	Ord. 17 of 1939	Springs; Brakpan	Whole
Noise Control By-laws	A. N. 1622 of 22/10/80	Ord. 17 of 1939	Lethabong	Whole
Smoke Control Zones	R1805 of 5/10/1973	Ord. 17 of 1939	Brakpan	Whole
Smoke Control Zones	R713 of 8/4/83	Ord. 17 of 1939	Germiston	Whole
Smoke Control Zones	R1008 of 15/6/73	Ord. 17 of 1939	Alberton	Whole
Smoke Control Zones	R248 of 13/12/76	Ord. 17 of 1939	Nigel	Whole
Municipality of Edenvale Final Smoke Control Zone Order	R808 of 28/183	Ord. 17 of 1939	Lethabong	Whole
First Smoke Control Command	R808 of 18/5/73	Ord. 17 of 1939	Kempton Park/Tembisa	Whole
Smoke Control Zones (Benoni)	R2210 of 3/11/73; 73 of 10/1/75 and 1459 of 20/8/76	Ord. 17 of 1939	Benoni	Whole
By-laws relating to Caravans and Camping grounds	A. N. 252 of 1/3/78	Ord. 17 of 1939	Germiston	Whole
Standard Public Amenities By-laws	Official notice 60 of 14/9/90	Ord. 17 of 1939	Benoni ; Brakpan	Whole
Food Hawking By-laws	L. G. Notice 1567 of 28/7/8	Ord. 17 of 1939	Brakpan	Whole
Food Hawking By-laws	L. G. Notice 1413 of 14/6/89	Ord. 17 of 1939	Alberton	Whole
Food Vending By-laws	L. A. Notice 1240 of 24/5/1989	Ord. 17 of 1939	Kempton Park; Springs	Whole
Food Vending By-laws	A. N. 1606 of 25/11/81	Ord. 17 of 1939	Germiston	Whole

Street Trading By-laws	2202 of 14/4/99 as corrected 14539 of 14/6/99	Ord. 17 of 1939	Nigel	Whole
Street Trading By-laws	1170 of 1999	Business Act No. 7 of 1991	Germiston	Whole
By-laws to control hawking food and other merchandise	PR Gaz. of 22/11/89		Benoni	Whole

SCHEDULE 4

MINIMUM REQUIREMENTS WHICH MUST BE COMPLIED WITH FOR INITIATION SCHOOLS

1. A suitable shelter must be provided and be constructed in such a manner that initiates are protected from extreme temperatures especially against cold weather conditions
2. Pure water supply should be supplied for drinking and cooking purpose for the initiates.
3. Suitable sanitary facilities in the form of well constructed pit latrine or movable chemical toilets should be provided for use.
4. All body parts removed should be disposed of in a hygienic manner.
5. Refuse removal and disposal including used surgical instruments should be carried out as may be prescribed by Environmental Health Practitioner in the area namely incinerated.
6. Food should be prepared hygienically and kept separate from any area used for sleeping purposes.
7. Initiates should be given sufficient food at least twice a day and be allowed to drink water when necessary.
8. Initiates should be allowed to wear warm clothes especially during cold weather.
9. Instruments such as razor blades used for the operation should be used once only and any other instruments may be sterilized after each initiate as prescribed by the medical practitioner.
10. The owner of the initiation school must identify at least one person from the medical profession to assist in case of emergency and for referral purposes.
11. Prescribed medication to stop and prevent unnecessary bleeding must be readily available.
12. A detention room for persons who came for circumcision without the consent of their parents or guardian.
13. A register must be kept of all initiates in the circumcision school.
14. A first aid kit which includes antiseptics medicines for treating minor ailments should be provided.

ANNEXURE 1

APPLICATION FOR A PERMIT

NAME OF APPLICANT:

PHYSICAL ADDRESS:

.....

.....

POSTAL ADDRESS:

.....

.....

.....

PERMIT APPLIED FOR:

.....

.....

SIGNATURE:

DATE:

ANNEXURE 2

APPLICATION AND CONSENT FORM BY PARENT GUARDIAN

I, _____ ID NO. _____ hereby

give consent and permit _____ Age _____ to be circumcised and attend a Ngoma for the duration of the prescribed period of the school.

I further declare that I am the parent/guardian of the said applicant and I reside at the following address:

I can be contacted at the following telephone numbers in case of any emergency:

Work Tel No: _____

Cell No: _____

SIGNATURE: _____ DATE: _____

ANNEXURE 3

APPLICATION FORM FOR A PERMIT TO OPERATE

A NGOMA – INITIATION SCHOOL

A. NAME AND SURNAME OF APPLICANT: _____

SURNAME OF APPLICANT: _____

DOB/ID: _____

B. RESIDENTIAL ADDRESS: _____

POSTAL ADDRESS: _____

C. PARTICULARS OF A NGOMA – INITIATION SCHOOL

PHYSICAL ADDRESS: _____

NUMBER OF INITIATES INTAKE: _____

PERIOD OF OPERATION: _____ MONTH TO _____ MONTH

SANITARY FACILITIES: _____

METHOD OF DISPOSAL OF BODY PARTS: _____

Note: This document has to be completed by the applicant and returned with the attached Form Annexure 3B (Certificate by Environmental health Practitioner) duly completed by an Environmental Health Practitioner in the employ of the Council.

ANNEXURE 3B

CERTIFICATE BY ENVIRONMENTAL HEALTH PRACTITIONER

I the undersigned:

_____ confirm as follows:

1. I am presently employed by the Ekurhuleni Metropolitan Municipality as an Environmental Health Practitioner;

2. On _____ I inspected a certain terrain which was pointed out to me by the applicant as a proposed Ngoma – Initiation School. The address of the site is:

3. I confirm that the terrain complies with the minimum requirements as contained in Schedule 4 of these By-laws.

Signed at _____ at this the _____ day of _____ 20 ...

Full Names:

Designation: Environmental Health Practitioner

ANNEXURE 4

STANDARD PRE-CIRCUMCISION MEDICAL EXAMINATION

PATIENT'S PARTICULARS

NAME: _____

SURNAME: _____

DOB/ID: _____

RESIDENTIAL ADDRESS: _____

EXAMINATION

GENERAL – ANY ALLERGIES?

ANY BLEEDING TENDENCIES

ANAEMIA _____

JAUNDICE _____

LYMPHADENOPATHY _____

HEART _____

LUNGS _____

ABDOMEN _____

PSYCHIATRIC DISORDER _____

UROGENITAL _____

OTHER _____

I, _____

being a registered medical practitioner, certify that _____

is a male person of _____ years and is fit to be circumcised.

Date: _____

Signature: _____

Qualifications: _____

Practice number: _____

For office use

File: 1/4/1/1/20
Council Resolution: A-ET (01-2006) dated 23 September 2009
Extra-Ordinary Gauteng
Provincial Gazette Number 256 dated 27 November 2009
Local Authority Notice Number 1908